

TITLE 89: SOCIAL SERVICES  
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER c: FISCAL ADMINISTRATION

**PART 359**  
**AUTHORIZED CHILD CARE PAYMENTS**

**Section**

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AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5].

SOURCE: Adopted and codified at 5 Ill. Reg. 13129, effective November 30, 1981; amended at 9 Ill. Reg. 19705, effective December 16, 1985; amended at 10 Ill. Reg. 15575, effective September 19, 1986; amended at 19 Ill. Reg. 10464, effective July 1, 1995; emergency amendment at 21 Ill. Reg. 3259, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 10904, effective July 29, 1997; amended at 26 Ill. Reg. 11791, effective August 1, 2002; amended at 40 Ill. Reg. 802, effective December 31, 2015; amended at 40 Ill. Reg.7791, effective May 16, 2016; amended at 42 Ill. Reg. 2246, effective January 17, 2018.

**Section 359.1 Purpose**

The purpose of these rules is to identify the various types of services for which the Department may provide payment on behalf of children and families served by the Department.

**Section 359.2 Definitions**

"Auxiliary services" means those services provided by the Department to children in their own homes as well as to children in placement which supplement or complement the primary service. For example, when advocacy services are provided to children in substitute care, this is an auxiliary service.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as determined by the Illinois Department of Human Services.

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"Children for whom the Department has legal responsibility" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings" means contact between or among siblings who are placed apart from one another, and may include, but is not limited to: telephone calls; video conferencing; in person visitation; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook); and any other agreed upon forms of communication technology.

"Family preservation services" means those services provided to children and families who require social services to maintain the family unit intact.

*"Fictive kin" means any individual, unrelated by birth or marriage, who:*

*is shown to have significant and close personal or emotional ties with the child or the child's family prior to the child's placement with the individual; or*

*is the current foster parent of a child in the custody or guardianship of the Department pursuant to the Child and Family Services Act and the Juvenile Court Act of 1987, if the child has been placed in the home for at least one year and has established a significant and family-like relationship with the foster parent, and the foster parent has been identified by the Department as the child's permanent connection. [20 ILCS 505/7(b)]*

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special spiritual duty that includes assisting in raising a child if the parent cannot raise the child. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code. 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code. 301.80 (Relative Home Placement) must be met.

"Overpayment" means an amount paid for a service in excess of the actual incurred expenses or rate for that service or a payment for a service that is not rendered. This includes board payments for a child that continue after the child is no longer in the placement for which the payment is made.

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"Permanent connection" means a family-like relationship, consistent with a child's best interests, health, safety and well-being, that provides:

- safe, stable and committed parenting;
- unconditional love and lifelong support; and
- a permanent legal status between child and family.

For a child for whom the Department is legally responsible, a permanent connection may be the child's parents or another caregiver in the child's home of origin. When the child cannot be safely returned home, a permanent connection may be the current or former foster parent or relative caregiver, an individual identified as an adoptive or legal guardianship placement resource, or another individual from among the child's or family's lifelong connections with whom a child has developed a familial relationship.

"Relative", for purposes of placement of a child for whom the Department is legally responsibility *means any person, 21 years of age or over, other than the parent, who:*

- *is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or*
- *is the spouse, or party to a civil union, of such a relative; or*
- *is the child's step-father, step-mother, step-grandfather, step-grandmother or adult step-brother or step-sister; or*
- *is the partner, or adult child of a partner, in a civil union with the child's mother or father; or*
- *is a fictive kin as defined in this Section.*

*Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]*

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"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together, have a positive relationship and share at least one parent in common.

"Substitute care services" means those services provided to children who require placement away from their families or private guardians. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301.80 (Relative Home Placement), care provided in a group home, care provided in a maternity center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another; or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, case closed due to independence, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 42 Ill. Reg. 2249, effective January 17, 2018)

**Section 359.3 Introduction**

The Department will pay for substitute care living arrangements for children for whom the Department is legally responsible, for child welfare services to children and their families determined eligible for them, and for goods, services and benefits necessary for the personal and physical maintenance of children living away from their parents in substitute care living arrangements. The Department will additionally pay for living arrangements for deaf or hearing impaired children for whom the Department is not legally responsible who require placement for educational reasons. These payments will be made in accordance with the State Finance Act, the Comptroller's Regulations, and the mandates of the Governor's Purchased Care Review Board, and through use of state General Revenue funds, Federal Social Security benefits, and other state and federal funds.

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**Section 359.4 Payments for Substitute Care Services**

Payments are made for children for whom the Department has legal responsibility and their children living with them in the following types of substitute care living arrangements if the placements meet the requirements established via the purchase of service contracts and the applicable licensing rules as specified in 89 Ill. Adm. Code 357, Purchase of Service, 89 Ill. Adm. Code 401, Licensing Standards for Child Welfare Agencies, 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, 89 Ill. Adm. Code 403, Licensing Standards for Group Homes, and 89 Ill. Adm. Code 404, Licensing Standards for Child Care Institutions and Maternity Centers:

- a) Foster family care is provided in licensed foster family homes. The Department recognizes the following types of foster family care:
  - 1) Specialized foster family homes and intensive service foster homes receive additional monthly compensation because they accept children with medical, behavioral and/or psychological problems or because they accept pregnant girls or young mothers who are in need of specialized training in parenting skills, child development, money management, and self sufficiency.
  - 2) Emergency foster homes may be paid a flat rate for days of service provided or may receive retainer fees to assure that emergency beds are available 24 hours per day.
  - 3) Department boarding homes are licensed foster family homes operated by foster parents supervised by the Department.
  - 4) Private agency foster family homes are licensed foster family homes supervised by licensed child welfare agencies.
  - 5) Relatives who choose to be licensed as foster family homes under the provisions of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes.
  - 6) Deaf foster care is a unique service provided in Department boarding homes for children for whom the Department is not legally responsible who require placement for educational reasons.
  
- b) Relative family care may be provided by a relative, as defined in Section 359.2, living within the State of Illinois, as follows:
  - 1) If a relative does not wish to apply for licensure as a foster family home, or has submitted an application for licensure and the application is pending, or has applied for licensure and been denied, the relative may provide care to children for whom the Department is legally responsible as long as the relative family home continues to meet the conditions in Section 301.80 of 89 Ill. Adm. Code 301, Placement and Visitation Services.
  - 2) For children for whom the Department is legally responsible who are residing in a home described in subsection (b)(1) above, the Department will pay for the related children placed with the relative caregiver at the child only standard of need established by the Illinois Department of Human Services.

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- c) Relative family care may also be provided to relatives living out of the State of Illinois. If a relative living in another state is providing care for a child for whom the Department is legally responsible, the relative will receive the full foster care rate if the relative submits documentation to the Department within 120 days after placement of the child that they are licensed, approved or certified in accordance with the other state's standard for licensing, approving or certifying foster homes. If documentation is not submitted, the Department will reduce the payment to the child only standard of need established for that number of children by the Illinois Department of Human Services. If, at a future date, the relative submits documentation to the Department that they are licensed, approved or certified in accordance with the other state's standard for foster homes, the payment will be increased to the full foster care rate.
- d) Institution and group home care is provided in licensed institutions and group homes. Rates are established for these facilities via a purchase of service contract with the Department.
- e) Subsidized adoptive homes are adoptive homes to which the Department provides financial assistance when a special needs child for whom the Department was legally responsible is adopted.
  - 1) The types of adoption assistance that may be provided include:
    - A) one-time only payments of non-recurring expenses incurred by or on behalf of the adoptive parents in connection with the adoption of a special needs child up to a maximum of \$1500.00 for each adopted child;
    - B) payment for physical, emotional and mental health needs not wholly payable through insurance or other public resources that are associated with or result from a condition(s) whose onset has been established as occurring prior to the completion of the adoption;
    - C) ongoing monthly payments in an amount determined in each case by the Department in accordance with 89 Ill. Adm. Code 302, Services Delivered by the Department, Section 302.310, Adoption Assistance Agreements, and Appendix B, Calculating the Amount of Adoption Assistance. The duration of adoption assistance may not extend beyond age 18 years, although adoption assistance may be provided at the Department's option until the child's 21st birthday if the child has a physical, mental, or emotional disability that warrants the continuation of assistance.

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- 2) The purpose, amount, and duration of the adoption assistance will be mutually agreed to by the Department and the adopting parents prior to completion of the adoption in the form of a written agreement. The amount of financial assistance shall be less than the cost of maintaining the child in an appropriate foster family home. Special service fees shall cost no more than such services would cost the Department.
  - 3) The Department shall review with the adoptive parent(s) the continuing needs of the child for adoption assistance every two years or more frequently, based on changes in the circumstances of the adoptive parent(s) and the needs of the child being adopted. The adoptive parent(s) shall renew the adoption assistance agreement every two years prior to the anniversary date of the finalization of the adoption.
- f) Related services are not substitute care services but are provided to enhance the care provided to children who require substitute care services.
- 1) In an effort to upgrade the quality of foster family care, the Department may pay for foster parent training and costs associated with training. These payments are provided as funding allows.
  - 2) Permanent planning and adoption contracts may be negotiated with licensed child welfare agencies. These contracts are negotiated to develop plans for children in substitute care and to secure adoptive resources for special needs children.

(Source: Amended at 21 Ill. Reg.10904, effective July 29, 1997)

**Section 359.5 Payments for Family Preservation and Auxiliary Services**

Payments are made for the following services provided to children and their families when in compliance with the requirements of negotiated contracts, and authorized approval levels:

- a) After care services are social services provided to children who are leaving private agency foster care or care in an institution or group home. The purpose of these services is to help the children adjust to their new environment. The payment rates are negotiated by contract.
- b) Homemaker and emergency caretaker services are provided through individual and agency contracts. They may be provided to children either in or out of their own homes. The Department may pay as funding allows for associated costs such as transportation, if appropriate, and medical examinations for advocates, homemakers and emergency caretakers.
- c) Counseling/advocacy services are provided to families through individual and agency contracts. These services are purchased for intact family units and for families who have children in substitute care.

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- d) Family psychiatric evaluations are provided for family counseling purposes when needed and to help evaluate the family's functioning. These services are purchased at the physician's usual and customary fee, subject to review and comparison with rates set by other state agencies.
- e) Family planning counseling is a service available to all clients of the Department. Additionally, the Department may pay for medical costs related to family planning when payment is not otherwise available.
- f) Camping for children living at home may be authorized by the Department when a camping experience is essential for the social development of a child receiving Department child welfare services.
- g) Day care is a service utilized to preserve and strengthen family life in times of crisis and to prevent the unnecessary separation of children from their families and to maintain family self-sufficiency. Day care is provided through agency contracts and individual arrangements with day or night care providers. The Department may pay for associated costs such as pre-admission physical examinations when such costs are not included in the day care providers fee.
- h) Supervised independent living arrangement contracts may be negotiated with service providers to provide social services and supervision to youth in independent living arrangements.

**Section 359.6 Payments for Independent Living Arrangements**

The Department may make payments directly to a youth 16 years of age or older for whom the Department has legal responsibility when by plan the youth is living independently from direct caretaker supervision in order to achieve self-sufficiency.

(Source: Amended at 21 Ill. Reg. 10904, effective July 29, 1997)

**Section 359.7 Payments for Children's Personal and Physical Maintenance**

The Department shall provide payment for goods and services necessary to ensure the personal and physical maintenance of placed children for whom the Department is legally responsible. These goods and services include:

- a) Initial placement clothing and replacement clothing thereafter if needed.
- b) Personal expenses for children in Department of Human Services or other state approved facilities.
- c) Camp fees, clothing, and supplies for children in substitute care when such is seen as essential for the child's social development.
- d) Cultural enrichment including art, dancing, music, athletic lessons or instruction and related fees such as rental of equipment.



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- e) Education expenses including books and school fees, summer school fees, school supplies, school insurance for athletic participation only, school trips if appropriate, graduation expenses, and school transportation for handicapped children if not provided by the school district.
- f) Travel in order to implement a child's permanency goal or maintain contact with past caretakers

**Section 359.8 Payments for Unmarried Mothers (Repealed)**

(Source: Repealed at 21 Ill. Reg. 10904, effective July 29, 1997)

**Section 359.9 Payments for Medical Care**

- a) Applications will be submitted by the Department in behalf of all children for whom the Department is legally responsible for Medicaid through the Department of Public Aid. The Department will pay for medical services or expenses for children for whom the Department is legally responsible who are Medicaid ineligible and who have no financial resources.
- b) Foster parents, private child welfare agencies, and institutions providing substitute care for children for whom the Department is legally responsible may select a practitioner of choice as long as the practitioner is licensed and has cost standards which comply with levels of payment prescribed by the Department of Public Aid's medical assistance program.

**Section 359.10 Overpayments and Repayments**

- a) When an overpayment for a service occurs, the Department will seek to recover the amount overpaid in the following ways:
  - 1) The Department will deduct the amount of the overpayment from future payments to the service provider or from youth who receive their own payments. The Department will provide advance written notice to the service provider or the youth of the amount of the deduction.
  - 2) If the service provider or youth are no longer receiving payments from the Department, the Department will request in writing repayment of the amount that was overpaid.
- b) The Department seeks to recover an overpayment through deduction from future payments. In determining the amount of the monthly repayment, the Department will take into account the ability of providers to repay the amount without adversely affecting the providers' ability to provide proper care to the children in their care. Criteria will be based on their income, expenses and family size. The Department will take into account the ability of youth to repay without adversely affecting the ability to meet basic living expenses such as rent, food and clothing.

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- c) When the Department seeks to recover an overpayment from providers who are no longer providing a service to the Department or from youth who are no longer receiving payments, it will take into account their ability to repay based on their income, expenses and family size.
- d) When providers or youth, who no longer receive payments from the Department, refuse to repay overpaid amounts and the Department has made a reasonable effort to recover the amount, the Department will refer the matter to the State Comptroller and the Attorney General.

(Source: Added at 9 Ill. Reg. 19705, effective December 16, 1985)