

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 828

FOSTER CARE SERVICES FOR CHILDREN

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Historical Note: This chapter is based substantially upon Rule 6 §§5707-5711 "Rules and Regulations Governing Payments For Children In Foster Care," and Rule 15 §§5008, 5008.01, 5008.03-5008.09(a)(4), 5008.10, 5008.11(b), (c), (d), 5008.12, 5008.14-5008.18, 5008.20, 5008.24 "Governing Social Services To Family And Children's Services," Public Welfare Division, Department of Social Services and Housing. Rule 6 §§5707-5711 [Eff 7/12/71; am by Rule 17 7/24/72; R 7/19/82] Rule 15 §§5008, 5008.01, 5008.03-5008.09(a)(4), 5008.10, 5008.11(b), (c), (d), 5008.12, 5008.14-5008.18, 5008.24 [Eff as Rule 64 §§2008, 2008.1, 2008.3-2008.9(4), 2008.10, 2008.11(2), (3), (4), 2008.12, 2008.14-2008.18, 2008.24 10/21/77; ren to Rule 15 10/31/78; am 3/15/79; R 7/19/82] Rule 15 §5008.20 [Eff as Rule 6 §5704 7/12/71; am 9/13/75; am by Rule 17 7/24/72; am 4/24/76; am and ren to Rule 64 §2008.20 10/21/77; ren to Rule 15 §5008.20 10/31/78; am 3/15/79; R 7/19/82]

§17-828-1 Goals. Foster care services shall be given to:

- (1) Achieve or maintain self sufficiency, including reduction or prevention of dependency;
- (2) Prevent or remedy neglect, abuse, or

- exploitation of children or to preserve, rehabilitate, or reunite families; and
- (3) Prevent or reduce inappropriate institutional care. [Eff 7/19/82; comp 7/6/90] (Auth: HRS §346-17) (Imp: HRS §346-17)

§17-828-2 Definitions. As used in this chapter:

"Caretaker" means any adult who provides care to or oversees the care of foster children.

"Child caring institution" or "group home" means any group home or institution, other than an institution of the State, maintained for the purpose of receiving six or more minor children for care and maintenance, not of common parents, apart from the parents or guardians on a twenty-four hour basis for monetary payment. The term shall not apply to any boarding school which is primarily engaged in educational work.

"Foster care services" means planned substitute care arrangements in state licensed family homes, or group or institutional settings for children whose parents are unable to provide care needed for the children's welfare and protection.

"Foster child" means any child under eighteen years of age who is not related to the foster parent by blood, marriage, or adoption and who is in need of substitute parenting care; or upon attaining age eighteen years while residing in a foster family boarding home with a goal towards independent living and needs continued care to complete high school education or equivalent within six months or within the following school year; or is twenty-one years old or younger and attending an accredited institution of higher education in the state on a full-time basis.

"Foster family boarding home" means a home providing family care to minor foster children apart from the parents or guardian on a twenty-four hour basis and which has met the state licensing requirements.

"Foster parent" means any adult person who gives parenting care and maintenance to a foster child.

"Independent foster home" means a foster family boarding home which receives foster children for parenting care from sources other than a child-placing agency.

"Independent placement" means placement of a child into a licensed foster family boarding home or child caring institution directly by the child's parents, legal custodians or legal guardians, and not through a child placing agency.

"Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment, including but not limited to college, universities, and vocational or technical schools. [Eff 7/19/82; am 10/28/83; am and comp 7/6/90; am 2/17/97] (Auth: HRS §346-17) (Imp: HRS §§346- 346-17)

- §17-828-3 Eligibility requirements. (a) In order to be eligible for foster care services, the child shall be determined by the department or its representative to be in need of substitute parenting care and protection due to the following conditions:
- (1) The child is not eligible for room and board payments under section 17-923-6; and
 - (2) The child is without adequate care and supervision in the home due to parental absence, incapacity, or negligence; or
 - (3) The child is in danger of abuse, exploitation, or both, by the parents or caretakers; or
 - (4) The child is released for adoption and is awaiting a suitable adoptive home; or
 - (5) The child is in the process of being freed for adoption or is being seriously considered for adoption planning, and the child's separation from the legal parents is assessed by the department to be in the child's best interest; or
 - (6) The child displays serious adjustment problems such as repeated runaways, chronic truancy, or minor law violations and is beyond the control of the parents or caretakers; or
 - (7) The child exhibits special problems related, but not limited to, mental illness, physical handicap, or developmental disability which are beyond the parents' capacity to cope and an appropriate foster family boarding home or child caring institution is available; or
 - (8) The family is in crisis or there are deteriorating family, or child-parent relationships which strain the ability of the family to continue its child-rearing role; or
 - (9) The child is between ages 16-18 years, is employed full or part-time with a goal of emancipation and needs assistance in attaining this goal.

(b) Any eligible foster child shall continue to be eligible for foster board allowances after reaching the age of majority and the foster board payments for that person shall continue to be paid to the person's foster parents, provided that:

- (1) The person is twenty-one years old or younger; and
- (2) The person is attending an accredited institution of higher education in the state on a full-time basis.

Foster board allowances may be applied to costs incurred in undertaking full-time studies at an institution of higher education.

(c) In order to justify the child's removal from the home the department or its representative shall have determined that:

- (1) The parent, relative, or caretaker is unable to deal with the problem; and
- (2) Removal of the child from the home is in the child's best interest.

(d) As a requirement for admission into a foster family boarding home, the child shall have a physical examination by a licensed physician within forty-eight hours prior to placement or, in emergency situations, within twenty-four hours after placement which shall indicate the absence of any communicable condition, known allergies, physical handicaps or limitations, and specific health needs. The physical examination shall also include a chest x-ray or a tuberculin skin test for a child fifteen years or older.

(e) As a requirement for admission into a group home or child caring institution, the child shall have a physical examination by a licensed physician within two weeks prior to admission which shall indicate the absence of any communicable condition, known allergies, physical handicaps or limitations, and specific health needs. The physical examination shall also include a chest x-ray or a tuberculin skin test for a child fifteen years or older.

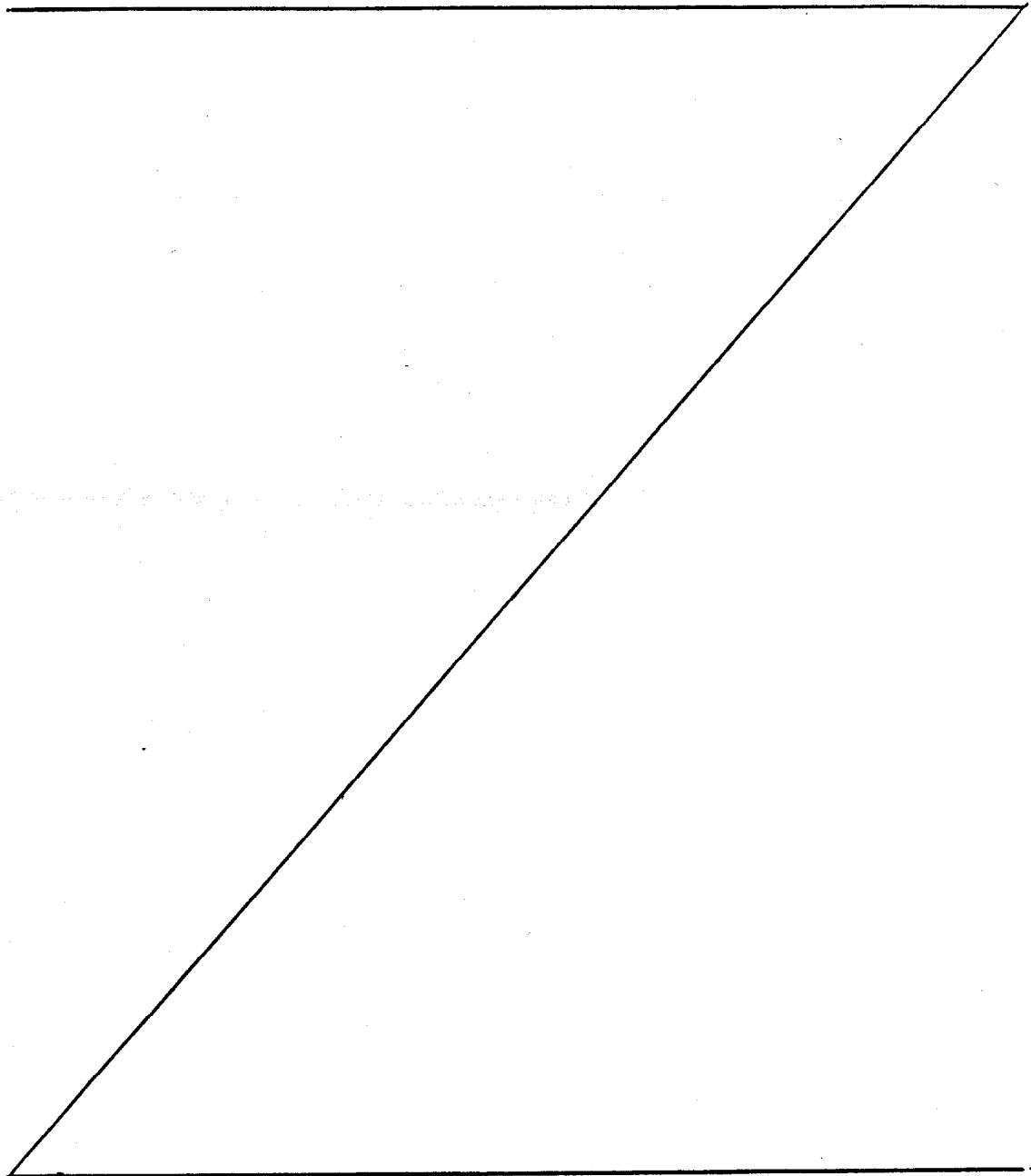
(f) Each child in foster care shall have a health record which shall include a record of immunizations. If no record is available on immunizations or the immunizations are not completed, immediate steps shall be taken to have the immunizations completed.

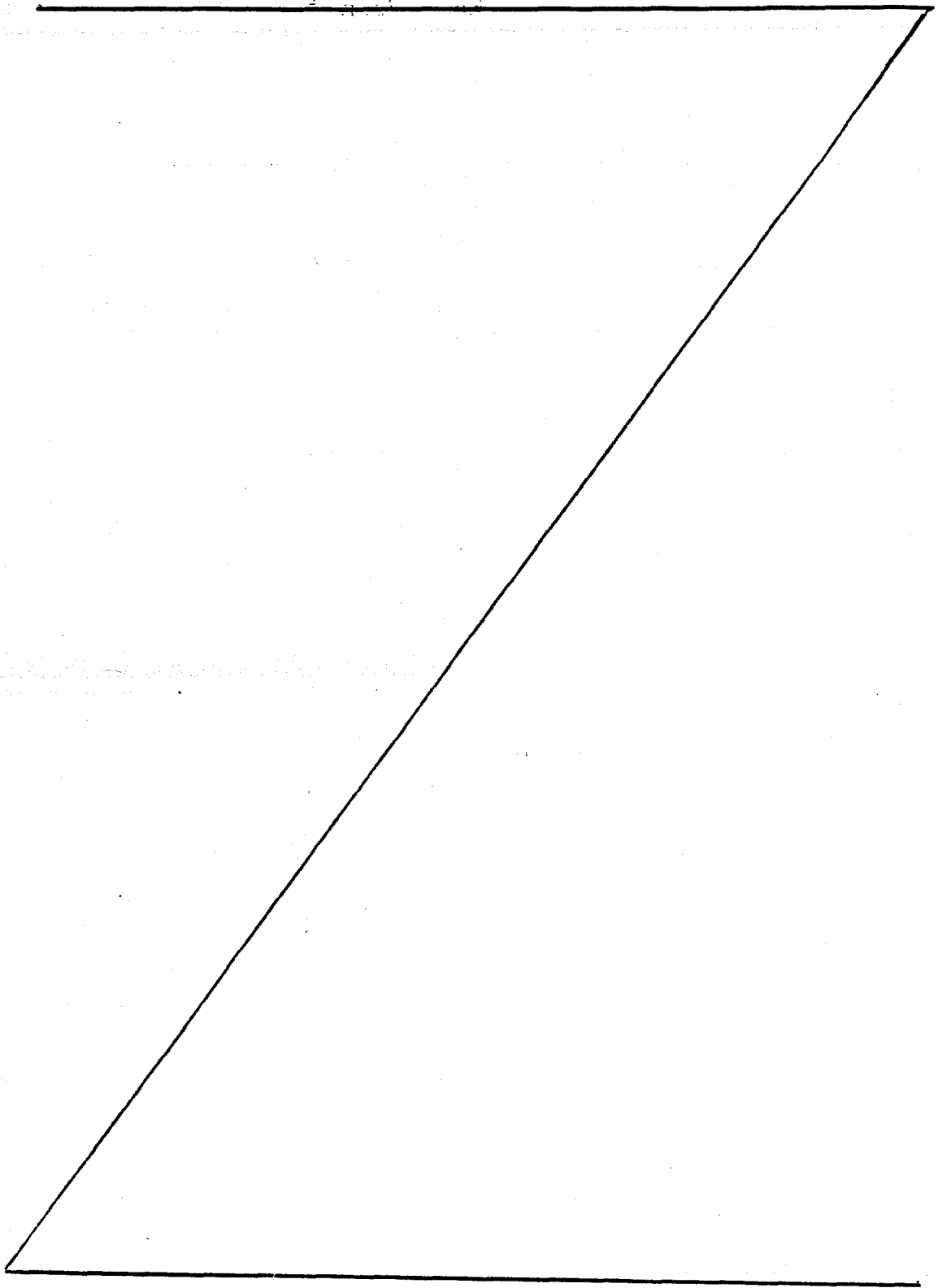
(g) Each child in foster care shall have an annual physical examination by a licensed physician which shall indicate the absence of any communicable condition, known allergies, physical handicaps or limitations, and specific health needs. The annual

physical examination shall also include a chest x-ray or a tuberculin skin test for a child fifteen years or older.

(h) A review every six months of each child in foster care shall be made to determine:

(1) The child's continued need for placement;





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- (2) The appropriateness of the foster care resources selected; and
 - (3) The plan of service to help the child return home or arrange other permanent plans.
- (i) No child shall remain in a child caring institution for more than two years without a specific reason as to how the prolonged stay will be beneficial to the child. [Eff 7/19/83; am 10/22/83; am and comp 7/6/90] (Auth: HRS §346-17) (Imp: HRS §346-17)

§17-828-4 Geographic area. (a) Foster care services are provided to eligible children throughout the State, subject to the availability of certified homes.

(b) A child may be placed in a foster care facility in another branch through inter-branch planning according to the child's needs and the resources available to meet these needs. The two branches shall agree on a plan for placement and coordinate services to the child and family.

(c) Through arrangement with an out-of-state licensed child placement agency, foster care services may be provided outside the State when the child and family meet the eligibility requirements specified in section 17-828-3 and placement is approved by the branch administrator.

- (1) The receiving agency shall agree to the placement and provide supervision.
- (2) The department shall continue to have primary responsibility which includes, but is not limited to, payment for the child until the receiving state or relatives are able to assume complete responsibility for the child. [Eff 7/19/82; am and comp 7/6/90] (Auth: HRS §346-17) (Imp: HRS §346-17)

§17-828-5 Scope. (a) Foster care services include substitute family care and supervision of children in licensed foster family boarding homes, group homes, and child caring institutions.

(b) The basic substitute parenting functions performed by foster parents or caretakers include, but are not limited to, the provision of:

- (1) Warmth, security, emotional nurturing;
- (2) Intellectual stimulation;
- (3) Training by example to develop social skills;

and

(4) Encouragement to participate in family life.

(c) Foster care board payment shall be made for the care and maintenance of eligible children in licensed foster family homes, group homes, and child caring institutions. Payment covers:

- (1) Food, including lunches and milk;
 - (2) Shelter, including utilities;
 - (3) Use of household furnishings and equipment;
 - (4) Expenses involved in household operations;
 - (5) Personal essentials, including, but not limited to, toothbrush, soap, combs, haircuts, sanitary supplies, shoe polish, replacement of milk bottles and nipples, and safety pins;
 - (6) Reading and educational supplies;
 - (7) Recreational and community activities of the children such as parties, picnics, church money, movies, and excursions;
 - (8) Transportation expense for the foster parent or caretaker to shop for the foster child, or deliver the child to school events, church or other community socials, and to other recreational activities;
 - (9) Medicine chest supplies or first aid materials such as band-aids, aspirin, cough syrup, bandages, and merthiolate;
 - (10) Allowance according to the age grouping of the child;
 - (11) Babysitting expense incurred by foster parents for their own recreational purposes; and
 - (12) Other requirements for infant care including two basic sub-items:
 - (A) Food supplements (vitamins) generally recommended by doctors and followed by foster parents in the care of infants and children through five years of age; and
 - (B) Increased needs in utilities, household furnishings, and operations arising from increased activity in such activities as laundering and formula preparation.
- (d) The department shall provide the following when a child's need is established by the department social worker:
- (1) Clothing:
 - (A) Necessary for initial placement; and

- (B) Necessary for maintenance; and
 - (C) Needed for special circumstances or special events.
- (2) The actual cost of necessary school bus fare or private automobile mileage at established state mileage allowance may be allowed for the months school is in session for a child in foster care who is attending school where free school transportation is not available;
 - (3) The actual cost of local bus fare, private automobile mileage at established state mileage allowance, or taxi fare when other resources are not available, shall be allowed to obtain medical care including physical examinations, psychiatric and psychological therapy;
 - (4) Minimum rates for transportation and other costs to effect placement may be paid by the department. Approval for out-of-state transportation costs for a child under the department's placement responsibility shall be obtained from the family and adult services division administrator prior to the child's being sent out-of-state and after the placement has been approved by the receiving state's interstate compact on the placement of children's office;
 - (5) The minimum cost of transportation shall be allowed foster parents for department authorized meetings upon certification by the department social worker;
 - (6) Minimum cost of transportation to the child's home for visitation when this is part of a case plan;
 - (7) Child care costs as allowed under chapter 17-916, Hawaii Administrative Rules, when needed to enable the foster parent to maintain employment; or
 - (8) Medical treatments or medication for the foster family boarding home or members of the foster family may be provided up to \$500 per incident or \$500 per person depending upon a doctor's recommendations for a foster child's physical condition. The need for cleaning supplies for the home or family must be established by the social worker. The need for those treatments, medications or supplies must be related to the physical condition of

the child in foster care. [Eff 7/19/89; am and comp 7/6/90] (Auth: HRS §346-17) (Imp: HRS §346-17)

§17-828-6 Authorization for service. (a) The department or its representative shall authorize foster care services only in licensed foster family boarding homes, group homes, and child caring institutions when the child and family meet the eligibility requirements specified in section 17-828-3 and a suitable home or appropriate group facility is available.

(b) An exception may be made under the following conditions:

- (1) The foster family boarding home under study will accept only a specific child; or
- (2) A child for whom service is requested is already living in the foster family boarding home and the department social worker determines that the home offers some assets to the child.

Studies on all foster homes for a specific child shall be completed within two months after the social worker has approved placement of the child in the home.

(c) The department shall make payment for room, board, and other necessary expenditures as specified in section 17-828-5 for care of the child when it is determined that the child:

- (1) Needs foster care; and
- (2) Is without sufficient income and resources to meet payment for care based on the department's eligibility standards.

(d) The department shall make board payment directly to the foster boarding home parents, group home, or child caring institution.

- (1) Payment shall be made monthly after the end of each month of service.
- (2) The amount of payment shall be based upon the board rate established by the director of the department. The board rates shall be as follows:

- (A) In a licensed foster family boarding home payment shall be \$504, without any change in payment by age, effective July 1, 1989; and \$529, effective July 1, 1990;
- (B) In a licensed group home or child caring institution the monthly standard rate of

\$504 shall be paid effective July 1, 1989; and \$529 effective July 1, 1990; and

(C) In authorized emergency shelter homes the per diem rate of \$17 per child shall be paid effective July 1, 1989 and \$18 effective July 1, 1990.

(3) Payment shall be made for the actual number of days care is given.

(e) Payments may be made during a child's temporary absence from the foster family boarding home, group home, or child-caring institution if the department's plan with the facility is for the child's return to the facility.

(1) Payment shall be made as follows:

(A) Full board payments for up to fourteen days; and

(B) Fifty percent of board payments for the second two weeks.

(2) Payment shall be discontinued no later than at the end of the four week period of absence, or earlier, when the decision is made for the child's discharge from the facility or foster home.

(f) The department may make board payment in accordance with the established rate of the supervising out-of-state agency upon meeting the requirements specified in section 17-828-4. [Eff 7/19/82; am 5/9/83; am 10/28/83; am 9/30/85; am 3/21/88; am and comp 7/6/90] (Auth: HRS §346-17) (Imp: HRS §346-17, HRS 350E)

§17-828-7 Family responsibility for payment. (a) Legally responsible parents or guardians shall be required to contribute to the cost of their child's foster care in accordance with their financial ability.

(1) In the absence of any court order for support, the amount of parental contribution shall be the amount in excess of the family living needs according to family size, based on the table below. The amount in excess of the family living needs shall be determined by deducting the family living needs from the family's net income. Net income shall be the amount remaining following mandatory payroll deductions from gross income. Mandatory deductions are federal and state income tax,

federal social security tax, temporary disability insurance, and retirement.

<u>Family size</u>	<u>Family living needs* (per month)</u>
1 member	\$ 992
2	1,401
3	1,649
4	1,855
5	1,945
6	2,035
7	2,125
8	2,215
9	2,305
10+	2,485**

*Based on U. S. Bureau of Labor Statistics, "Annual Urban Family Budgets", Fall, 1979 and "Cost of Living Budgets in Honolulu", August 1980, with medium income for family sizes one to five, and \$90 per person above family size six.

**Assumes family size eleven to be representative of this class.

- (2) The requirement to contribute shall not apply to parents of any child surrendered for adoption through a signed consent of the parent as long as the consent remains in effect.
 - (b) Contributions from the legally responsible parent or guardian or from income resources of the child shall be made to the department as refund for the cost of child foster care or as specified in subsection (c).
 - (c) Income resources of the child in foster care include:
 - (1) Unearned income such as retirement survivor's and disability insurance (RSDI) benefit payments, trust fund accounts, and military personnels' or veterans' dependency benefits; and
 - (2) Earned net income from full or part-time employment for children meeting the eligibility requirement for section 17-828-3 shall be applied as follows:

- (A) Thirty percent (30%) from full-time employment of which twenty percent (20%) shall be applied to room and board and ten percent (10%) to meet clothing needs.
- (B) Fifteen percent (15%) from the net monthly income of \$100 or more from part-time employment shall be applied to room and board.

Payment shall be made directly to the foster parent or other care provider as part of the case plan.

(d) A private fund account shall be set up by the department for a foster child if there are resources defined in section 17-828-7 available in excess of the amount expended by the department for cost of foster board payments.

(e) Payments for other needs of the foster child not provided for by the department and authorized by the social worker, shall be made by withdrawal against the child's private fund account. [Eff 7/19/82; am 10/22/83; am and comp 7/6/90] (Auth: HRS §346-17) (Imp: HRS §§346-17, 346-37.1)

§17-828-8 Termination. Foster care services and payment shall be terminated when the child:

- (1) Returns to the child's own home because of progress and improvement in the family situation and the parents are ready and able to provide care and supervision;
- (2) Goes into an adoptive home;
- (3) Moves in with relatives or friends;
- (4) Achieves independent living and is self-supporting;
- (5) Reaches the age of majority and does not meet the definition of foster child;
- (6) Enters military service;
- (7) Enters a state institution for mental retardation or mental illness;
- (8) Is placed in a correctional facility;
- (9) Is admitted to an alcohol or drug treatment or residential social rehabilitation facility;
- (10) Is placed in an extended medical facility;
- (11) Moves to another state which will assume full responsibility for supervision and support of the child;

- (12) Dies;
- (13) Can no longer benefit from foster care; or
- (14) No longer meets eligibility requirements of section 17-828-3. [Eff 7/19/82; am 10/28/83; comp 7/6/90] (Auth: HRS §346-17) (Imp: HRS §346-17)