

**HAWAII ADMINISTRATIVE RULES**

**TITLE 17**

**DEPARTMENT OF HUMAN SERVICES**

**SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION**

**CHAPTER 943.1**

**FEDERALLY FUNDED FOSTER CARE  
MAINTENANCE PAYMENTS**

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**Historical Note:** Chapter 17-943.1, Hawaii Administrative Rules is based substantially upon chapter 17-943, Hawaii Administrative Rules. [Eff 11/12/83; am 9/30/85; am 7/6/87; am 3/21/88; am & comp 7/6/90; R NOV 12 1992 ]

§17-943.1-1 **Goals.** Federally funded foster care maintenance payments shall be offered:

- (1) To prevent or remedy abuse, neglect, and exploitation of children;
- (2) To rehabilitate and reunite families;
- (3) To minimize the length of time children spend in foster care settings;
- (4) To provide long-term permanent care and supervision of a child. [Eff NOV 12 1992 ]  
(Auth: HRS §346-14) (Imp: HRS §346-14)

§17-943.1-2 Definitions. As used in this chapter:

"Administrative review" means a periodic review open to the participation of the parents or legal guardians of the child, conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"Child" means a needy person under age eighteen or a person age eighteen who is a full-time student in a secondary school or in a program of an equivalent level of vocational or technical training and is reasonably expected to complete the program before reaching age nineteen.

"Date of original placement" means the most recent date on which responsibility for the placement and care of the child was assumed by the department through court order, written voluntary consent of the parents or guardians, or through the transfer of protective custody to DHS pursuant to section 587-22, HRS.

"Dispositional hearing" means a review held by the court or a court-appointed or approved body within eighteen months of the date of original placement and at least every eighteen months thereafter until the child is placed into a permanent home. The primary purpose of the dispositional hearing is to try to develop a permanent plan for the child.

"Federally funded foster care maintenance payments" means the financial assistance program administered by the DHS-FASD under title IV-E of the Social Security Act (42 U.S.C. sections 670-672), for eligible children who are placed in licensed or approved foster family homes either as the result of a voluntary placement agreement, or a judicial determination that:

- (1) Continuation in the home would be contrary to the welfare of the child; and
- (2) Reasonable efforts to prevent the placement or reunify the family had been made.

"Foster care services" means planned substitute parenting care provided on a twenty-four hour basis in a licensed or approved foster family home, including a group home or an institutional setting, to an eligible child whose parents are unable to provide the parenting care needed for the child's welfare and protection.

"Foster family home" means the home of an individual or family, or a group home which provides twenty-four hour out-of-home foster care services to

minor children and which has met the State licensing requirements.

"Foster parent" means any adult licensed or approved to provide foster care services.

"Institution" means a private non-profit child-care institution, or a public child-care institution which accommodates no more than twenty-five children, and is licensed by the department pursuant to chapter 17-894, or providing special services to children and licensed by the department of health pursuant to section 321-11 (10), HRS.

"Least restrictive setting" means a placement which is most family-like in setting that can meet the needs of the child.

"Parental deprivation" means depriving a child of parental support or care by reason of death, continued absence from the home (other than absence based solely on performance of active duty in the uniformed services of the United States), physical or mental incapacity of a parent or unemployment of the parent who is the principal wage earner, as defined in chapter 17-641.

"Periodic review" means a review of the status of each child in substitute care under the placement responsibility of the department which is held within six months of the date of original placement and at least every six months thereafter. The review shall be conducted by the court, a body appointed by the court or by administrative review. The primary purpose of the periodic review is to assess the continuing necessity for and appropriateness of the placement and the extent of compliance with the case plan.

"Reasonable efforts" means appropriate and available services offered or provided to prevent a placement or to reunify a family.

"Voluntary placement" means the out-of-home placement of a child by or with the participation of the department, after the parents or guardians of the child have requested the assistance of the department and have signed a voluntary placement agreement which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the department while the child is in placement. Federal reimbursement for a child removed from the home pursuant to a voluntary placement agreement may not be paid for more than 180 days, unless there has been a judicial determination by the court, within the first 180 days of such placement, that such placement is in the best interests of the child. [Eff NOV 12 1992 ] (Auth: HRS §346-14)

(Imp: 45 C.F.R. §§233.10, 233.39, 233.40, 1356.20, 1356.21, 1356.30; 42 U.S.C. §675)

**§17-943.1-3 Initial eligibility requirements.**  
Initial eligibility for federally funded foster care maintenance payments shall be based on the following seven factors:

- (1) **Age.** The child is under eighteen years of age or age eighteen and a full-time student, or in the equivalent level of vocational or technical training, and is expected to complete the program before reaching age nineteen.
- (2) **Removal from the home.** The child shall have been removed from the home of a parent or specified relative as defined in chapter 17-640 as a result of:
  - (A) **A judicial determination that:**
    - (i) Continuation in the home would be contrary to the best interests of the child;
    - (ii) Reasonable efforts were made prior to placement to prevent or eliminate removal of the child from his or her home; and
    - (iii) Reasonable efforts were made, if the child had been placed in foster care, to return the child to the home; or
  - (B) **A currently valid voluntary placement agreement signed by the child's parent(s) or legal guardian provided that the criteria of section 17-943.1-4 are met.**
- (3) **Responsibility for placement and care.** The child's placement and care shall be the responsibility of DHS-FASD.
- (4) **Receipt of Aid to Families with Dependent Children (AFDC).**
  - (A) **The child is a recipient of AFDC in or for the month in which the voluntary agreement was entered into, or court proceedings leading to removal from the home were initiated; or**
  - (B) **The child would have received AFDC if an application had been made for such benefits in or for the month in which the voluntary agreement was entered into**

- or court proceedings leading to removal from the home were initiated; or
- (C) The child was living with a specified relative as defined in chapter 17-640 within six months prior to the month in which either a voluntary agreement was entered into or court proceedings were initiated and the child would have received AFDC if the child had been living with that relative in the month of petition and an application had been made for the child; or
- (D) The child, if an alien disqualified from the AFDC program under sections 245(h), 210(f), or 210A(d)(7) of the Immigration and Nationality Act (8 U.S.C sections 1255, 1160 and 1161), shall be considered to have met requirements of this paragraph.
- (5) Application for title IV-E foster care payments. Application for title IV-E voluntary foster care payments shall have been completed by a designee of the department or the child's parents or other relative with whom the child is residing on the state prescribed application form.
- (6) Financial eligibility. The income and assets of the child, including parental support, during the month of placement are insufficient to meet the full cost of foster care. After the month of placement, only the child's income and assets shall be considered in determining financial eligibility. The provisions relating to income, assets, child support, and the budgeting process applicable to the AFDC program and specified in chapters 17-620, 17-621, 17-626, 17-640, and 17-641 shall apply. [Eff NOV 12 1992 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §§232.11, 232.12, 232.40, 232.41, 232.42, 232.43, 232.47, 233.10, 233.20, 233.40, 233.50, 1356.21; Pub. L. No. 98-378)

**§17-943.1-4 Voluntary placements.** (a) The department may accept children into substitute care on a voluntary basis for no more than ninety days when the parents or person legally responsible for the child sign a voluntary placement agreement with the department and one of the following conditions is met:

- (1) The child who is not otherwise at risk of abuse or neglect requires temporary placement due to a family emergency, such as illness or incapacity of the child's caretaker, and the family, even with the department's assistance, is unable to maintain the child in the family home or arrange for extended family care independent of the department; or
- (2) Parent-child relationship problems require the temporary out-of-home care of the child; or
- (3) The child is subject to threatened harm and in-home supportive services have been deemed unable to maintain the child safely in the home.

(b) The department shall immediately petition the family court if a reassessment of the family's situation and the problems resulting in the temporary placement indicate that placement will be needed for more than ninety days. The petition shall request a finding of sufficient grounds to bring the child under the jurisdiction of the family court and the ordering of a service plan. [Eff NOV 12 1992 ] (Auth: HRS S346-14) (Imp: 47 C.F.R. §1356.21)

**§17-943.1-5 Geographic areas of service.** (a) Federally funded foster care maintenance payments are available for eligible children throughout the State subject to the availability of licensed or approved family foster homes as defined in this chapter.

(b) Through arrangement with an out-of-state licensed child placement agency, federally funded foster care maintenance payments may be provided outside the State when the child and family meet the eligibility requirements specified in section 17-943.1-3 and placement is approved by the branch administrator, provided:

- (1) The receiving state's interstate compact on the placement of children's office has approved the placement and supervision is provided by the receiving agency. Case plan and case review requirements shall continue

to be met by DHS-FASD.

- (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 NOV 12 1992 ] (Auth: HRS §346-14)  
 (Imp: 45 C.F.R. §1356.21)

§17-943.1-6 Scope of services. (a) Federally funded foster care maintenance payments shall be made for substitute family care and supervision of children in licensed or approved foster family homes as defined in this chapter.

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

- (1) Warmth, security, emotional nurturance;
- (2) Intellectual stimulation;
- (3) Training by example to develop social skills; and
- (4) Encouragement to participate in family life.

(c) Payments shall cover the cost of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation or for placement.

(d) In the case of institutional care, payments shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items in subsection (c).

(e) In cases where a child placed in a foster family home or child-care institution, receiving federally funded foster care maintenance payments, is the parent of a son or daughter who is in the same home or institution, payments made on behalf of the child shall include amounts necessary to cover the costs of the same items for the son or daughter.

[Eff NOV 12 1992 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §1356.60; 42 U.S.C. §675)

§17-943.1-7 Case plans. The case plan requirements of chapter 17-945 shall apply to children receiving services under this chapter.

[Eff NOV 12 1992 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §1356.21; 42 U.S.C. §675)

**§17-943.1-8 Periodic reviews.** (a) The periodic review requirements of chapter 17-945 shall apply to children receiving services under this chapter.

(b) For children placed pursuant to a voluntary placement agreement, once the court has determined that placement is in the best interest of the child, the court is not required to make that finding again during a continuous period of placement. [Eff NOV 12 1992 ]  
(Auth: HRS §346-14) (Imp: 45 C.F.R. §§1356.21, 1356.30; 42 U.S.C. §675)

**§17-943.1-9 Dispositional hearings.** The provisions of chapter 17-945 relating to dispositional hearings apply to families and children receiving services under this chapter. [Eff NOV 12 1992 ]  
(Auth: HRS §346-14) (Imp: 45 C.F.R. §1356.21; 42 U.S.C. §675)

**§17-943.1-10 Authorization for service.** (a) The department shall authorize federally funded foster care maintenance payments only in a licensed or approved foster family home of an individual or family, a licensed private non-profit or public child-care institution which accommodates no more than twenty-five children or a facility providing special services to children licensed by the department of health pursuant to section 321-11(10), HRS, when the child meets the eligibility requirements in section 17-943.1-3, and a suitable foster care placement is available.

(b) The department shall make payment for room, board, and other necessary expenditures described in section 17-943.1-6 for care of the child when it is determined that the child needs foster care and is without sufficient income and resources to meet payment for care based on the department's eligibility standards.

(c) The department shall make board payment directly to the foster family home for board, clothing, and other foster care service costs in accordance with the amounts allowed in chapter 17-828.

(d) Payments may be made during a child's temporary absence from the foster family home if the department's plan with the facility is for the child's return to the facility. Full board payments shall be made for up to fourteen days of absence. Fifty percent of board payments shall be paid for the second two weeks of absence. Payment shall be discontinued no



later than at the end of the four week period of absence, or earlier, when a decision is made to discharge the child from the foster family home.

(e) Federally funded foster care maintenance payments provided for eligible children placed out-of-state shall be provided at Hawaii's rate of payment unless the rate of foster care maintenance payments in the receiving state is higher. [Eff NOV 12 1992 ]  
 (Auth: HRS §346-14) (Imp: 45 C.F.R. §§233.20, 1356.60)

**§17-943.1-11 Continued eligibility requirements.**

(a) **Eligibility Redetermination.** Within six months of the initial determination of eligibility and at intervals not greater than every six months thereafter, the child's situation shall be reviewed to ensure that the child continues to meet eligibility requirements specified in section 17-943.1-3.

(b) **Income.**

(1) After the month of placement, only the child's income and assets shall be considered in determining the amount to be applied toward the federally funded foster care maintenance payment and in determining continuing eligibility for the payment.

(2) The provisions relating to income, assets, child support, and the budgeting process applicable to the AFDC program and specified in chapters 17-620, 17-621, 17-626, and 17-641 shall apply to the federally funded foster care maintenance program.

(c) **Periodic reviews.** Periodic reviews to determine that placement is in the best interest of the child shall be held as required in section 17-943.1-8.

(d) **Voluntary placements.**

(1) Federal reimbursement for a child removed from the home pursuant to a voluntary placement agreement may not be paid for more than 180 days, unless there has been a judicial determination by the court, within the first 180 days of such placement, that such placement is in the best interests of the child. The court must be petitioned pursuant to the requirements of chapter 587, HRS, and court proceedings must take place within the first 180 days of voluntary placement.

(2) If a request is made by the parents or guardians for the return to the home of a

child in placement pursuant to a voluntary placement agreement, the voluntary placement agreement shall be considered revoked. Should the department determine that return to the home would be contrary to the child's best interest, the department shall file a petition requesting that the court take jurisdiction. [Eff NOV 12 1992 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §§232.11, 232.12, 232.40, 232.41, 232.42, 232.43, 232.47, 233.10, 233.20, 233.40, 233.50, 1356.21; Pub. L. No. 98-378)

§17-943.1-12 Termination. Federally funded foster care maintenance payments shall be terminated when the child meets one of the following conditions:

- (1) Returns to his or her 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) No longer resides in a foster family home;
- (4) Is admitted to an alcohol or drug treatment facility;
- (5) Is placed in an extended medical facility;
- (6) Moves to another state which will assume full responsibility for his or her supervision and support;
- (7) Dies;
- (8) Has sufficient income or resources to meet the maintenance payment independently;
- (9) Can no longer benefit from placement in a foster family home;
- (10) Is in a placement pursuant to a voluntary agreement signed by the parent(s) or guardian for more than 180 days without a judicial determination within the first 180 days that the placement is in the best interests of the child; or
- (11) No longer meets eligibility requirements of section 17-943.1-3. [Eff NOV 12 1992 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §1356.60)

§17-943.1-13 Confidentiality. The provisions of Chapter 17-601 shall apply to this chapter.  
[Eff **NOV 12 1992** ] (Auth: HRS §346-14) (Imp: HRS §346-10; 45 C.F.R. §§205.50, 1356.20)

§17-943.1-14 Appeals and fair hearings. The provisions of Chapter 17-602 shall apply to this chapter. [Eff **NOV 12 1992** ] (Auth: HRS §346-14) (Imp: HRS §346-12; 45 C.F.R. §§205.10, 1356.20)