

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

PART 359  
AUTHORIZED CHILD CARE PAYMENTS

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AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5]; 42 U.S.C. 672 and 42 U.S.C. 675.

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; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**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 placements that~~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-care institution" means a private child-care institution, or a public child-care institution that accommodates no more than 25 children, and is licensed or approved by the Department, meeting the standards established for the licensing. In the case of a child who has attained 18 years of age, the term shall include a

44 supervised setting in which the individual is living independently. The term shall  
45 not include detention facilities, forestry camps, training schools, or any other  
46 facility operated primarily for the detention of children who are determined to be  
47 delinquent. (42 U.S.C.S. 672(c)(2)(a)-(c))  
48

49 "Child only standard of need" means the assistance standard for cases in which no  
50 adult member is included, as determined by the Illinois Department of Human  
51 Services.  
52

53 "Children for whom the Department has legal responsibility" means children for  
54 whom the Department has temporary protective custody, custody or guardianship  
55 via court order, or whose parents have signed an adoptive surrender or voluntary  
56 placement agreement with the Department.  
57

58 "Contact between siblings" means contact between or among siblings who are  
59 placed apart from one another, and may include, but is not limited to: telephone  
60 calls; video conferencing; in person visitation; sending/receiving cards, letters,  
61 emails, text messages, gifts, etc.; sharing photographs or information; use of any  
62 approved social media (e.g., Facebook); and any other agreed upon forms of  
63 communication technology.  
64

65 "Family preservation services" means those services provided to children and  
66 families who require social services to maintain the family unit intact.  
67

68 "*Fictive kin*" means any individual, unrelated by birth or marriage, who:  
69

70 *is shown to have significant and close personal or emotional ties with the*  
71 *child or the child's family prior to the child's placement with the*  
72 *individual; or*  
73

74 *is the current foster parent of a child in the custody or guardianship of the*  
75 *Department pursuant to the Child and Family Services Act and the*  
76 *Juvenile Court Act of 1987, if the child has been placed in the home for at*  
77 *least one year and has established a significant and family-like*  
78 *relationship with the foster parent, and the foster parent has been*  
79 *identified by the Department as the child's permanent connection. [20*  
80 *ILCS 505/7(b)]*  
81

82 "Foster care ~~maintenance payments~~ payment" means payments to cover the cost of  
83 (and the cost of providing) food, clothing, shelter, daily supervision, school  
84 supplies, a child's personal incidentals, liability insurance with respect to a child,  
85 reasonable travel to the child's home for visitation, and reasonable travel for the  
86 child to remain in the school in which the child is enrolled at the time of

87 placement. In the case of institutional care, such term shall include the  
88 reasonable cost of administration and operation of such institution as are  
89 necessarily required to provide the items described herein, the same is also  
90 applicable in cases where a child placed in a foster family home or child-care  
91 institution is the parent of a child who is in the same home or institution and  
92 payments. (42 U.S.C.S. 675(4)(a)-(b))~~the amount paid by the Department for a~~  
93 ~~child's room, board, clothing, and personal allowance in a licensed foster family~~  
94 ~~home.~~

95  
96 "Foster family home" means the home of an individual or family:

97  
98 that is licensed or approved by the state in which it is situated as a foster  
99 family home that meets the standards established for the licensing or  
100 approval; and

101  
102 in which a child in foster care has been placed in the care of an individual  
103 who resides with the child and who has been licensed or approved by the  
104 state to be a foster parent:

105  
106 who the Department of Children and Family Services deems  
107 capable of adhering to the reasonable and prudent parent  
108 standard;

109  
110 who provides 24-hour substitute care for children placed away  
111 from their parents or other caretakers; and

112  
113 who provides the care for no more than 6 children, except the Director of  
114 Children and Family Services, pursuant to Department regulations, may  
115 waive the numerical limitation of foster children who may be cared for in  
116 a foster family home for any of the following reasons to allow:

117  
118 a parenting youth in foster care to remain with the child of the  
119 parenting youth;

120  
121 siblings to remain together;

122  
123 a child with an established meaningful relationship with the family  
124 to remain with the family; or

125  
126 a family with special training or skills to provide care to a child  
127 who has a severe disability.  
128

*The family's or relative's own children, under 18 years of age, shall be included in determining the maximum number of children served. [225 ILCS 10/2.17]*

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the 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.

"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.

*"Qualified Residential Treatment Program" means a program that:*

*has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required under 42 U.S.C. 675a(c);*

172 has registered or licensed nursing staff and other licensed clinical staff  
173 who:  
174  
175 provide care within the scope of their practice as defined by state  
176 law;  
177  
178 are on-site according to a trauma informed treatment model; and  
179  
180 are available 24 hours a day and 7 days a week;  
181  
182 to the extent appropriate, and in accordance with the child's best interests,  
183 facilitates participation of family members in the child's treatment  
184 program;  
185  
186 facilitates outreach to the family members of the child, including siblings,  
187 documents how the outreach is made (including contact information), and  
188 maintains contact information for any known biological family and fictive  
189 kin of the child;  
190  
191 documents how family members are integrated into the treatment process  
192 for the child, including post-discharge, and how sibling connections are  
193 maintained;  
194  
195 provides discharge planning and family-based aftercare support for at  
196 least 6 months post-discharge; and  
197  
198 is licensed in accordance with 42 U.S.C. 671(a)(10) and is accredited by  
199 any of the following independent, not-for-profit organizations:  
200  
201 The Commission on Accreditation of Rehabilitation Facilities  
202 (CARF)  
203  
204 The Joint Commission on Accreditation of Healthcare  
205 Organizations (JCAHO)  
206  
207 The Council on Accreditation (COA)  
208  
209 Any other independent, not-for-profit accrediting organization  
210 approved by the Secretary of Health and Human Services. [42  
211 U.S.C. 672(k)(4)]  
212

213 "Relative", for purposes of placement of a child for whom the Department is  
214 legally responsible, means any person, 21 years of age or over, other than the

215 *parent, who:*

216  
217 *is currently related to the child in any of the following ways by blood or*  
218 *adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew,*  
219 *niece, first cousin, first cousin once removed (children of one's first cousin*  
220 *to oneself), second cousin (children of first cousins are second cousins to*  
221 *each other), godparent (as defined in this Section), great-uncle or great-*  
222 *aunt; or*

223  
224 *is the spouse, or party to a civil union, of such a relative; or*

225  
226 *is the child's step-father, step-mother, step-grandfather, step-grandmother*  
227 *or adult step-brother or step-sister; or*

228  
229 *is the partner, or adult child of a partner, in a civil union with the child's*  
230 *mother or father; or*

231  
232 *is a fictive kin as defined in this Section.*

233  
234 *Relative also includes a person related in any of the foregoing ways to a*  
235 *sibling of a child, even though the person is not related to the child, when the*  
236 *child and its sibling are placed together with that person. For children who*  
237 *have been in the guardianship of the Department, have been adopted, and are*  
238 *subsequently returned to the temporary custody or guardianship of the*  
239 *Department, a "relative" may also include any person who would have*  
240 *qualified as a relative under this definition prior to the adoption, but only if*  
241 *the Department determines that it would be in the best interests of the child to*  
242 *consider this person a relative. [20 ILCS 505/7(b)]*

243  
244 "Siblings" means children who have at least one parent in common. Children  
245 continue to be considered siblings after parental rights are terminated or after one  
246 or more of the children are adopted or placed in private guardianship, if they were  
247 in the custody or guardianship of the Department pursuant to Article II of the  
248 Juvenile Court Act of 1987 immediately prior to the adoption or guardianship.  
249 Step-siblings may be considered "siblings" when the children enter into substitute  
250 care together, have a positive relationship and share at least one parent in  
251 common.

252  
253 "Substitute care services" means those services provided to children who require  
254 placement away from their families or private guardians. Substitute care includes  
255 foster family care, care provided in a relative home placement as defined in 89 Ill.  
256 Adm. Code 301.80 (Relative Home Placement), care provided in a group home,  
257 care provided in a maternity center or a child care facility, mental health or other

258 institution, and care provided in an independent living arrangement.

259  
260 "Visitation" means face-to-face contact:

261 between parents and their children who are in substitute care;

262  
263 between siblings in substitute care who are placed apart from one another;  
264 or

265  
266 between siblings in substitute care with siblings who are not in substitute  
267 care (e.g., emancipated, case closed due to independence, adopted, placed  
268 in private guardianship, living in home of parent, etc.).  
269

270  
271 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
272

273 **Section 359.4 Payments for Substitute Care Services**  
274

275 Foster care maintenance payment made under only on behalf of a child who, has been removed  
276 from the home of a relative into foster care, by voluntary placement agreement or judicial  
277 determination, and meets the AFDC eligibility requirements per 42 U.S.C. 602 and is in the  
278 foster family home of an individual, whether the payments therefor are made to such individual,  
279 or to a public or private child-placement or child-agency, or in a child-care institution, whether  
280 the payments therefor are made to such institution or to a public or private child-placement or  
281 child-care agency, which payments shall be limited so as to include in such payments only those  
282 items which are included in the term "foster care maintenance payments" as defined in Section  
283 359.2 of this Part. (42 U.S.C. 672(b)(1)-(2))

284 Payments are made for children for whom the  
285 Department has legal responsibility and their children living with them in the following types of  
286 substitute care living arrangements if the placements meet the requirements established via the  
287 purchase of service contracts and the applicable licensing rules as specified in 89 Ill. Adm. Code  
288 357, Purchase of Service, 89 Ill. Adm. Code 401, Licensing Standards for Child Welfare  
289 Agencies, 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, 89 Ill. Adm.  
290 Code 403, Licensing Standards for Group Homes, and 89 Ill. Adm. Code 404, Licensing  
291 Standards for Child Care Institutions and Maternity Centers:

292 a) Foster family care is provided in licensed foster family homes. The Department  
293 recognizes the following types of foster family care:  
294

295 1) Specialized foster family homes and intensive service foster homes  
296 receive additional monthly compensation because they accept children  
297 with medical, behavioral and/or psychological problems or because they  
298 accept pregnant girls or young mothers who are in need of specialized  
299 training in parenting skills, child development, money management, and  
300 self sufficiency.

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- 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 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.
- 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



344 child only standard of need established for that number of children by the Illinois  
345 Department of Human Services. If, at a future date, the relative submits  
346 documentation to the Department that they are licensed, approved or certified in  
347 accordance with the other state's standard for foster homes, the payment will be  
348 increased to the full foster care rate.

349  
350 d) Institution and group home care is provided in licensed institutions and group  
351 homes. Rates are established for these facilities via a purchase of service contract  
352 with the Department.

353  
354 e) Subsidized adoptive homes are adoptive homes to which the Department provides  
355 financial assistance when a special needs child for whom the Department was  
356 legally responsible is adopted.

357  
358 1) The types of adoption assistance that may be provided include:

359  
360 A) one-time only payments of non-recurring expenses incurred by or  
361 on behalf of the adoptive parents in connection with the adoption  
362 of a special needs child up to a maximum of \$1500 for each  
363 adopted child;

364  
365 B) payment for physical, emotional and mental health needs not  
366 wholly payable through insurance or other public resources that are  
367 associated with or result from a condition(s) whose onset has been  
368 established as occurring prior to the completion of the adoption;

369  
370 C) ongoing monthly payments in an amount determined in each case  
371 by the Department in accordance with 89 Ill. Adm. Code 302,  
372 Services Delivered by the Department, Section 302.310, Adoption  
373 Assistance Agreements, and Appendix B, Calculating the Amount  
374 of Adoption Assistance. The duration of adoption assistance may  
375 not extend beyond 18 years of age, although adoption assistance  
376 may be provided at the Department's option until the child's 21<sup>st</sup>  
377 birthday if the child has a physical, mental, or emotional disability  
378 that warrants the continuation of assistance.

379  
380 2) The purpose, amount, and duration of the adoption assistance will be  
381 mutually agreed to by the Department and the adopting parents prior to  
382 completion of the adoption in the form of a written agreement. The  
383 amount of financial assistance shall be less than the cost of maintaining  
384 the child in an appropriate foster family home. Special service fees shall  
385 cost no more than such services would cost the Department.  
386

- 387 3) The Department shall review with the adoptive parent(s) the continuing  
388 needs of the child for adoption assistance every two years or more  
389 frequently, based on changes in the circumstances of the adoptive  
390 parent(s) and the needs of the child being adopted. The adoptive parent(s)  
391 shall renew the adoption assistance agreement every two years prior to the  
392 anniversary date of the finalization of the adoption.  
393
- 394 f) Related services are not substitute care services but are provided to enhance the  
395 care provided to children who require substitute care services.  
396
- 397 1) In an effort to upgrade the quality of foster family care, the Department  
398 may pay for foster parent training and costs associated with training.  
399 These payments are provided as funding allows.  
400
- 401 2) Permanent planning and adoption contracts may be negotiated with  
402 licensed child welfare agencies. These contracts are negotiated to develop  
403 plans for children in substitute care and to secure adoptive resources for  
404 special needs children.  
405

406 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
407

408 **Section 359.11 Limitation on Federal Financial Participation**  
409

410 *Beginning with the third week for which foster care maintenance payments are made under on*  
411 *behalf of a child placed in a child-care institution, the Department will not receive Federal*  
412 *payments for amounts expended for foster care maintenance payments on behalf of the child*  
413 *unless:*  
414

- 415 a) *the child is placed in a child-care institution that is:*  
416
- 417 1) *a qualified residential treatment program (ORTP);*  
418
- 419 2) *a setting specializing in providing prenatal, post-partum, or parenting*  
420 *supports for youth;*  
421
- 422 3) *in the case of a child who has attained 18 years of age, a supervised*  
423 *setting in which the child is living independently; or*  
424
- 425 4) *a setting providing high-quality residential care and supportive services to*  
426 *children and youth who have been found to be or are at risk of becoming,*  
427 *sex trafficking victims. (42 U.S.C. 672(k)(2)(A)-(D)) or*  
428

- 429            b) the child is placed in a licensed residential family-based treatment facility with a  
430            parent who is in a licensed residential family-based treatment facility for  
431            substance abuse, and only when:  
432  
433            1) the recommendation for the placement is specified in the child's case plan  
434            before the placement;  
435  
436            2) the treatment facility provides parenting skills training, parent education  
437            and individual and family counseling; and  
438  
439            3) the substance abuse treatment, parenting skills training, parent education,  
440            and individual and family counseling is provided under an organizational  
441            structure and treatment framework that involves understanding,  
442            recognizing, and responding to the effects of all types of trauma and in  
443            accordance with recognized principles of a trauma-informed approach  
444            and trauma-specific interventions to address the consequences of trauma  
445            and facilitate healing; (42 U.S.C. 672 (j)(1)(A)-(C)), and  
446  
447            c) the child is placed in a qualified residential treatment program and the required  
448            assessment to determine the child's appropriate placement is completed within 30  
449            days after the placement is made.  
450

451 If the required placement assessment determines that the placement of a child in a QRTP is not  
452 appropriate, a court disapproves or a child who has been in an approved placement in a  
453 qualified residential treatment program is going to return home or be placed with a fit and  
454 willing relative, a legal guardian, or an adoptive parent, or in a foster family home or the child  
455 remains un the placement beyond the 30-day period necessary for the child to transition to the  
456 new placement. (42 U.S.C. 672(k)(3)(A)-(B))  
457

458            (Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)