**Section 338.180 Transition Provisions**

a) Definitions

"Approved under 89 Ill. Adm. Code 335, Relative Home Placement" means that a relative family home had been approved as meeting the standards of that Part prior to July 1, 1995.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Public Aid in 89 Ill. Adm. Code 111, Assistance Standards.

"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.

"Timely application for licensure" means a relative caregiver whose home had been approved under 89 Ill. Adm. Code 335, Relative Home Placement, submitted an application for a foster family home license postmarked no later than June 30, 1995.

b) Relative Caregivers Not Approved Under 89 Ill. Adm. Code 335, Relative Home Placement

Relative caregivers whose payments for the care of related children were reduced to the child only standard of need effective July 1, 1995, because the Department determined the relative home was not a licensed foster family home and had not been approved under 89 Ill. Adm. Code 335, Relative Home Placement, may appeal the proposed reduction of these payments, as notified in a letter from the Department to the appellant on June 12, 1995. Requests for a hearing under this subsection must have been postmarked on or before July 31, 1995, as stated in the letter from the Department to the appellant dated June 12, 1995, and submitted to the Bureau of Administrative Hearings, 160 N. LaSalle Street, Sixth Floor, Chicago, Illinois 60601 in order for the request to be accepted. The basis of the appeal must be that the relative caregiver:

1) was licensed as of July 1, 1995, under the provisions of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes. If a request for a hearing submitted under this subsection (b)(1) was postmarked no later than June 30, 1995, foster care payments will be continued throughout the appeal process; or

2) had been approved under 89 Ill. Adm. Code 335, Relative Home Placement, and submitted an application for a foster family home license postmarked no later than June 30, 1995, which has not been denied. If a request for a hearing submitted under this subsection (b)(2) was postmarked no later than June 30, 1995, foster care payments will be continued throughout the appeal process, until a decision is made on the application for license, or until September 30, 1995, whichever occurs first.

c) Relative Caregivers Approved Under 89 Ill. Adm. Code 335, Relative Home Placement, Who Did Not Submit a Timely Application for Licensure

Relative caregivers whose payments for the care of related children will be reduced to the child only standard of need effective July 1, 1995, because the Department has determined that they were approved under 89 Ill. Adm. Code 335, Relative Home Placement, but who, according to Department records, did not submit a timely application for a foster family home license, may appeal the proposed reduction of these payments as notified in a letter from the Department to the appellant on June 12, 1995. Requests for a hearing under this subsection must be postmarked on or before August 31, 1995, and submitted to the Bureau of Administrative Hearings, 160 N. LaSalle Street, Sixth Floor, Chicago, Illinois 60601 in order for the request for a hearing to be accepted. The basis of the appeal must be that the relative caregiver:

1) was licensed as of July 1, 1995, under the provisions of 89 Ill. Adm. Code 402. If a request for a hearing submitted under this subsection (c)(1) was postmarked no later than June 30, 1995, foster care payments will be continued throughout the appeal process; or

2) had been approved under 89 Ill. Adm. Code 335, Relative Home Placement, and submitted a timely application for a foster family home license which has not been denied. If a request for hearing submitted under this subsection (c)(2) is postmarked within ten days after the date of notice of the intended reduction of payments, foster care payments will be continued throughout the appeal process, until a decision is made on the application for licensure, or until September 30, 1995, whichever occurs first.

d) Relative Caregivers Who Reside Out of State

Relative caregivers whose payments for the care of related children will be reduced to the child only standard of need because they reside outside the State of Illinois and, according to Department records, failed to submit proof postmarked no later than July 15, 1995, to the Interstate Compact Unit, 406 East Monroe Street, Springfield, Illinois 62701 as required by Section 359.4, Payments for Substitute Care Services (89 Ill. Adm. Code 359, Authorized Child Care Payments) may appeal the proposed reduction of these payments. Requests for a hearing under this subsection must be postmarked within thirty days after the date of notice of the intended reduction of payments and submitted to the Bureau of Administrative Hearings, 160 N. LaSalle Street, Sixth Floor, Chicago, Illinois 60601 in order for a request for a hearing to be accepted. The basis of the appeal must be that the relative caregiver submitted proof of licensure, certification, or approval, as required by 89 Ill. Adm. Code 359.4. If a request for hearing submitted under this subsection (d) is postmarked within ten days after the date of notice of the intended reduction of payments, foster care payments will be continued throughout the appeal process.

e) Recoupment of Overpayments

If the Department continues the payment at the current level while the appeal is pending and the hearing upholds the Department's decision to reduce the payment, the Department shall fully recoup the amount of overpayments made. This may be achieved by reducing future payments made by the Department to the appellant or by other appropriate action against the appellant's income or resources, as provided in Section 402 of the Social Security Act (42 U.S.C.A. 602(a)(22)). When an overpayment results from willful misstatements made by the appellant to the Department, or from the willful withholding of relevant information by the appellant from the Department, the Department may recoup the overpayment from any available income and resources as provided in 45 CFR Section 233.20(12).