

Chapter 388-27 WAC

CHILD WELFARE SERVICES—ADOPTION SERVICES AND ADOPTION SUPPORT

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ity: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675.

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What department requirements apply to child care services? [Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0270, filed 3/30/01, effective 4/30/01.] Repealed by WSR 04-06-024, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675.

ADOPTION SUPPORT PROGRAM

Adoption Services

WAC 388-27-0005 What is the legal basis for and purpose of the department's adoption program? (1) Adoption services are included in RCW 74.13.020 as a child welfare service.

(2) The purpose of the department's adoption program is to meet the permanency needs of children who are in the department's care and custody.

(a) The agency that has the responsibility for providing services to the family and makes permanent plans for children.

(b) The permanent plan must include a primary outcome and may also include alternate outcomes (see RCW 13.34.145). Possible permanent plans include:

- (i) Return home;
- (ii) Adoption;
- (iii) Guardianship;
- (iv) Permanent legal custody; or
- (v) Independent living if the child is over age sixteen.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0005, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0010 What definitions apply to the department's adoption program? "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child placing agency under chapter 74.15 RCW or as an adoption agency.

"Adoptee" means a person who is to be adopted or who has been adopted.

"Adoption" means the legal granting of the adoption decree consistent with chapter 26.33 RCW.

"Adoptive parent" refers to a person or persons who seeks to adopt or who has adopted.

"Alleged father" refers to a person whose parent-child relationship has not been terminated, who is not a presumed father under chapter 26.26 RCW, and who alleges himself or whom a party alleges to be the father of the child. It includes a person whose marriage to the mother was terminated more than three hundred days before the birth of the child or who was separated from the mother more than three hundred days before the birth of the child.

"Approved adoptive home" refers to any person or persons who has been approved for adoption in a preplacement report completed pursuant to RCW 26.33.190.

"Birth parent" means the biological mother or biological or alleged father of a child, including a presumed father under chapter 26.26 RCW, whether or not a court of competent jurisdiction has terminated the person's parent-child relationship.

"Child placing agency" means an agency licensed by the department to place children for temporary care, continued care, or adoption.

"Children's administration" (CA) means the cluster of programs within the department of social and health services responsible for the provision of child welfare, adoption, child protective, child care licensing, and other services to children and their families.

"Department" means the department of social and health services (DSHS).

"Department placement" refers to the placement of a child for whom the department has placement authority in an approved adoptive home.

"Division of children and family services" (DCFS) is the division of children's administration that provides child welfare, child protective, family reconciliation, and support services to children in need of protection and their families.

"Division of licensed resources" (DLR) is the division of children's administration responsible for licensing or certifying child care homes and facilities under the authority of chapter 74.15 RCW.

"Foster-adopt" refers to families that are interested in adoption who have an approved adoptive home study and who have also been granted a foster home license in accordance with chapter 388-148 WAC.

"Independent placement" refers to the placement of a child in an adoptive home by a doctor, attorney, or other individual acting as a facilitator.

"Inter-country placement" refers to the placement of a child for adoption who is not a resident and/or citizen of the United States.

"Relative" means a person related by blood, marriage, or legal adoption, as defined in RCW 74.15.020.

"Voluntary adoption plan" means an agreement by the birth parent(s) to the termination of parental rights with a specific proposal for adoptive placement for the child.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0010, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0015 What are the eligibility criteria for the department's adoption program? (1) The department provides adoption services to any child in the department's care and custody:

- (a) With an identified permanent plan of adoption; or
- (b) When the department considers adoption as an alternate permanent plan; and
 - (i) The child is in supervised out-of-home care; or
 - (ii) The child's birth parent(s) requests adoption as a permanent plan prior to the child's placement in out-of-home care.

(2) The department considers families who apply for adoption services to be resources for children in the department's care and custody if the potential parent(s) is:

- (a) Legally competent;
- (b) Eighteen years of age or older; and
- (c) Has an approved adoptive home study.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0015, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0020 When does the department provide general adoption services? The department provides

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general adoption services throughout the case planning of any child with an identified primary or alternate permanent plan of adoption until:

- (1) Finalization of the adoption; or
- (2) Adoption is no longer the identified permanent plan.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0020, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0025 What general adoption services does the department provide? (1) The department provides the following general adoption services prior to the finalization of an adoption:

- (a) Social work services to birth parents and children to achieve a permanent family for each child;
- (b) Use of the courts, legal counsel, and juvenile court specialists for termination of parental rights and granting of adoption petitions;
- (c) Obtaining available child and family medical and social background information for disclosure to adoptive families;
- (d) Recruitment, study, and approval of adoptive and foster-adopt families;
- (e) Assessment of the child and the current caretaker to determine if the placement is an appropriate adoptive placement;
- (f) Placement of children with waiting adoptive or foster-adopt family;
- (g) Social work services and/or referral of children and families to services after placement to facilitate the adoption;
- (h) Development of alternate plans when the planned adoptive placement is not in the best interest of the child and/or the adoptive family; and
- (i) Location and exchange, on a state and national basis, of information about children and adoptive families.

(2) The department administers the state's adoption support program on behalf of eligible children adopted through the department or a private child-placing agency (see WAC 388-25-0120 and following).

(3) The department administers the interstate compact on the placement of children (ICPC) and the interstate compact on adoption and medical assistance (ICAMA) and cooperates, upon request, with other state and tribal child welfare agencies in adoptive planning for children.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0025, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0030 What procedures must the department follow for the interstate placement of children? (1) Washington state is a member of Interstate Compact on Placement of Children (ICPC) and Interstate Compact on Adoption and Medical Assistance (ICAMA) and must meet all compact requirements (see chapter 26.34 RCW).

(2) The rules of this chapter apply to accepted ICPC cases.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0030, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0035 What adoption services does the department provide for children in the department's care

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and custody? (1) The department's adoption services for children include:

(a) Social work services with birth parents focused on locating a permanent home for the children.

(b) Social work services with children focusing on the child's educational, medical, psychological, and developmental needs;

(c) Petitioning the court for termination of parental rights;

(d) Facilitating voluntary relinquishments when a voluntary adoption is in the child's best interests;

(e) Assessment of children to determine their medical and social needs including, as needed:

(i) Psychiatric evaluations;

(ii) Psychological evaluations;

(iii) Educational evaluations; and

(iv) Medical evaluations;

(f) Evaluating prospective adoptive families through the use of the adoptive home study, also known as the preplacement report, to determine appropriateness for adoption generally and to determine What specific child characteristics or needs that the family will best be able to meet.

(g) Making adoptive placements that are best able to meet a child's needs, from available resources;

(h) Social work services and/or referral of children and families to services after placement;

(i) The department social worker assigned to finalizing the adoption will assist families complete the adoption support program application for children who may be eligible for the adoption support program;

(j) Provision of post-placement reports and other documents required for finalization to the court for a child when the department:

(i) Conducts the post-placement reports and other documents required for finalization to the court for a child when the department:

(ii) Has custody of the child;

(k) Provision of the consent to the adoption of a child in the department's custody.

(2) Every six months, the department must review and adjust the case plan for children continuing in foster care under department care and supervision. The CA social worker must develop the case plan in accordance with chapter 13.34 RCW to achieve the permanency planning goals for the child.

(3) The department may utilize the following methods to locate an adoptive resource for a child until the child has been placed with an adoptive family:

(a) Ask birth parents to identify a potential adoptive family;

(b) The department prefers to place a child for adoption with a fit and willing relative who is known to the child and with whom the child is comfortable:

(i) Conduct searches for relatives who are fit and willing to adopt the child, who are known to the child and with whom the child is comfortable;

(ii) Ask the relatives to be considered as a potential adoptive family;

(c) Ask current and past foster parents if they wish to be considered as a potential adoptive family;

(d) Consider families that have an approved adoptive home study; and/or

(e) Conduct individualized child specific family recruitment.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0035, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0040 What adoption services does the department provide for prospective and approved adoptive families? (1) For department placements, the department:

(a) Accepts applications from families residing in the state of Washington that are interested in adopting a child who is in the care and custody of the department. Children in the care and custody of the department may have special needs.

(b) Initiates an adoptive home study and achieves one of the following outcomes:

(i) Approves the family for an adoptive placement and registers the family with the contracted adoption resource exchange unless a placement decision has already been made;

(ii) Denies the application to adopt; or

(iii) The family withdraws the application to adopt.

(c) Searches for an appropriate placement for families with an approved adoptive home study;

(d) Obtains the prospective adoptive child's available medical and family background information and discloses the available information to the adoptive family;

(e) Removes a family from the contracted adoption resource exchange for any of the following reasons:

(i) A child has been placed with the family;

(ii) The family decides to receive adoption services through a private agency or an independent placement;

(iii) The department receives additional information that causes the department to revoke the approved status of a family;

(iv) The family and/or social worker determines that adoption is no longer an appropriate plan for the family; and/or

(v) The family relocates its residence to another state.

(f) Reevaluates a family's situation at the time of reapplication if a family was removed from the exchange registry and reapplies for adoption services;

(g) Informs families in writing of action the department has taken, according to the rules of this chapter;

(2) The department does not provide adoption or adoption-related services for inter-country adoptions or for independent adoptions.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0040, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0045 When may the department place a dependent child (not legally free) into an adoptive home? The department may place a child into a foster-adopt home under the following conditions:

(1) When the identified family has been granted a foster home license in accordance with chapter 388-148 WAC; and

(2) When the identified family has an approved adoptive home study that has been filed with the court in compliance with RCW 26.33.190.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0045, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0050 When may a legally free child be placed into an adoptive home? The department may place a child into an adoptive home under the following conditions:

(1) When the identified prospective adoptive family has an approved adoptive home study; and

(2) The adoptive home study has been filed with the court in compliance with RCW 26.33.190.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0050, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0055 What is a voluntary adoption plan? A voluntary adoption plan (VAP) occurs when a parent(s) has agreed to the termination of parental rights and has proposed a specific adoptive placement for the child.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0055, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0060 When must the department follow a voluntary adoption plan? The department must follow the voluntary plan for adoption if:

(1) The prospective adoptive parents chosen by the parent are properly qualified to adopt in compliance with chapter 26.33 RCW or WAC 388-25-0025; and

(2) The court determines that this adoption is in the best interest of the child; and

(3) The VAP is proposed to the department before a petition for termination of the parent-child relationship has been filed.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0060, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0065 Will the department consider a proposed voluntary adoption plan if a termination petition has already been filed at the request of the department? If the attorney general's office has filed a termination petition at the request of the department, the department must consider, but is not required to support, an adoptive resource proposed by the parent.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0065, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0070 What will the department do to implement a voluntary adoption plan? The department must take the following actions to implement a VAP:

(1) The assigned CA social worker must work with the parent to determine whether the parent will identify a preferred adoptive placement by name.

(2) If a parent identifies a preferred placement, the assigned social worker must advise the parent and the proposed adoptive parent(s) that an adoption home study must be completed. CA, a private agency, or a qualified individual may complete the adoptive home study (see RCW 26.33.-190).

(3) If the proposed adoptive parent chooses to have an adoptive home study completed by a private agency or qualified individual, CA retains the right to do its own home study if CA has concerns regarding the recommendations contained in the nondepartmental home study.

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(4) Using approved procedures for determining suitability to be an adoptive resource, the child's social worker and the social worker for the adoptive family must determine:

(a) That the preplacement investigation and report, as described in RCW 26.33.190, on the proposed family results in approval of the adoptive placement; and

(b) That this placement is in the best interest of the child.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0070, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0075 What must the department do to maintain confidentiality of adoption records? (1) In accordance with chapter 26.33 RCW all records and information the department obtains in providing adoption services are confidential.

(2) To ensure that the department case file of an adopted child remains confidential, the CA local office must send the child's case file to CA headquarters for archiving upon the issuance of the decree of adoption.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0075, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0080 Under what conditions may the department reveal identifying information about the birth parent? When providing reports or information on the adoptive child to the prospective or actual adoptive parents, the department must not reveal the identity of the birth parents of the child, unless:

(1) There is a written open communication agreement where the identity of the birth parent(s) is known;

(2) The birth parent is already known to the adoptive family; or

(3) The birth parent has selected the adoptive family, and the birth parent's identity has already been established.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0080, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0085 What must the department, private practitioner, or child placing agency do to locate records and information relating to the birth parents and the child? (1) The social worker, child placing agency, or another assigned worker must make the following efforts to locate records and information relating to the birth parent and the child:

(a) Ask the birth parents, the child, and relatives, when available, for names of all:

(i) Physicians;

(ii) Treatment agencies for medical, psychological, or educational services that have seen the parent or child for examination, evaluation, or treatment; and

(iii) Schools attended by the child and the parent.

(2) The social worker, contractor, or another assigned worker must contact the children's administration supplemental security income (SSI) facilitator to obtain medical, psychological, or social information gathered during any SSI screen or application process.

(3) The social worker, contractor, or another assigned worker must document efforts, including unsuccessful efforts, made to obtain information by:

(a) Placing the gathered records in the child's case file;

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(b) Documenting the information on the child's health and education record;

(c) Documenting on the health and education passport in CAMIS;

(d) Maintaining copies of written requests to service providers for records in the child's case file;

(e) Documenting efforts on the Child's Medical and Family Background Report, DSHS 13-041(X), unless the information is already documented on the health and education passport in CAMIS.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0085, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0090 What information must the department or child placing agency provide to prospective adoptive parents about the child that is being considered for adoption? (1) The department or the child placing agency must provide a medical report containing all known and available information concerning the mental, physical, and sensory handicaps of an adopted child, or a child placed for adoption, to the adoptive or prospective adoptive parents under the authority of RCW 26.33.020, 26.33.340, 26.33.343 and 26.33.350.

(2) The department or the child placing agency worker must provide the Child's Medical and Family Background Report, DSHS 13-041(X), to the prospective adoptive parents. This report must include documentation of efforts made to obtain medical and social information on the child and birth parents.

(3) The department must provide a social history report on the child and birth family that includes, at a minimum in accordance with RCW 26.33.380:

(a) Circumstances of the child's birth;

(b) Chronological report of how the child came to be available for adoption;

(c) The child's placement history;

(d) All court reports pertaining to the dependency and custody of the child;

(e) The child's education history, including school reports and records; and

(f) The child's psychological and psychiatric reports and recommendations.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0090, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0100 What information must the department or child placing agency provide to prospective adoptive parents about the birth parent(s) of a child being considered for adoption? The department or the child placing agency must provide a nonidentifying report on the birth parent(s) that includes any known and available social and medical information on the child's birth parent(s) in accordance with RCW 26.33.380. This information regarding the birth parent(s) must include but is not limited to:

(1) First names only;

(2) Current age of parent(s);

(3) Heritage, including nationality, ethnic background, and race;

(4) General physical appearance, including height, weight, color of hair, eyes, and skin or other information of a similar nature;

(5) Education, including the number of years of school completed at the time of the adoption, and school report (if still attending), but not the name or location of the school;

(6) Religion or religious heritage;

(7) Occupation, but no specific titles or places of employment;

(8) Talents, hobbies, and special interests;

(9) Family history and circumstances leading to the adoption;

(10) Medical and genetic history including:

(a) Available psychiatric, psychological, and substance abuse reports;

(b) Available medical history including any acute or chronic conditions;

(c) Available medical history of the birth and pregnancy, including any known substance abuse by the birth mother while pregnant.

(11) First names other children of birth parents by age and sex;

(12) Available medical histories of other children;

(13) Extended family of birth parents by age and sex;

(14) Medical histories of extended family members, if known;

(15) The fact of the death, age at death, and cause, if known, of a birth parent;

(16) Photographs of child and birth family, if available; and

(17) Name of agency or individual that facilitated the adoption.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0100, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0105 When will the department, private practitioner, or child placing agency disclose required information? The department, private practitioner, or child placing agency must disclose available child and birth family medical and social background information prior to the finalization of an adoption. Disclosure may occur:

(1) Prior to the placement of a child into an adoptive home; or

(2) At the time when a placement is identified as an adoptive placement.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0105, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0110 How does an adoptee, adoptive parent, or birth parent obtain nonidentifying information from an archived adoptive record? (1) Nonidentifying information about the birth parents, adoptee, or adoptive parent may be shared with persons identified in RCW 26.33.020 and 26.33.340.

(2) If the adoption was facilitated through the department, a request for information must be made in writing to the state office of Children's Administration, P.O. Box 45713, Olympia WA 98504-5713. The state office is the sole source for releasing information from an archived record.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0110, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0115 What is the department response to requests for public disclosure of an adoptive record? The department complies with the requirements for disclosure of public records in RCW 26.33.340.

[Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-27-0115, filed 3/30/01, effective 4/30/01.]

Part A: General

WAC 388-27-0120 What is the legal basis of the department's adoption support program? The legal authorities for the program are:

- (1) Revised Code of Washington (RCW) 74.13.100 through 74.13.159;
- (2) Chapter 42 United States Code (U.S.C.) 671-675; and
- (3) The U.S. Department of Health and Human Services (DHHS) policy guidelines for states to use in determining a child's eligibility for Title IV-E adoption assistance (contained in DHHS Policy Manual).

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0120, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0120, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0125 What is the purpose of the adoption support program? The adoption support program encourages the adoption of special needs children in the legal custody of public or private nonprofit child care agencies who would not be adopted if support for the child was not available.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0125, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0130 What definitions apply to the adoption support program? The following definitions apply to this chapter:

"Adoption" means the granting of an adoption decree consistent with chapter 26.33 RCW.

"Adoption support agreement" means a written contract between the adoptive parent(s) and the department that identifies the specific support available to the adoptive parent(s) and other terms and conditions of the agreement.

"Adoption support cash payment" means negotiated monthly cash payments paid pursuant to an agreement between the adoptive parent(s) and the department after the child's adoption.

"Applicant" means a person or couple applying for adoption support on behalf of a child the person or couple plans to adopt.

"Child placing agency" means a private nonprofit agency licensed by the department under chapter 74.15 RCW to place children for adoption or foster care.

"Department" means the department of social and health services.

"Extenuating circumstances" means a finding by an administrative law judge or a review judge that one or more certain qualifying conditions or events prevented an otherwise eligible child from being placed on the adoption support program prior to adoption.

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"Medical services" means services covered by medic-aid (and administered by the medical assistance administration) unless defined differently in the adoption support agreement.

"Negotiation" means the process of working toward an agreement between the department and the adoptive parent on the terms of the adoption support agreement, including any amount of monthly cash payment.

"Nonrecurring costs" means reasonable, necessary, and directly related adoption fees, court costs, attorney fees, and other expenses the adoptive parent incurs when finalizing the adoption of a special needs child. Total reimbursement from the department may not exceed one thousand five hundred dollars.

"Placing agency" means the agency that has the legal authority to place the child for adoption. This may be the department or a private nonprofit child placing agency.

"Program" means the department's adoption support program.

"Reconsideration" means the limited state-funded support available to an eligible child whose adoption was finalized without a valid adoption support agreement in place.

"Resident state" (for purposes of the child's medical eligibility) means the state in which the child physically resides. In some cases this may be different from the state of the parent's legal residence.

"Special needs" means the specific factors or conditions that apply to the child and that may prevent the child from being adopted unless the department provides adoption support services. See WAC 388-27-0140 for a detailed description of the factors or conditions.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0130, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0130, filed 3/30/01, effective 4/30/01.]

Part B: Eligibility

WAC 388-27-0135 What are the eligibility criteria for the adoption support program? For a child to be eligible for participation in the adoption support program, the department must first determine that adoption is the most appropriate plan for the child. If the department determines that adoption is in the child's best interest, the child must:

(1) Be less than eighteen years old when the department and the adoptive parents sign the adoption support agreement;

(2) Be legally free for adoption;

(3) Have a "special needs" factor or condition according to the definition in this rule (see WAC 388-27-0140); and

(4) Meet at least one of the following criteria:

(a) Is in state-funded foster care or child caring institution or was determined by the department to be eligible for and likely to be so placed (For a child to be considered "eligible for and likely to be placed in foster care" the department must have opened a case and determined that removal from the home was in the child's best interest.); or

(b) Is eligible for federally funded adoption assistance as defined in Title IV-E of the Social Security Act, the Code of Federal Regulations, the U.S. Department of Health and Human Services establishing guidelines for states to use in

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determining a child's eligibility for Title IV-E adoption assistance.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0135, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0135, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0140 What constitutes a "special needs"? To be considered a child with special needs the following three statements must be true:

(1) One or more of the following factors or conditions must exist:

(a) The child is of a minority ethnic background;

(b) The child is six years of age or older at the time of application for adoption support;

(c) The child is a member of a sibling group of three or more or of a sibling group in which one or more siblings meets the definition of special needs;

(d) The child is diagnosed with a physical, mental, developmental, cognitive or emotional disability; or

(e) The child is at risk for a diagnosis of a physical, mental, developmental, cognitive or emotional disability due to prenatal exposure to toxins, a history of serious abuse or neglect, or genetic history.

(2) The state has determined that the child cannot or should not be returned to the home of the biological parent; and

(3) The department or child placing agency that placed the child for adoption must document that except where it would be against the best interests of the child the department or child placing agency had made a reasonable but unsuccessful effort to place the child for adoption without adoption support.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0140, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0145 What constitutes a reasonable effort to place a child for adoption without adoption support? Reasonable effort to place a child without adoption support includes:

(1) A child registered for three months with the Washington adoption resource exchange (WARE) without finding an adoptive family; or

(2) A child for whom a documented, formal agency search was conducted for three months, without finding a family who would adopt the child without adoption support services; or

(3) A child for whom the placing agency's selected prospective adoptive family is unable to adopt the child without assistance from the adoption support program.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0145, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0150 Under what circumstances would it be against the best interest of the child to search for a family that could adopt the child without adoption support? Searching for a family that could adopt the child without adoption support is against the best interest of the child when:

(1) A foster parent desires to adopt a child who:

(a) Has been in the foster parent's home for six months or more before that child becomes legally free for adoption; and

(b) The child has close emotional ties to the current foster parent which, if severed, may cause emotional damage to the child; and

(c) The foster parent is identified as the adoptive parent of choice by the department or agency staff having responsibility for the child (RCW 26.33.190 and 74.13.109(4)); or

(2) The adoptive parent is a relative of specified degree as defined in RCW 74.15.020 (4)(a) and has an approved adoptive home study per RCW 26.33.109 and 74.13.109(4).

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0150, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0155 Are there other factors affecting a child's eligibility for adoption support? (1) A child is not eligible for adoption support program services and payments if the adopting parent is the birth parent or stepparent of the child.

(2) The department must not use the adoptive parents' income as a basis for determining the child's eligibility for the adoption support program, however, the department must consider income and other financial circumstances of the adopting family as one factor in determining the amount of any adoption support cash payments to be made. (See WAC 388-27-0230.)

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0155, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0155, filed 3/30/01, effective 4/30/01.]

Part C: Application

WAC 388-27-0160 How does a prospective adoptive parent apply for adoption support services? There are two ways a prospective adoptive parent (applicant) may apply for adoption support services:

(1) An applicant may apply through the social worker of the child to be adopted. The social worker must:

(a) Register the child with the adoption support program; and

(b) Submit the applicant's completed program application along with a completed worksheet used to assist the family and the department in determining services and amount of monthly cash payment, if needed, based on the needs of the child and family circumstances.

(2) An applicant may also apply directly to the adoption support program for adoption support services if:

(a) The child does not have an assigned social worker; or

(b) The applicant and the social worker have a dispute regarding the content of the program application.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0160, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0160, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0165 What requirements apply to an application for ongoing adoption support? (1) The application must include a copy of the child's medical and family background report signed by the adoptive parent(s) (DSHS

13-041 minus the attachments). It must also include copies of medical and/or therapist reports that document the child's physical, mental, developmental, cognitive or emotional disability or risk of any such disability.

(2) If the applicant is requesting a cash payment, the applicant and the department must mutually determine both the type and amount according to the requirements of WAC 388-27-0230.

(3) If the applicant is requesting reimbursement of non-recurring costs, the applicant must include this request in the application. (See WAC 388-27-0380 and 388-27-0385 for the type and amount of expenses the department may reimburse.)

(4) The applicant must furnish a copy of the applicant's most recently filed federal income tax return. If the applicant is not required to file a federal income tax return, the applicant must submit a financial statement with the applicant's adoption support application.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0165, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0165, filed 3/30/01, effective 4/30/01.]

Part D: Agreement

WAC 388-27-0170 What is the nature and purpose of an adoption support agreement? The adoption support agreement is a binding contract between the adoptive parent(s) and the department that identifies the terms and conditions that both parties must follow.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0170, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0175 What must be included in an adoption support agreement? The adoption support agreement must:

(1) State the amount of cash payments (if any) the department must make to the adoptive parent(s) on behalf of the child;

(2) Include an itemized list of the additional services (including Title XIX medicaid and Title XX social services) for which the child is eligible;

(3) Contain statements that:

(a) Assure that participation in the adoption support program must continue, as long as the child is eligible, regardless of where the adoptive family resides;

(b) Inform the adoptive parent(s) of specific circumstances that may warrant further renegotiation and adjustment of the payment as agreed to by the adoptive parents and the department;

(c) Inform the adoptive parent(s) that the agreement must be reviewed every five years. Terms of the agreement may be modified according to WAC 388-27-0200;

(d) Inform the adoptive parent(s) that the department may suspend a child from the program within thirty days of any changes in circumstances (of the child or family) that affect the child's eligibility for program payments if the adoptive parent has failed to notify the department of the changes; and

(e) Define the circumstances under which the agreement may be terminated.

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(4) Be signed by all relevant parties before the final adoption decree is issued (45 C.F.R. Sec. 1356.40).

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0175, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0175, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0180 If the adoptive family resides in or moves to another state, how is the child's participation in the adoption support services affected? If the adoptive family resides in or moves to another state the child's participation in the adoption support program is affected as follows:

(1) Social services (Title XX) become the responsibility of the new state of residence.

(2) Medical benefits (Title XIX medicaid) remain the responsibility of Washington state if the child is not eligible for federal Title IV-E adoption assistance. However, Washington state is no longer responsible if the child becomes eligible for the resident state's Title XIX program through the Interstate Compact on Adoption and medical assistance or other eligibility factors.

(3) Title XIX medicaid benefits become the responsibility of the resident state if the child receives Title IV-E adoption assistance.

(4) Medicaid benefits included in Washington state's medicaid plan, but not included in the resident state's plan, must remain the responsibility of Washington state and subject to Washington state plan limits.

(5) Washington state remains responsible for any cash payments made to the adoptive parent(s) on behalf of the child or any nonmedicaid counseling that has been preauthorized by the adoption support program per WAC 388-27-0245.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0180, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0185 When does the adoption support agreement become effective? (1) Unless otherwise stated in the adoption support agreement, an adoption support agreement takes effect on the first day of the month following the month in which the court finalizes the adoption.

(2) If the child to be adopted needs support benefits prior to finalization, the assigned regional adoption support program manager may arrange an early effective date. To be eligible for an early effective date, the applicant must:

(a) Have an adoption support agreement signed by all parties;

(b) Sign the child's medical and family background report (DSHS 13-041) and a statement of the applicant's intention to adopt; and

(c) Have the department's designee sign "an exception to policy" statement.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0185, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0190 If the department implements adoption support services prior to the adoption, may the adoptive parent(s) continue to receive department-funded foster care payments while also receiving adoption support payments? (1) The adoptive parent(s) may not continue to receive department-funded foster care payments

for a child while also receiving adoption support payments for the same child.

(2) If the adoptive parent(s) receives department-funded foster care for the child to be adopted, the department's social worker assigned to the child must terminate that coverage on the last day of the month preceding the month in which the adoption support becomes effective.

(3) Foster care payments are paid after the month of service. Adoption support payments are paid prior to the month.

(4) The adoptive parent(s) may not receive foster care payments and adoption support cash payments for the same child for the same month.

(5) If the adoptive parent is adopting a relative child and has been receiving a nonneedy relative grant the adoptive parent must notify the community services office financial services specialist that the adoption has been finalized. The adoptive parent may not receive both the grant and adoption support payments for the same month for the same child.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0190, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0190, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0195 May the adoptive parent(s) change the benefits contained in the adoption support program? The adoptive parent may submit a written request asking that the department renegotiate the benefits offered in the adoption support agreement whenever either the family's economic circumstances or the condition of the child changes.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0195, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0195, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0200 When may the department modify the terms of the adoption support agreement? The department's adoption support program may modify the terms of an adoption support agreement:

- (1) At the request of the adoptive parent(s);
- (2) When specific circumstances warrant renegotiation and adjustment of monthly cash payment as agreed to by the adoptive parents and the department;
- (3) When the department loses contact with the adoptive parent(s);
- (4) When the child is placed outside of the adoptive parents' home at department expense;
- (5) If the adoptive parent is no longer providing for the child's daily care and living expenses; or
- (6) If the adoptive parent fails to notify the department's adoption support program within thirty days of a change of circumstance which affects the adopted child's continuing eligibility for adoption support program cash payments or services.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0200, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0200, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0205 Does the adoptive parent need to let the department know if the family's circumstances change? The adoptive parent must inform the department's

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adoption support program of circumstances that might make the parent and the adoptive child either ineligible for adoption assistance payments or benefits or eligible for adoption assistance payments or benefits in different amounts. Such changes include but are not limited to:

- (1) A significant change in the child's condition;
 - (2) A change in the marital status of the adoptive parent(s);
 - (3) A change in the legal or physical custody of the child;
- or
- (4) A change in the adoptive family's mailing address.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0205, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0210 Under what circumstances would the adoption support agreement be terminated? The adoption support agreement is terminated according to the terms of the agreement or if any one of the following events occurs:

- (1) The child reaches eighteen years of age; (if a child is at least eighteen but less than twenty-one years old and is a full-time high school student or working full time toward the completion of a GED (high school equivalency) certificate and continues to receive financial support from the adoptive parent(s), the department may extend the terms of the adoption support agreement until the child completes high school or achieves a GED. Under no circumstances may the department extend the agreement beyond the child's twenty first birthday.) Adoption support benefits will automatically stop on the child's eighteenth birthday unless the parent(s) requests continuation per this rule and have provided documentation of the child's continuation in school. To prevent disruption in services the parent should contact the adoption support program at least ninety days prior to the child's eighteenth birthday if continued services are to be requested.
- (2) The adoptive parents no longer have legal responsibility for the child;
- (3) The adoptive parents are no longer providing financial support for the child;
- (4) The child dies; or
- (5) The adoptive parents die. (A child who met federal Title IV-E eligibility criteria for adoption assistance will be eligible for adoption assistance in a subsequent adoption.)

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0210, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0210, filed 3/30/01, effective 4/30/01.]

Part E: Services

WAC 388-27-0215 What benefits may the adoptive parent or child receive from the adoption support program? The adoption support program may provide one or more of the following benefits:

- (1) Reimbursement for nonrecurring adoption finalization costs;
- (2) Cash payments;
- (3) Payment for counseling services as preauthorized (see WAC 388-27-0255 for conditions and terms); or
- (4) Medical services through the department's medicaid program.

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[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0215, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0215, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0220 What factors affect the amount of adoption support benefits a child receives? The department bases the amount of support it provides on the child's needs and the family's circumstances, but limits the cash payment to an amount that does not exceed the foster care maintenance rate the child would receive if the child was in a foster family home. Specific circumstances as agreed to by the adoptive parent and the department in the agreement, may warrant future renegotiation and adjustment of the payment determined in an assessment of the child.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0220, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0220, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0230 How does the department evaluate a request for adoption support monthly cash payments? (1) The amount of the adoption support monthly cash payment is determined through the discussion and negotiation process between the adoptive parents and representatives of the department based upon the needs of the child and the circumstances of the family. The payment that is agreed upon should combine with the parents' resources to cover the ordinary and special needs of the child projected over an extended period of time. Anticipation and discussion of these needs are part of the negotiation of the amount of the adoption assistance payment.

- (2) Family circumstances to be considered include:
 - (a) Size, including the adopted child;
 - (b) Normal living expenses, including education and childcare expenses;
 - (c) Exceptional circumstances of any family member;
 - (d) Income;
 - (e) Resources and savings plans;
 - (f) Medical care and hospitalization needs;
 - (g) Ability to purchase or otherwise obtain medical care;
- and
- (h) Additional miscellaneous expenses related to the adopted child.

(3) The department and the adoptive parents will jointly determine the level of adoption support cash payments needed to meet the basic needs of the child without creating a hardship on the family.

(4) Under no circumstances may the amount of the adoption support monthly cash payment the department pays for the child exceed the amount of foster care maintenance payment that would be paid if the child were in a foster family home.

[Statutory Authority: RCW 74.13.109, 74.13.031, 2002 c 371 § 202(8), 42 U.S.C. 671-675. WSR 04-06-024, § 388-27-0230, filed 2/23/04, effective 3/25/04. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0230, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0250 What specific department requirements apply to medical services? (1) While an adoption support agreement remains in effect, the department's medical program rules apply to the adopted child.

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(2) The department must make all medical payments according to established department procedures and directly to the child's physician(s) or service provider(s).

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0250, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0255 What specific department requirements apply to outpatient counseling and/or mental health services not covered by medicaid? When the department's adoption support program directly pays for a child's counseling and/or mental health services, the following conditions apply:

(1) The adoptive parent must obtain written authorization from the department's adoption support program before the service is rendered;

(2) The adoptive parents' primary health care coverage must be billed prior to billing the department's adoption support program;

(3) The department will pay the adoption support program's authorized rate minus any payment made by the primary (and other) insurer;

(4) The department may grant verbal authorization for no more than three counseling sessions prior to providing the required written authorization;

(5) The child's therapist or other treatment provider must submit a written treatment plan prior to authorization for continued treatment;

(6) The department may authorize counseling as follows:

(a) Up to six hours of outpatient counseling per month for up to twelve months; or

(b) Up to a total of twenty hours per quarter when critical need warrants;

(7) The department may extend the authorization for counseling (beyond the initial time period authorized) upon receipt of an updated treatment plan and documentation supporting the need for additional treatment from the treatment provider and a parent's request for continuing counseling (DSHS 10-214);

(8) The department may authorize this service for only one provider at a time unless a second provider is required for a different service.

(9) The department encourages adoptive parents to seek an annual assessment of the functioning of the adoptive child within the family to determine if there are mental health services needed to help maintain and/or strengthen the adoptive placement.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0255, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0260 If the adoptive parent requests residential placement services for the parent's adopted child, what department requirements apply? (1) The adoption support program must not pay for residential treatment placements. See RCW 74.13.080 and WAC 388-25-0025.

(2) If the adoptive parent requests residential treatment services for a child:

(a) For treatment of a mental illness, the department must refer the family to the local regional support network (RSN);

(b) If a diagnosis of physical, mental, developmental, cognitive or emotional disability is present, department staff

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must refer the child to the division of developmental disabilities (DDD) to determine eligibility of services for which the child might be eligible; or

(c) For reasons other than treatment of mental illness or developmental disabilities, department staff must refer the adoptive parent to the child welfare services intake at the local office of the division of children and family services (DCFS).

(3) The adoption support program manager may assist the adoptive parent in arranging residential service for the child but must not be responsible for the child's placement or for the payment of the residential service.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0260, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0265 What are the consequences of the department placing the adopted child in foster care, group care, or residential treatment? (1) If a child is on active status with Washington state's adoption support program and the department places the child in foster care, group care, or residential treatment, the department may report to the division of child support that good cause exists for not pursuing collection of support payments.

(2) The department must review the adoption support agreement and must discontinue any cash payments to the adoptive parent during the child's out-of-home placement unless the adoptive parent(s) documents continuing expenses directly related to the child's needs.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0265, filed 3/30/01, effective 4/30/01.]

Part F: Review

WAC 388-27-0275 When does the department review an adoption support agreement? (1) The adoption support program must review an agreement:

(a) At least once every five years; or

(b) When the adoptive parents request a change in the terms of the agreement.

(2) The department may review an adoption support agreement:

(a) Whenever variations in medical opinions, prognosis, or costs warrant a review; or

(b) At the department's request.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0275, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0280 What is involved in the review process? (1) The review process provides an opportunity for the adoptive parent to describe any changes in family circumstances or the child's condition and request a change in the terms of the adoption support agreement.

(2) The adoptive parent must provide supporting documentation upon department request.

(3) The department may request a copy of the adoptive parents' most recently filed IRS form 1040. If not required to file a federal tax return the adoptive parent(s) must submit a financial statement upon department request.

(4) The adoptive parent must request that the child's medical provider complete an EPSDT (early periodic screen-

ing, diagnosis and treatment) exam and submit a report of the results to the adoption support program.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0280, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0285 What is the department's responsibility when the adoptive parent(s) requests a review of the adoption support agreement? The adoption support program must initiate a review of the adoption support agreement no later than thirty days after receiving the adoptive parents' request for review of the agreement.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0285, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0290 What if the department does not respond to a request for a review of an adoption support agreement within thirty days? If the department does not respond to an adoptive parent's request for a review of an adoption support agreement within thirty days, the adoptive parent has the right to an administrative hearing (see RCW 74.13.127).

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0290, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0295 What requirements apply to the review of a support agreement? (1) The adoptive parent and the department must negotiate any changes in the agreement that result from a review;

(2) Changes in the terms of the agreement may be retroactive to the date the department received the written request; and

(3) If the department modifies the terms of the agreement, the adoptive parent and the department must sign a new agreement.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0295, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0300 After a review, what if the department and the adoptive parent cannot agree on the terms of the adoption support agreement? If the department proposes service changes without the adoptive parent's consent, the department must give written notification of those changes. In that notice, the department must clearly state the department's reasons for the proposed changes and inform the adoptive parent of the adoptive parent's right to an administrative hearing.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0300, filed 3/30/01, effective 4/30/01.]

Part G: Post-Finalization Requests for Assistance

WAC 388-27-0305 May an adoptive parent apply for adoption support services after the adoption has been finalized? Federal and state laws and rules require that a prospective adoptive parent must apply for adoption assistance prior to adopting a special needs child and that the prospective adoptive parent must have a valid adoption support agreement, signed by all parties, before the adoption is finalized.

However, both state and federal governments have recognized that in some situations there may have been extenuating circumstances that prevented the child from being placed on the adoption support program prior to adoption. For these situations separate remedies have been created depending on which eligibility criteria are met by the child.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0305, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0310 If a child met federal Title IV-E eligibility for adoption assistance before the adoption, but was not placed on the adoptive support program, what may the adoptive parent do after adoption finalization to obtain adoption support services for the adopted child? For a child who met the Title IV-E eligibility criteria for adoption assistance prior to adoption, federal rules allow for a possible finding of extenuating circumstances through an administrative hearing process. In these situations the adoptive parent must request a review by an administrative law judge or a review judge to obtain an order authorizing the department to enter into a post-adoption agreement to provide adoption support services to a special needs child.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0310, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0315 What constitutes "extenuating circumstances"? An administrative law judge or a review judge may make a finding of extenuating circumstances if one or more of the following situations exist:

- (1) Relevant facts regarding the child, the biological family or child's background were known by the agency placing the child for adoption and not presented to the adoptive parents prior to the legalization of the adoption;
- (2) The department denied adoption assistance based upon a means test of the adoptive family;
- (3) Erroneous determination or advice by the department or private child placing agency that a child is ineligible for adoption assistance; or
- (4) Failure by the placing agency to advise adoptive parents of the availability of adoption assistance.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0315, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0320 What is the effective date of an adoption support agreement that results from a finding of extenuating circumstances? The effective date of an adoption support agreement the department and the adoptive parent have entered into as a result of a finding of extenuating circumstances may not be before the date the department received the written request from the adoptive parent for participation in the adoption support program. Under no circumstances may the department back date an adoption support agreement more than two years from the date of an order of an administrative law judge or review judge authorizing the department to enter an adoption support agreement after finalization of the adoption.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0320, filed 3/30/01, effective 4/30/01.]

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WAC 388-27-0325 If a child did not meet federal Title IV-E eligibility for adoption assistance before the adoption, what may the adoptive parent do after adoption finalization to obtain adoption support services for the adopted child? For children ineligible for federal Title IV-E Adoption Assistance, the department may provide limited support through the state-funded adoption support reconsideration program.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0325, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0330 What is the adoption support reconsideration program? (1) The adoption support reconsideration program allows the department to register an eligible adopted child for limited state-funded support (see RCW 74.13.150).

(2) The reconsideration program provides for payment of medical and counseling services to address the physical, mental, developmental, cognitive, or emotional disability of the child that resulted in the child's eligibility for the program.

(3) There is a twenty thousand dollar per child lifetime cap on this program.

(4) The program requires the adoptive parent and the department to sign an adoption support reconsideration agreement specifying the terms, conditions, and length of time the child will receive limited support.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0330, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0335 How does a child qualify for the adoption support reconsideration program? To be eligible for the adoption support reconsideration program, a child must:

- (1) Have resided, immediately prior to adoption finalization, in a department funded pre-adoptive placement or in department funded foster care;
- (2) Have a physical or mental handicap or emotional disturbance that existed and was documented before adoption or was at high risk for future physical or mental handicap or emotional disturbance due to conditions to which the child was exposed before adoption;
- (3) Reside in Washington state with an adoptive parent who lacks the financial resources to care for the child's special needs; and
- (4) Be covered by a primary basic health insurance program.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0335, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0340 How does an adoptive parent apply for the adoption support reconsideration program? To apply, the adoptive parent must complete an application for adoption support reconsideration and attach:

- (1) A written cost estimate of the child's proposed corrective-rehabilitative services;
- (2) A current medical evaluation of the child including the cause(s) of the condition requiring corrective-rehabilitative services;
- (3) A written statement explaining the child's current medical and counseling needs;

(4) A written statement giving the department permission to request and review pre-adoption information held by the adoption agency facilitating the child's adoption; and

(5) A copy of the adoptive parents' most recently filed IRS 1040 federal income tax form.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0340, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0345 What types of services does the department provide through the adoption support reconsideration program? The reconsideration program provides some support for counseling and medical services needed to treat the child's qualifying condition.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0345, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0350 What department requirements apply to adoption support reconsideration services? (1) The department must authorize, in writing, any services paid by the adoption support reconsideration program before the services are provided.

(2) The department must base the authorized level of service on the child's needs and must limit the level of service to established program rates.

(3) The department must limit medical services to those services that would be available to the child if the child were eligible for medicaid coverage.

(4) The department must make no cash payments to the family.

(5) The department must make payment directly to the provider of the authorized service.

(6) The adoptive parents' basic health insurance must provide primary coverage and must be used before billing the reconsideration program. The adoption support reconsideration program must be the secondary insurer.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0350, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0355 Under what conditions or circumstances would a child become ineligible for the adoption support reconsideration program? (1) Eligibility for adoption support reconsideration services ends according to the terms of the adoption support reconsideration agreement or when the child:

(a) Reaches eighteen years of age;

(b) Is eligible for the federal Title IV-E adoption assistance program and has been placed on that program;

(c) Has received twenty thousand dollars in department paid medical, dental, and/or counseling services; or

(d) Is no longer the financial responsibility of the adoptive parent(s).

(2) If the parent dies, the reconsideration agreement becomes invalid. Neither the agreement nor the child's eligibility for the program are transferable to a subsequent adoption.

(3) The department may suspend services when the child:

(a) Resides outside the adoptive parents' home for more than thirty continuous days; or

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(b) Is no longer covered by primary basic health insurance.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0355, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0360 What happens if the state no longer funds the adoption support reconsideration program? If the department no longer has funds available for the program, a child's participation in the program will cease. The department will terminate the adoption support reconsideration agreement.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0360, filed 3/30/01, effective 4/30/01.]

Part H: Appeal Rights

WAC 388-27-0365 Does an adoptive parent have the right to appeal department decisions regarding adoption support issues? (1) An adoptive parent has the right to an administrative hearing to contest the following department actions:

(a) Denial of a child's initial eligibility for the adoption support program or the adoption support reconsideration program;

(b) Failure to respond with reasonable promptness to a written application or request for services;

(c) Denial of a written request to modify the level of payment or service in the agreement;

(d) A decision to increase or decrease the level of the child's adoption support payments without the concurrence of the adoptive parent(s);

(e) Denial of a request for nonrecurring adoption expenses; or

(f) Termination from the program.

(2) The adoptive parent must submit a request for an administrative hearing to the office of administrative hearings within ninety days of receipt of the department's decision to deny a request or failure to respond to a request.

(3) The office of administrative hearings must apply the rules in WAC 388-27-0120 through 388-27-0390 as they pertain to the issues being contested.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0365, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0370 What information about adoption support agreements may be used in an administrative hearing? Adoption and adoption support files are confidential, and information contained in those files may not be disclosed without the consent of the person who is the subject of the file. By requesting an administrative hearing to challenge a department decision relating to adoption support the adoptive parent is agreeing that the department may release factual information about the case during the course of the proceedings. Actions taken by the department and decisions by administrative law judges or review judges in adoption support cases which do not directly involve the case being heard may not be cited or relied upon in any administrative proceeding (RCW 26.33.340 and 74.04.060).

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0370, filed 3/30/01, effective 4/30/01.]

Part I: Nonrecurring Costs**WAC 388-27-0375 Will the department reimburse an adoptive parent for nonrecurring adoption expenses?**

The department will agree to reimburse some or all of an adoptive parent's nonrecurring adoption expenses if:

- (1) The child has a qualifying factor or condition identified in WAC 388-27-0140(1);
- (2) Washington state has determined that the child cannot or should not be returned to the home of the child's biological parent; and
- (3) Except where it would be against the best interest of the child, the department or a child placing agency has made a reasonable but unsuccessful effort to place the child with appropriate adoptive parents without the benefit of adoption assistance; and
- (4) The child has been placed for adoption according to applicable state and local laws or Tribal laws.

[Statutory Authority: RCW 74.13.109, 74.13.112, 74.13.130, and 2002 c 371. WSR 03-02-059, § 388-27-0375, filed 12/27/02, effective 1/27/03. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0375, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0380 What types of nonrecurring adoption expenses will the department reimburse? The department may reimburse:

- (1) Court costs directly related to finalizing an adoption;
- (2) Reasonable and necessary adoption fees;
- (3) Reasonable and necessary attorney fees directly related to finalizing an adoption; and
- (4) Costs associated with an adoption home study, including:
 - (a) Health and psychological examination;
 - (b) Placement supervision before adoption;
 - (c) Transportation, lodging, and food costs incurred by the adoptive parent(s) and child during pre-placement visits; and
 - (d) Other costs directly related to finalizing the legal adoption of the child.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0380, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0385 Is there a limit to the amount of nonrecurring adoption expenses that the department will reimburse? Department reimbursement of nonrecurring adoption expenses must not exceed one thousand five hundred dollars per child.

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0385, filed 3/30/01, effective 4/30/01.]

WAC 388-27-0390 How does an adoptive parent get reimbursed for nonrecurring adoption expenses? (1)

Before the adoption is finalized, the adoptive parent must sign an agreement with the department specifying the nature and amount of nonrecurring adoption expenses. This agreement may be part of an adoption support agreement or it may be a separate agreement specific to the reimbursement for nonrecurring adoption finalization costs. The department will make no reimbursement payments unless such an agreement exists.

(2) Upon finalization of the adoption, the adoptive parent may request reimbursement. A copy of the adoption decree and documentation supporting actual costs incurred must accompany the request for reimbursement.

(3) The department must reimburse documented actual costs or the amount specified in the signed agreement, whichever is less.

(4) The department will not reimburse nonrecurring adoption expenses that are reimbursable from other sources (for example: IRS, military, or the adoptive parent's employer).

[Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0390, filed 3/30/01, effective 4/30/01.]