

Chapter 110-80 WAC

ADOPTION SUPPORT PROGRAM

(Formerly chapter 388-27 WAC (part))

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WAC 110-80-0010 What is the legal basis of the department's adoption support program? The legal authorities for the program are:

- (1) Chapter 74.13A RCW;
- (2) 42 U.S.C. Sec. 671-675;
- (3) 45 C.F.R. Sec. 1356; and
- (4) 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 benefits (contained in DHHS Child Welfare Policy Manual).

[WSR 18-14-078, recodified as § 110-80-0010, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40 and RCW 74.13A.020(1). WSR 18-14-008, § 388-27-0120, filed 6/21/18, effective 7/22/18. 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 110-80-0020 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.

[WSR 18-14-078, recodified as § 110-80-0020, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0125, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0030 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 benefits 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 adoption support agreement between the adoptive parent(s) and the department.

"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 qualifying conditions or events occurred that erroneously prevented an otherwise eligible child from being placed on the adoption support program prior to adoption.

"Medical services" means services covered by medic-aid and administered by the health care authority.

"Negotiation" means the process of working toward an agreement between the department and the adoptive parent on the terms of the adoption support agreement.

"Nonrecurring costs" means reasonable, necessary, and direct expenses related to the cost of finalizing the adoption of a special needs child.

"Placing agency" means the public or private nonprofit agency that has the legal authority to place the child for adoption.

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

"Reconsideration" means the limited state-funded support that may be 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 medicaid 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.

[WSR 18-14-078, recodified as § 110-80-0030, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0130, filed 6/21/18, effective 7/22/18. 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.]

WAC 110-80-0040 What are the eligibility criteria for the adoption support program? For a child to be eligible for participation in the adoption support program, the child must:

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

(2) Be legally free for adoption or eligible for a customary adoption;

(3) Be placed with a family with an approved preplacement report or home study (see RCW 26.33.190);

(4) Be a child with "special needs" as defined in WAC 388-27-0140; and

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

(a) Is residing in a foster home 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 C.F.R., and the U.S. DHHS guidelines for states to use in determining a child's eligibility for Title IV-E adoption assistance.

[WSR 18-14-078, recodified as § 110-80-0040, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0135, filed 6/21/18, effective 7/22/18. 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 110-80-0050 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, the child is:

(a) Of a minority ethnic background and the child's ethnicity is creating a barrier to the child's adoption;

(b) Six years of age or older at the time of application for adoption support;

(c) 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, as defined in this section;

(d) Diagnosed with a physical, mental, developmental, cognitive or emotional disability; or

(e) 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 legal parent; and

(3) The department, other public or private non-profit child welfare agency, or child placing agency that placed the child for adoption has documented that except where it would be against the best interests of the child, the placing agency made a reasonable but unsuccessful effort to place the child for adoption without adoption support.

[WSR 18-14-078, recodified as § 110-80-0050, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0140, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0140, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0060 What constitutes a reasonable effort to place a child for adoption without adoption support? Reasonable effort to place a child without adoption support includes a child:

- (1) Registered for three months with the Washington adoption resource exchange (WARE) without finding an adoptive family;
- (2) For whom a documented, agency search was conducted by the placing agency for three months, without finding a family who would adopt the child without adoption support services; or
- (3) For whom the placing agency's selected prospective adoptive family is unable to adopt the child without assistance from the adoption support program.

[WSR 18-14-078, recodified as § 110-80-0060, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0145, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0145, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0070 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? (1) When a foster parent desires to adopt a child who:

- (a) Has been in the foster parent's home for three months or more before that child becomes legally free for adoption;
 - (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 has an approved adoptive home study, and is identified as the adoptive parent of choice by the department or placing agency staff (RCW 26.33.190); or
- (2) The adoptive parent is a relative of the child as defined in RCW 74.15.020 (2)(a) and has an approved adoptive home study that meets the requirements of RCW 26.33.190.

[WSR 18-14-078, recodified as § 110-80-0070, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0150, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0150, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0080 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 current 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.

[WSR 18-14-078, recodified as § 110-80-0080, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0155, filed 6/21/18, effective 7/22/18. 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. Stat-

(6/29/18)

utory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0155, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0090 How does a prospective adoptive parent apply for adoption support? (1) An applicant may apply through the public or private agency social worker of the child to be adopted, if the child is in the custody of the department. The social worker will:

- (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 negotiating the amount of any monthly cash payment.

(2) An applicant may also apply directly to the adoption support program for adoption support if the child does not have an assigned social worker.

[WSR 18-14-078, recodified as § 110-80-0090, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0160, filed 6/21/18, effective 7/22/18. 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 110-80-0100 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). It must also include copies of department records or medical or therapist reports that document the child's physical, mental, developmental, cognitive or emotional disability, or risk of any such disability.

(2) The applicant must include a copy of a preplacement report or home study completed by the department, an agency, or an individual approved by the court (see RCW 26.33.190(1)).

(3) If the applicant is requesting a monthly cash payment, the applicant and the department must mutually agree to the amount of the payment according to the requirements of WAC 388-27-0220.

(4) 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.)

(5) 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.

[WSR 18-14-078, recodified as § 110-80-0100, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0165, filed 6/21/18, effective 7/22/18. 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.]

WAC 110-80-0110 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.

[WSR 18-14-078, recodified as § 110-80-0110, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0170, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0120 What must be included in an adoption support agreement? The adoption support agreement must:

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

(2) State that the child is eligible for medical assistance through medicaid;

(3) State that participation in the adoption support program will continue, as long as the child is eligible, regardless of where the adoptive family resides;

(4) State that a change in the adoptive family's circumstances or the child's needs may warrant further renegotiation and adjustment of the payment as mutually agreed to by the adoptive parents and the department;

(5) State the basis for termination or suspension of benefits under the agreement; and

(6) Include information that a youth adopted after age fourteen may have continued eligibility in the college bound scholarship program.

[WSR 18-14-078, recodified as § 110-80-0120, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0175, filed 6/21/18, effective 7/22/18. 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 110-80-0130 When must the adoption support agreement be signed? The adoption support agreement must be signed by all parties before the final adoption decree is issued.

[WSR 18-14-078, recodified as § 110-80-0130, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0178, filed 6/21/18, effective 7/22/18.]

WAC 110-80-0140 If the adoptive family resides in or moves to another state, how is the child's participation in the adoption support program 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) Washington state remains responsible for any monthly cash payments made to the adoptive parent(s) on behalf of the child or any non-medicaid counseling that has been preauthorized by the adoption support program.

(2) If the child is not eligible for the Title IV-E adoption support program, medical benefits (Title XIX medicaid) remain the responsibility of Washington state until the child becomes eligible for the resident state's Title XIX program.

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(3) If the child is eligible for Title IV-E adoption support, medical benefits (Title XIX medicaid benefits) become the responsibility of the resident state.

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

[WSR 18-14-078, recodified as § 110-80-0140, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0180, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0180, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0150 When does the adoption support agreement become effective? The adoption support agreement takes effect on the day the adoption is finalized unless an agreement for earlier implementation of the agreement has been agreed to by all parties.

[WSR 18-14-078, recodified as § 110-80-0150, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0185, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0185, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0160 When will department-funded foster care and foster day care payments end? (1) Foster care payments are paid after the month of service. Adoption support payments are paid prior to the month.

(2) If the adoptive parent(s) receives department-funded foster care and foster care child care for the child to be adopted, the department's social worker assigned to the child will terminate that coverage on the day prior to the date the early implementation adoption support agreement was signed, or the day prior to the finalization of the adoption.

(3) If the adoptive parent is adopting a relative child and has been receiving funding through TANF the adoptive parent must notify the community services office financial services specialist that payment has been initiated through the adoption support program. The adoptive parent may not receive both the TANF grant and adoption support payments for the same month for the same child.

[WSR 18-14-078, recodified as § 110-80-0160, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0190, filed 6/21/18, effective 7/22/18. 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 110-80-0170 When may the terms of the adoption support agreement be modified? The terms of an adoption support agreement may be changed or modified only if both the adoptive parent(s) and the department agree to the modification. The department will consider a modification when:

(1) Requested by the adoptive parent(s);

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(2) In the view of the department, it appears that specific circumstances warrant renegotiation and adjustment of monthly cash payment;

(3) The child is placed outside of the adoptive parents' home at department expense; or

(4) The adoptive parent has agreed to an automatic reduction clause in the agreement and the clause states that, based on the anticipated reduction in the needs of the child (for child care for example), the amount will be reduced on a specific date.

[WSR 18-14-078, recodified as § 110-80-0170, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0200, filed 6/21/18, effective 7/22/18. 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 110-80-0180 Does the adoptive parent need to let the department know if the family's circumstances change? The adoptive parent must inform the department's adoption support program of circumstances that might affect the child's eligibility for adoption assistance benefits, might result in an overpayment or missed payment, or might lead to modification of the agreement. Such changes include but are not limited to a:

- (1) Significant change in the child's condition;
- (2) Change in the marital status of the adoptive parent(s);
- (3) Change in the legal or physical custody of the child;

or

- (4) Change in the adoptive family's mailing address.

[WSR 18-14-078, recodified as § 110-80-0180, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0205, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0205, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0190 Under what circumstances are benefits under the adoption support agreement suspended? (1) The monthly cash payment may be suspended if:

- (a) The department cannot establish that the:
 - (i) Parents are legally responsible for the support of the child; or
 - (ii) Child is receiving any support from the parents; and
- (b) Department has provided notice to the parents of the department's determination under subsection (1)(a)(i) or (ii) of this section, and of its intent to suspend the monthly cash payment in thirty days, if the parent does not provide documentation within that time to refute the department's determination; and

- (c) Parents fail to provide satisfactory documentation.

(2) If the parents provide satisfactory documentation of continued legal responsibility and financial support for the child, the payment may not be suspended. If the parents fail to provide satisfactory documentation, the department must send a notice stating the payment will be suspended. The parents have a right to request a hearing to challenge the suspension and must be provided notice of that right.

(6/29/18)

[WSR 18-14-078, recodified as § 110-80-0190, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0208, filed 6/21/18, effective 7/22/18.]

WAC 110-80-0200 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, unless:

(a) The child was adopted at age sixteen or older and meets the requirements of an eligible category for the extended foster care program as described in RCW 74.13.031(11). In such cases, the department may extend the terms of the adoption support agreement so long as the child continues to fall within an eligible category and the adoptive parent continues to provide ongoing financial support or the youth turns twenty-one, whichever occurs first. Under no circumstances may the department extend the agreement beyond the child's twenty-first birthday.

(b) The child was adopted prior to age sixteen and is attending high school full time in a curriculum leading to a high school diploma or is attending an instructional program leading to a GED or high school equivalency certificate (HSEC) 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 HSEC. Under no circumstances may the department extend the agreement beyond the child's twenty first birthday.

(c) 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 or other qualifying program. 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) Upon the child's death;

(3) The child is under eighteen years and the department determines the parents are no longer financially or legally responsible for the support of the child;

(4) The child is under eighteen years old and the department determines the child is no longer receiving any support from the parents; 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.)

[WSR 18-14-078, recodified as § 110-80-0200, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40 and RCW 74.13.031(11). WSR 18-14-008, § 388-27-0210, filed 6/21/18, effective 7/22/18. 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.]

WAC 110-80-0210 What benefits are available to adoptive parents through the adoption support program? The adoption support program provides:

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- (1) Reimbursement for nonrecurring adoption finalization costs;
- (2) Monthly cash payments, as negotiated by the parties;
- (3) Payment for counseling services as preauthorized which are not available from the state's medicaid mental health services (see WAC 388-27-0255 for conditions and terms); and
- (4) Medical assistance through the department's medicaid program.

[WSR 18-14-078, recodified as § 110-80-0210, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0215, filed 6/21/18, effective 7/22/18. 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 110-80-0220 What factors affect the amount of the monthly adoption support payments an adoptive parent receives?

(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. However, under no circumstances may the amount of the adoption support monthly cash payment the department pays for the child exceed the statutory cap for the adoption support maintenance payment, under RCW 74.13A.047.

(4) Where warranted, and where specifically set forth in the agreement, the adoptive parents and department may agree that specific circumstances require a particular payment for a limited period of time and, as set forth in the agreement, the payment will be automatically adjusted or renegotiated at the expiration of the time period.

[WSR 18-14-078, recodified as § 110-80-0220, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40 and RCW 74.13A.025. WSR 18-14-008, § 388-27-0220, filed 6/21/18, effective 7/22/18. 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 110-80-0230 What specific department requirements apply to medical services? While an adoption support agreement remains in effect, medical assistance for the child is provided through the department's medicaid program and the medicaid program requirements apply.

[WSR 18-14-078, recodified as § 110-80-0230, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40 and RCW 74.13A.025. WSR 18-14-008, § 388-27-0250, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0250, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0240 What specific department requirements apply to outpatient counseling or mental health services not covered by medicaid? (1) The department's adoption support program directly pays for a child's counseling or mental health services, when the following conditions apply:

- (a) The adoptive parent must obtain written authorization from the department's adoption support program before the service is rendered;
- (b) The adoptive parent must explain why these services are not available through the medicaid provider network or through private insurance;
- (c) The adoptive parents' primary health care coverage must be billed prior to billing the department's adoption support program;
- (d) The department will pay the adoption support program's preauthorized rate minus any payment made by the primary (and other) insurer;
- (e) The department may grant verbal authorization for no more than three counseling sessions prior to providing the required written authorization; and
- (f) The child's therapist or other treatment provider must submit a written treatment plan prior to authorization for continued treatment.

(2) The department may authorize counseling as follows:

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

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

- (c) For only one provider at a time unless a second provider is required for a different service; or

- (d) Evidence based programs contracted by the department to help stabilize the child in the adoptive home if those programs are pertinent to the needs of the child and family.

(3) 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.

(4) The provider must provide services to the client face-to-face, i.e., in the same room except where face-to-face services are not reasonably accessible to the child.

[WSR 18-14-078, recodified as § 110-80-0240, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40.

WSR 18-14-008, § 388-27-0255, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0255, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0250 If the adoptive parent requests residential placement services for their adopted child, what department requirements apply? (1) The adoption support program is not able to pay for residential treatment placements of children who are not in department custody. See RCW 74.13.080 and WAC 388-25-0025.

(2) If the adoptive parent is in need of residential treatment services for a child, the department will make the following referrals:

(a) For treatment of a mental illness, the department will refer the family to the local mental health treatment provider;

(b) If the child has been diagnosed with a physical, mental, developmental, cognitive or emotional disability, the department will refer the family to the developmental disabilities administration (DDA) to determine whether the child is eligible for services; or

(c) For reasons other than treatment of mental illness or developmental disabilities, the department will refer the adoptive parent to child welfare services at the local children's administration office.

[WSR 18-14-078, recodified as § 110-80-0250, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40, RCW 74.13.080 and WAC 388-25-0025. WSR 18-14-008, § 388-27-0260, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0260, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0260 What are the consequences of an adopted child being placed in foster care? (1) If a child is on active status with Washington state's adoption support program and the department places the child in foster care, the department is required to refer the case to the division of child support and the program may report that good cause exists for not pursuing collection of support payments.

(2) The department may review the adoption support agreement and may renegotiate the amount of any cash payments to the adoptive parent during the child's out-of-home placement.

[WSR 18-14-078, recodified as § 110-80-0260, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0265, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0265, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0270 What process applies to a request for modification of a support agreement? (1) The adoptive parent may request an opportunity to negotiate a modification of the adoption support agreement's monthly cash payment provision if there is a change in the needs of the child or in the circumstances of the family. The request must be in writing.

(2) The adoption support program must initiate a review of the adoption support agreement no later than thirty days after receiving the adoptive parent's request for modification of the agreement.

(3) The adoptive parent must provide supporting documentation when requested by the department.

(6/29/18)

(4) The department may request a copy of the adoptive parents' most recently filed federal tax return. If not required to file a federal tax return the adoptive parent(s) must submit a financial statement when requested by the department.

(5) The adoptive parent may request that the child's medical provider complete an early periodic screening, diagnosis, and treatment (EPSDT) examination and submit a report of the results to the adoption support program.

(6) The adoptive parent and the department will negotiate in an attempt to reach agreement on the request for modification.

(7) If the parties modify the terms of the agreement, the adoptive parent and the department must sign a new agreement.

(8) If the agreement is modified, the changes in the terms of the agreement will be retroactive to the first day of the month in which the department received the written request.

(9) If an agreement cannot be reached, the department will deny the request for modification and must provide the adoptive parent with written notice of the denial and of the right to appeal.

[WSR 18-14-078, recodified as § 110-80-0270, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0295, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0295, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0280 May an adoptive parent apply for adoption support services after the adoption has been finalized? Federal 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, the federal government recognizes that in some situations there may have been extenuating circumstances that prevented the eligible child from being placed on the adoption support program prior to adoption.

[WSR 18-14-078, recodified as § 110-80-0280, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0305, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0305, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0290 If a child met federal Title IV-E eligibility for adoption assistance before the adoption, but was not placed on the adoption 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 apply for adoption support. The department will deny the application and the adoptive parent may then request a review by an administrative law judge or a review judge to determine if extenuating circumstances exist that justify the department's post-adoption agreement to provide adoption support services to a special needs child.

[Ch. 110-80 WAC p. 7]

[WSR 18-14-078, recodified as § 110-80-0290, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0310, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0310, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0300 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.

[WSR 18-14-078, recodified as § 110-80-0300, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0315, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0310 What is the effective date of an adoption support agreement that results from a finding of extenuating circumstances? A support agreement entered into as a result of a finding of extenuating circumstances may not be effective before the date the department received the written request for participation in the adoption support program from the adoptive parent. 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.

[WSR 18-14-078, recodified as § 110-80-0310, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0320, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0320, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0320 If a child did not meet federal Title IV-E eligibility for adoption assistance before the adoption, may the child qualify for adoption support after adoption finalization? For children ineligible for federal Title IV-E Adoption Assistance, the department may provide limited support through the state-funded adoption support reconsideration program, when the program is funded by the legislature.

[WSR 18-14-078, recodified as § 110-80-0320, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0325, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0325, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0330 What is the adoption support reconsideration program? (1) When funded by the legislature, 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. Payments are made directly to the provider, not to the adoptive parents.

(3) 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.

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

(5) 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.

[WSR 18-14-078, recodified as § 110-80-0330, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0330, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0330, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0340 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 disability or emotional disturbance that existed and was documented before adoption or was at high risk for future physical or mental disability or emotional disturbance due to conditions the child was exposed to 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.

[WSR 18-14-078, recodified as § 110-80-0340, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0335, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0335, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0350 How does an adoptive parent apply for the adoption support reconsideration program? 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 preadoption information held by the adoption agency facilitating the child's adoption; and

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

[WSR 18-14-078, recodified as § 110-80-0350, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0340, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0340, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0360 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.

[WSR 18-14-078, recodified as § 110-80-0360, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0345, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0370 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.

[WSR 18-14-078, recodified as § 110-80-0370, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0350, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0380 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 eligi-

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bility 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

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

[WSR 18-14-078, recodified as § 110-80-0380, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0355, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0390 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.

[WSR 18-14-078, recodified as § 110-80-0390, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0360, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0400 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) Delay of more than thirty days when responding to a written request for modification of the agreement;

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

(f) Suspension of adoption support benefits; or

(g) Termination from the program.

(2) To initiate the appeal, 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, to suspend or terminate adoption support, 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.

[WSR 18-14-078, recodified as § 110-80-0400, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40 and RCW 74.13A.050, 74.13A.055. WSR 18-14-008, § 388-27-0400, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0365, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0410 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 on in any administrative proceeding (RCW 26.33.340 and 74.04.060).

[WSR 18-14-078, recodified as § 110-80-0410, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020 and 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0370, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0370, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0420 Will the department reimburse an adoptive parent for nonrecurring adoption expenses?

The department has authority to 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;
- (3) Except where it would be against the best interest of the child, the department or a public or private nonprofit 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 or tribal laws.

[WSR 18-14-078, recodified as § 110-80-0420, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0375, filed 6/21/18, effective 7/22/18. 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 110-80-0430 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 examinations;
 - (b) Placement supervision before adoption;
 - (c) Transportation, lodging, and food costs incurred by the adoptive parent(s) and child during preplacement visits; and
 - (d) Other costs directly related to finalizing the legal adoption of the child.

[WSR 18-14-078, recodified as § 110-80-0430, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0380, filed 6/21/18, effective 7/22/18. Statutory

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

WAC 110-80-0440 Is there a limit to the amount of nonrecurring adoption expenses that the department will reimburse? Reimbursement by the department of nonrecurring adoption expenses must not exceed one thousand five hundred dollars per child.

[WSR 18-14-078, recodified as § 110-80-0440, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0385, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0385, filed 3/30/01, effective 4/30/01.]

WAC 110-80-0450 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) After 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: Adoptive parent's employer).

[WSR 18-14-078, recodified as § 110-80-0450, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.-020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0390, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0390, filed 3/30/01, effective 4/30/01.]