

**Michigan Office of Administrative Hearings and Rules**

**Administrative Rules Division (ARD)**

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**REGULATORY IMPACT STATEMENT  
and COST-BENEFIT ANALYSIS (RIS)**

**Agency Information:**

**Department name:**

Health and Human Services

**Bureau name:**

Children's Services Agency

**Name of person filling out RIS:**

Mary Brennan

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**Rule Set Information:**

**ARD assigned rule set number:**

2019-46 HS

**Title of proposed rule set:**

Child Care Fund

**Comparison of Rule(s) to Federal/State/Association Standard:**

**1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.**

These are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

**A. Are these rules required by state law or federal mandate?**

MCL 400.117a(3) provides: The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to monitor juvenile justice services money and to prescribe child care fund accounting, reporting, and authorization controls and procedures and child care fund expenditure classifications. For counties required to have a child care fund, the department shall fund services that conform to the child care rules promulgated under this act.

**B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.**

There are no federal standards for these rules.

**2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.**

Child Care Fund Reimbursement Program is unique to the State of Michigan. The program governed by these rules is designed to provide cost sharing with county governments of Michigan for delivery of child welfare and juvenile justice services statewide.

**A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.**

To the best of the Department's knowledge, no other state has this cost-sharing process.

**3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.**

MCL 400.117a through 400.117g provides the statutory authority for the child care fund. Sec 117a(3) is the Department's authority to promulgate for the purpose "to monitor juvenile justice services money, to prescribe child care fund accounting, reporting and authorization of controls and procedures and child care fund expenditure classifications." There is no duplication, overlap or conflict.

**A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.**

The rules compliment the statutory scheme of how to perform the child care fund activities for the State. The former rules have reference to the operation of the program prior to the amendments of MCL 400.117a in February 2018 and made effective in May 2018. The amendments allowed for a change to the payment and reimbursement process through the Child Care Fund. That same statutory change included more explicit program eligibility and requirements which must also be incorporated into the rules.

**4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.**

There are no federally mandated standards for these rules.

**5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, either the statute that specifically authorizes the more stringent rules or a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.**

There are no federally mandated standards for these rules.

**6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.**

The proposed rules are designed to clarify reimbursement eligibility and modify the payment and reimbursement process for allowable services delivered by state and county-supervised cases and services.

**A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.**

The process change will occur on 10/1/2019 with the implementation of changes to the MDHHS Statewide Automated Child Welfare Information System (MiSACWIS).

**B. Describe the difference between current behavior/practice and desired behavior/practice.**

Under the current process, a child's care and services are paid by the entity (county or state) responsible for the fund source. This creates a very confusing and disjointed payment process for children and vendors involved in child welfare and juvenile justice programming. The new process will require that, regardless of the fund source, the entity responsible for oversight and case management will assure vendors of services delivered are paid; reconciliation of funding per the determined fund source is done monthly between the state and county. This design is intended to provide timely payments and uniform processes for vendors.

**C. What is the desired outcome?**

Timely payments and uniform processes for vendors.

**7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.**

Inconsistent and lack of understanding of certain rules and procedures may lead to disallowances on what would ordinarily be reimbursable expenses.

**A. What is the rationale for changing the rules instead of leaving them as currently written?**

The statutory amendments of MCL 400.117a resulted in conflicts with the current rules. Modification and clarification via the rules in aligning with the statute(s) will expedite reimbursement to counties and streamline payments to vendors providing services to children and families served by the state's child welfare and juvenile justice programs.

**8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.**

The rules allow the counties to provide needed services to one of Michigan's most vulnerable populations: at-risk youth. The county is statutorily required to pay for the services of those youth who come into their court system. The child care fund statute and rules lay out a framework designed for reimbursement for services to youth and families who may be in the court system or may be at risk for entering the court system. The proposed rules create efficiency and remove barriers to timely and consistent payment.

**9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.**

Mich Admin Code R 400.2005 and R 400.2045 will be rescinded as obsolete. R 400.2005 is no longer valid as foster care services are provided by both state employees and private, contracted staff. R 2045 is no longer valid as Oakland v Michigan, 456 Mich. 144 (1997) removed the reimbursement ceiling.

**10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).**

It is anticipated the agency will see approximately \$3 million in savings resulting from the rule changes. The agency will assume administrative responsibility for state-supervised cases and alleviate the 10% administrative payments made to county governments for that work under the current process. The savings are less the resource costs necessary to implement and manage the increased administrative responsibilities.

**11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.**

The child care fund is funded annually by a legislative appropriation.

**12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.**

The rule changes are necessary to improve fiscal accountability and will ensure all counties are documenting expenditures uniformly and that the Department is approving county child care fund budgets and expenditures uniformly. The fiscal and administration burdens should ease for the county as the state will absorb the process of paying the private agencies and other vendors and lessen the burden on the county to pay those costs.

**A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.**

The changes also allow vendors providing state-supervised child welfare and juvenile justice services, regardless of fund source, experience uniform processes in receiving payments. The change also allows there to be complete records that show the full authorization and payment of services provided in child welfare and juvenile justice case plans. \*(include discussion regarding fiscal/admin burdens or indicate there are no burdens).

**13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.**

Counties will be relieved of the responsibility to for invoicing, payments and management of other government benefits for any state-supervised cases as indicated in (10). This removal of duties also removes the administrative payment they currently receive for the performance of those functions. Counties will continue the current reconciliation of funding that occurs between the agency and counties. The changed process will create more transparent and readily available data which will improve the efficiency of the reconciliation process experienced under current rules.

**14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.**

Uniform documentation procedures are maintained and improved with the change in payment process. The agency and county governments will monitor and reconcile payments and reimbursements through state-managed information systems; both will also have the opportunity to appeal reimbursements and charges which is currently not provided.

**A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.**

Counties must provide an annual budget to the state regarding the anticipated costs of juvenile services or reimbursement from the child care fund will not occur.

**15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.**

There are no known appropriations or funding sources to the state or local government, other than the annual appropriation to run the child care fund, for any additional expenditures associated with the proposed rule changes.

**16. In general, what impact will the rules have on rural areas?**

Counties may need to update accounting procedures and recording. Vendors providing services to multiple, rural areas will experience an improved, more uniform billing and payment process.

**A. Describe the types of public or private interests in rural areas that will be affected by the rules.**

Improved services as a result of improved billing and payment standards may result for clientele serviced by vendors in rural areas.

**17. Do the proposed rules have any impact on the environment? If yes, please explain.**

There is no impact on the environment as a result of these proposed rules.

**18. Describe whether and how the agency considered exempting small businesses from the proposed rules.**

An exemption of small businesses should be irrelevant to these proposed rule changes as the rules involve the State and county governments. The Department did not consider exempting small businesses.

**19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.**

Small businesses who provide juvenile services will experience a more efficient method of billing for services rendered.

**A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.**

This number is unknown but estimated to be at least 100 when considering the number of contracted and non-contracted businesses that provide child welfare and juvenile justice services through multiple billing processes under current rule.

**B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.**

There are no differing compliance or reporting requirements for small businesses; the number of different reporting requirements will be reduced because the payment source for all state-supervised casework will be the agency instead of multiple counties as is required under current rules.

**C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.**

The number of different reporting requirements will be reduced because the payment source for all state-supervised casework will be the agency instead of multiple counties as is required under current rules.

**D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.**

Performance standards as required by the proposed rules have not changed.

**20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.**

Small businesses are not anticipated to be negatively affected by these proposed rule changes, rather they will see improvement as previously described herein.

**21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.**

There are no known reports or costs of preparation of any materials due to the proposed rules.

**22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.**

Small businesses are not anticipated to see in costs for compliance by these proposed rule changes.

**23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.**

Small businesses are not anticipated to have any legal, consulting, or accounting services costs incurred by these proposed rule changes.

**24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.**

Small businesses are not anticipated to have any economic harm from any costs by these proposed rule changes.

**25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.**

Small businesses are not anticipated to be affected by these proposed rule changes. There are no exemptions or lesser standards for compliance anticipated.

**26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.**

Small businesses are not anticipated to be affected by these proposed rule changes. There are no exemptions or lesser standards for compliance anticipated.

**27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.**

Workgroups were formed and held a series of meetings over the proposed change in the "state pays first" accounting method that intends to provide quicker and more efficient payments to the small businesses involved in juvenile services.

**A. If small businesses were involved in the development of the rules, please identify the business(es).**

Child placing and child caring institutions for foster care and child placement in institutions.

**28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.**

State and county governments; resources and service providers; and foster families will benefit from the proposed rule changes. Consistency and clarification of what is reimbursable costs to the county saves time and money of only submitting those costs where there is no issue regarding its eligibility for reimbursement. The State improves compliance with contract payment timeframes.

An estimate of the statewide compliance costs of the rule changes on businesses/groups will be made available at the time of public hearing.

**A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.**

Counties will have more transparent and detailed information about charges and reimbursements. The State benefits with consistency and clarification by only approving those costs that are reimbursable and reduces the amount of errors made for improper denials or improper reimbursements. The private contracted agencies, community mental health organizations and other vendors will be directly benefit from the proposed rules as timely payments is the goal for these agencies providing services. The counties will directly benefit as the burden of the payment to the agencies and vendors will fall on the state. The private agencies, the state and the counties are affected by the rules as they will all be involved in the reimbursement process changes as the state pays first for the payments of services to the counties' youth.

**B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.**

There will be costs to the MISACWIS system for the payment processes changes. These costs will be absorbed by the State. There may be costs associated with the change of business processes/accounting for both the State and the counties due to the state paying for services first and requesting reimbursement from the counties.

**29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.**

There are no anticipated compliance costs of the proposed rules on individuals, regulated or the public. System changes to comply with statute changes under MCL 400.117a are the responsibility of the State via appropriations.

**A. How many and what category of individuals will be affected by the rules?**

The needed training for state and county child welfare and juvenile justice stakeholders comes within typical, annual training and communication to parties impacted. \*(it's asking how many and what category of individuals will be affected by the rules.)

**B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?**

The training for county and state workers will improve the efficiency of the reimbursement of funds as all will be provided a uniform process of the child care fund program. There are no known quantitative impacts.

**30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.**

With consistent application of the eligibility standards and the clarification of eligible reimbursements, the county will know which of the services it offers are reimbursable and errors on behalf of the Department should be minimized. Child welfare service providers will have reduced costs due to the efficiency of billing to and payments from one source.

**31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.**

All counties have full knowledge of what the eligibility requirements are and can plan their annual budgets accordingly for maximization of services offered within a certain cost range.

**32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.**

There are no known impacts to business growth and/or job creation (elimination) by these proposed rule changes.

**33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.**

There are no known impacts to individuals or businesses by these proposed rule changes.

**34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.**

The Department relies on its statutory and current administrative rule authority for preparation of this regulatory impact statement. The cost benefit assessment included review of the reduced administrative rate paid to counties for fewer expenditures. The Department's technology plan for the year prior to implementation included the necessary system changes for this implementation to occur.

**A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rules.**

Cost proposals for estimates for system changes have been requested by the current vendor. Discussions with workgroups comprised of private contracted agencies and county representatives regarding the changes anticipated training on the new accounting procedures that will need to be published.

**35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.**

The administrative rules, together with the statute and the Child Care Fund Handbook make up the child care fund program. There is no reasonable alternative and the rule changes are needed to compliment the business process of child care eligibility and reimbursement.

**A. Please include any statutory amendments that may be necessary to achieve such alternatives.**

There is no reasonable alternative other than rule promulgation.

**36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.**

Private market based mechanisms to oversee a state administered program that supports court and county government have not been contemplated.

**36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.**

The Department had developed a work group and met for several years prior to the statutory amendment that requires the rules change. Stakeholders included courts, counties, private providers and Department staff responsible for the management and oversight of the Child Care Fund.

**38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.**

The Department has developed a "Child Care Fund Handbook" which is the procedural guide with forms that is provided to all counties who seek reimbursement under the child care fund. ffff