

**SENATE FISCAL AGENCY  
 ADMINISTRATIVE RULES FISCAL NOTE**

**DATE:** May 26, 2022  
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<u>TRANS. NO.</u>	<u>AGENCY</u>	<u>SUBJECT</u>
21-69	Department of Health and Human Services- Children's Services Agency- Division of Child Welfare Licensing	Child Caring Institutions

**FISCAL IMPACT:**

In the Regulatory Impact Statement and Cost-Benefit Analysis (RIS) issued by the Michigan Department of Health and Human Services on rules changes proposed for Child Caring Institutions, the text states the rules will not have any fiscal impact on the agency. The analysis then states that by allowing more child caring institutions to come into compliance with Federal Title IV-E funding requirements it will allow for more facilities to be eligible for Title IV-E reimbursement. The statement about Title IV-E eligibility is difficult to evaluate because Title IV-E eligibility reimbursements follow children and their placements, not facilities. While it is true that if children are placed into a facility that does not meet Federal Title IV-E rules, those children would not be eligible for Title IV-E reimbursements, but the underlying Title IV-E eligibility is based on the circumstances of the child, not the circumstances of the facility. So, it is not certain what facilities are not currently in compliance with Title IV-E eligibility and how the rule changes would bring those facilities into compliance.

The proposed rules require a prohibition on restraints as of November 1, 2022 under R 400.4159 Rule 159 (except for those restraints made under an emergency, lifesaving response or those at a secure juvenile facility). The assumption made in the RIS is that with increased training and treatment plans, the need for restraints will be attenuated. Since the current rules and staffing levels at child caring institutions allows for restraints under certain conditions, there could be a decrease in staffing costs if the crisis prevention and intervention plans result in less injuries and missed work time for agency staff. To the extent that the licensee's actual staff costs decrease there could be a decrease in provider rates paid by the State.

As the new rules prohibit seclusion as of November 1, 2022, R 400.4162 Rule 162, for both secure and nonsecure facilities, new procedures will be put into place for youth in facilities that may be in danger of jeopardizing the safety of themselves or others and will no longer be able to be placed into a seclusion setting. To the extent that the training and crisis prevention activities reduce the need for seclusion, there could be a decrease in staffing costs for supervision and could be a decrease in provider rates paid by the State. However, since all seclusion is prohibited as of November 1, 2022 it is uncertain as to the overall fiscal impact on the licensee and the State. If

seclusion had been used in the past to reduce staff injuries or supervision requirements, to the extent that no seclusion results in a greater staffing level required to maintain the operation of the facility, there could be an increased cost to be recovered through an increased rate paid to providers.

The reporting requirement under proposed R 400.4163 Rule 163 requires an agency to complete a health status assessment and issue a notification report immediately after seclusion or restraint is performed on the youth. Along with the notification and assessment, an agency must issue the report to several recipients and must file an initial incident report within 24 hours and a final incident report within 72 hours. In addition to the reporting requirements, the rule requires the facility administrator to review the use of restraint and seclusion on a quarterly basis for a process improvement plan. To the extent that there are new incidents required to be reported there could be additional staffing costs to the licensee. If there are additional costs, they could be recovered through increased provider rates paid by the State.