

**DIVISION OF CHILDREN AND FAMILY SERVICES  
ADMINISTRATIVE MEMO # 2-2011**

To: Children and Family Services Specialists, Supervisors, and Administrators; Income Maintenance Workers, Supervisors, and Administrators; and Service Area Administrators

From: Edward H. Matney, Policy Section Administrator *Edward H. Matney*  
Division of Children and Family Services

Approved by: Todd L. Reckling, Director *Todd L. Reckling*  
Division of Children and Family Services  
Department of Health and Human Services

Date: March 9, 2011

RE: Determination of Maintenance Payment for Subsidized Adoption and Subsidized Guardianship

Effective: Immediately

Contact: Ruth Grosse, Children and Family Services, Policy Section, at (402) 471-7785 or [ruth.grosse@nebraska.gov](mailto:ruth.grosse@nebraska.gov); or Margaret Bitz, Children and Family Services, Policy Section, at (402)471-9457 or [margaret.bitz@nebraska.gov](mailto:margaret.bitz@nebraska.gov)

Purpose: The purpose of this memo is to clarify rates used for determination of the maintenance payment for federal and state subsidized adoption and subsidized guardianship for wards of the Department.

Policy: Regulations in 390 NAC and 479 NAC provide direction on establishing the maintenance payment amount for subsidized adoptions and subsidized guardianships. The regulations require that maintenance payments be no more than the amount that would have been paid if the child had remained in a foster home through the Department, or that the Department paid for foster care. (The specific language related to subsidized adoption can be found at 390 NAC 6-003.02C1; NAC 6-003.02C2; 479 NAC 8-001.02C1; 479 NAC 8-001.02C2; and 479 NAC 8-001.02D3. The specific language related to subsidized guardianship can be found at 390 NAC 6-005.04 and 479 NAC 7-004 and 7-005.) For purposes of determining the maintenance payment for a subsidized adoption or subsidized guardianship for DHHS wards, the "foster home" or "foster care" rate is the rate determined through use of the FCPay system. This is true even when the payment made to a foster parent by a lead contractor or subcontractor is different from the FCPay rate.

Implementation: For new subsidized adoption or subsidized guardianship agreements, the worker shall complete the FCPay checklist, with the prospective adoptive parent or guardian, no more than three months prior to the agreement being signed by all required persons. For increase requests on existing state or federal subsidized adoption agreements, or federal subsidized guardianship agreements, the worker shall complete

the FCPay checklist with the adoptive parent or guardian at the time the request is made. (Regulation does not provide for an increase in the maintenance payment for state-funded subsidized guardianships.)

Reminder: The amount determined using FCPay is the maximum amount that can be paid under a subsidy agreement. Regulations also require that the actual payment amount must take into account the family's need for financial assistance and that, if other maintenance payments such as SSI are being received, those amounts must be deducted from the FCPay amount. Depending on the type of subsidy, one or more of the following regulations will be applicable for purposes of deducting other available payments from the FCPay maintenance payment amount: 390 NAC 6-003.02B; 390 NAC 6-003.02C2; 390 NAC 6-005.04; 479 NAC 7-004; 479 NAC 8-001.02D3; 479 NAC 8-001.02G; and/or 479 NAC 8-001.03E3.

FCPay Checklist and Rates: Attached to this memo, you will find three Appendixes.

- Appendix A is the original FCPay checklist on which the N-FOCUS document is based. You are urged to review this document, as it includes some explanations that could not be placed on N-FOCUS due to space limitations.
- Appendix B is the same checklist, with the addition of the information on number of points assigned for each item.
- Appendix C is a chart of the FCPay rates that became effective July 1, 2010.

**APPENDIX A**  
**FCPay Checklist**

**PHYSICAL NEEDS** (No item is to be checked if age appropriate.)

- 1. Does the child need physical assistance from the foster parent with putting on braces or prosthetic devices?
- 2. Does the child need appliances or special medical equipment of any kind which requires physical assistance from the foster parent?
  - a. apnea monitor
  - b. colostomy
  - c. aspiration equipment
  - d. feeding tube
  - e. suctioning equipment
  - f. catheter
  - g. other
- 3. Does the child need physical assistance with feeding, drinking, getting dressed, bathing, or toileting? (Includes medically required special diet, actual feeding of child, general supervision in eating, or swallowing disorders. Tube feeding is not included, as it already is covered in # 2.)
- 4. Does the child require physical assistance to prevent or remedy skin conditions such as bedsores, severe eczema, or severe diaper rash?
- 5. Is the child non-ambulatory due to a delay in physical development or a permanent physical disability?
- 6. Is the child's vision so impaired it seriously limits their ability to engage in normal, ordinary vocations and activities?
- 7. Is the child's speech or hearing so impaired that it seriously limits their ability to engage in normal, ordinary vocation and activities?

8. Does the foster parent provide any of the following for the child with instruction from a professional?
- a. physical therapy
  - b. speech therapy
  - c. cognitive training
  - d. occupational therapy
  - e. range of motion and positioning
  - f. other
9. Is extraordinary cleaning and laundry required to maintain body hygiene and control of the child's bodily waste?
10. Does the child require visits to a doctor, dentist, or therapist at least once a week in order to monitor medication or treat an existing condition, including pregnancy? (To be checked only if the foster parent must be present during the session or involved over and above providing transportation.)
11. Does the child have a history of seizure disorder?
12. Does the child have a chronic medical condition that has become an acute medical condition within the last year, as medically documented (e.g., cystic fibrosis with pneumonia, uncontrolled diabetes, severe asthma, a difficult pregnancy, or other life-threatening conditions)?
13. Does the child require regular nursing care from a professional, in the foster home, with the foster parent present?
14. Does the child have a chronic illness or infectious disease which requires isolation from others or special care to prevent being infected by or spreading infection to others?
15. Does the child have a physical condition that requires that foster parents keep specific documentation? (Does not include use of universal precautions.)

**BEHAVIORAL/EMOTIONAL NEEDS – PART I** (No item is to be checked if age appropriate.)

- 16. Does the child's behavior require that the caregiver have two or more contacts with school personnel or a child care provider on a weekly basis?
- 17. Does the child require an extraordinary amount of assistance with education, vocational training, or independent living training from the caregiver?
- 18. Has the child engaged in or been involved in sexual activity that is harmful to their self or others, or engaged in violent sexual activity, and special precautions must be taken by the caregiver?
- 19. Does the child require extra supervision from the caregiver to prevent or control inappropriate behavior in public?
- 20. Does the child require constant supervision from the caregiver at home?
- 21. Does the child require extraordinary monitoring and intervention by the caregiver to prevent or control physically aggressive behavior toward others (e.g., biting, scratching, throwing objects at people, or cruelty to animals)?
- 22. Does the child require extraordinary monitoring and/or intervention by the caregiver to prevent or control behaviors which are physically abusive to self?
- 23. Does the child require extraordinary monitoring and/or intervention by the caregiver due to alcohol/substance abuse or dependence, which has been verified by a qualified professional?
- 24. Does the child require extraordinary monitoring and/or intervention by the caregiver due to a pattern of running away within the past year?
- 25. Does the child require extraordinary monitoring and/or intervention by the caregiver due to a pattern of significant property destruction?
- 26. Does the child require extraordinary monitoring and/or intervention by the caregiver due to the child being involved in violent crimes against persons or involving weapons within the last year? (Violent crime indicates a violent assault on another person. This is more extreme than "aggressive behavior toward others." A police report or filing in court does not need to be made to qualify this behavior as a violent crime. If the foster parents and worker perceive that a violent crime has been committed, this may be checked.)

- \_\_\_ 27. Does the child require extraordinary monitoring and/or intervention by the caregiver due to the child being involved in nonviolent crimes other than status offenses within the last year? (A "nonviolent crime" includes shoplifting breaking and entering, theft, etc., but does not include property destruction or status offenses. A police report or court filing does not need to be made. If the foster parents and worker perceive that a law was broken, this may be checked.)
- \_\_\_ 28. Does the child require extraordinary monitoring and/or intervention by the caregiver due to the child being involved with the criminal system (e.g., restitution, house arrest, or community service)?

**BEHAVIORAL/EMOTIONAL NEEDS – PART II** (No item is to be checked if age appropriate.)

Does the child exhibit:

- \_\_\_ 29. Excessive nervousness or restlessness which presents barriers to school performance and/or daily living?
- \_\_\_ 30. Excessive impulsiveness which presents barriers to school performance and/or daily living?
- \_\_\_ 31. A pattern of withdrawal or unresponsiveness which present barriers to school performance and/or daily living? (The key word is "pattern.")
- \_\_\_ 32. Over activity and over excitedness which present barriers to school performance and/or daily living?
- \_\_\_ 33. Difficulty with distractibility, maintaining concentration, or completing tasks, which present barriers to school performance and/or daily living?
- \_\_\_ 34. Sleeplessness? (Does not sleep through the night to the extent that the foster parent must be awake with the child or do regular bed checks during normal sleeping hours.)
- \_\_\_ 35. Chronic depression or anxiety which presents barriers to school performance and/or daily living? (Prolonged or of long duration.)

- 36. Behaviors requiring a formal behavior management program in home?  
(Foster parent must use behavioral modification techniques which usually includes charting.)
- 37. Inability to respond to behavior modification programs or to learn to understand consequences of action? (The use of formal or professionally supervised programs has been unsuccessful over a period of several months.)
- 38. Bizarre or severely disturbed behavior which present barriers to school performance and/or daily living?
- 39. Medically documented eating disorder?
- 40. Suicidal thoughts or feelings in the past year?
- 41. Excessive argumentativeness or excessive disobedience which presents barriers to school performance and/or daily living?
- 42. Difficulty establishing interpersonal relationships with adults or other children, which present barriers to school performance and/or daily living?

**APPENDIX B**  
**FCPay Checklist w/Points**

**PHYSICAL NEEDS** (No item is to be checked if age appropriate.)

- 3 1. Does the child need physical assistance from the foster parent with putting on braces or prosthetic devices?
- 2. Does the child need appliances or special medical equipment of any kind which requires physical assistance from the foster parent?
  - 2 a. apnea monitor
  - 3 b. colostomy
  - 3 c. aspiration equipment
  - 4 d. feeding tube
  - 4 e. suctioning equipment
  - 4 f. catheter
  - 2 g. other
- 3 3. Does the child need physical assistance with feeding, drinking, getting dressed, bathing, or toileting? (Includes medically required special diet, actual feeding of child, general supervision in eating, or swallowing disorders. Tube feeding is not included, as it already is covered in # 2.)
- 3 4. Does the child require physical assistance to prevent or remedy skin conditions such as bedsores, severe eczema, or severe diaper rash?
- 4 5. Is the child non-ambulatory due to a delay in physical development or a permanent physical disability?
- 4 6. Is the child's vision so impaired it seriously limits their ability to engage in normal, ordinary vocations and activities?
- 4 7. Is the child's speech or hearing so impaired that it seriously limits their ability to engage in normal, ordinary vocation and activities?

8. Does the foster parent provide any of the following for the child with instruction from a professional?
- 3 a. physical therapy
  - 3 b. speech therapy
  - 3 c. cognitive training
  - 3 d. occupational therapy
  - 3 e. range of motion and positioning
  - 2 f. other
- 4 9. Is extraordinary cleaning and laundry required to maintain body hygiene and control of the child's bodily waste?
- 4 10. Does the child require visits to a doctor, dentist, or therapist at least once a week in order to monitor medication or treat an existing condition, including pregnancy? (To be checked only if the foster parent must be present during the session or involved over and above providing transportation.)
- 3 11. Does the child have a history of seizure disorder?
- 4 12. Does the child have a chronic medical condition that has become an acute medical condition within the last year, as medically documented (e.g., cystic fibrosis with pneumonia, uncontrolled diabetes, severe asthma, a difficult pregnancy, or other life-threatening conditions)?
- 3 13. Does the child require regular nursing care from a professional, in the foster home, with the foster parent present?
- 5 14. Does the child have a chronic illness or infectious disease which requires isolation from others or special care to prevent being infected by or spreading infection to others?
- 3 15. Does the child have a physical condition that requires that foster parents keep specific documentation? (Does not include use of universal precautions.)

**BEHAVIORAL/EMOTIONAL NEEDS – PART I** (No item is to be checked if age appropriate.)

- 3 16. Does the child's behavior require that the caregiver have two or more contacts with school personnel or a child care provider on a weekly basis?
- 3 17. Does the child require an extraordinary amount of assistance with education, vocational training, or independent living training from the caregiver?
- 5 18. Has the child engaged in or been involved in sexual activity that is harmful to their self or others, or engaged in violent sexual activity, and special precautions must be taken by the caregiver?
- 3 19. Does the child require extra supervision from the caregiver to prevent or control inappropriate behavior in public?
- 5 20. Does the child require constant supervision from the caregiver at home?
- 5 21. Does the child require extraordinary monitoring and intervention by the caregiver to prevent or control physically aggressive behavior toward others (e.g., biting, scratching, throwing objects at people, or cruelty to animals)?
- 4 22. Does the child require extraordinary monitoring and/or intervention by the caregiver to prevent or control behaviors which are physically abusive to self?
- 4 23. Does the child require extraordinary monitoring and/or intervention by the caregiver due to alcohol/substance abuse or dependence, which has been verified by a qualified professional?
- 2 24. Does the child require extraordinary monitoring and/or intervention by the caregiver due to a pattern of running away within the past year?
- 5 25. Does the child require extraordinary monitoring and/or intervention by the caregiver due to a pattern of significant property destruction?
- 5 26. Does the child require extraordinary monitoring and/or intervention by the caregiver due to the child being involved in violent crimes against persons or involving weapons within the last year? (Violent crime indicates a violent assault on another person. This is more extreme than "aggressive behavior toward others." A police report or filing in court does not need to be made to qualify this behavior as a violent crime. If the foster parents and worker perceive that a violent crime has been committed, this may be checked.)

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**BEHAVIORAL/EMOTIONAL NEEDS – PART II** (No item is to be checked if age appropriate.)

Does the child exhibit:

- 2 29. Excessive nervousness or restlessness which presents barriers to school performance and/or daily living?
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- 3 32. Over activity and over excitedness which present barriers to school performance and/or daily living?
- 3 33. Difficulty with distractibility, maintaining concentration, or completing tasks, which present barriers to school performance and/or daily living?
- 2 34. Sleeplessness? (Does not sleep through the night to the extent that the foster parent must be awake with the child or do regular bed checks during normal sleeping hours.)
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- 4 36. Behaviors requiring a formal behavior management program in home? (Foster parent must use behavioral modification techniques which usually includes charting.)
- 5 37. Inability to respond to behavior modification programs or to learn to understand consequences of action? (The use of formal or professionally supervised programs has been unsuccessful over a period of several months.)
- 4 38. Bizarre or severely disturbed behavior which present barriers to school performance and/or daily living?
- 4 39. Medically documented eating disorder?
- 4 40. Suicidal thoughts or feelings in the past year?
- 4 41. Excessive argumentativeness or excessive disobedience which presents barriers to school performance and/or daily living?
- 3 42. Difficulty establishing interpersonal relationships with adults or other children, which present barriers to school performance and/or daily living?

## APPENDIX C

FCPay Rates - Effective July 1, 2010				
<b>Points</b>	<b>0-27</b>			
Age 0-5	\$246			
6-11	\$323			
12+	\$388			
Respite	\$45			
<b>Points</b>	<b>28-34</b>	<b>35-41</b>		
Age 0-5	\$300	\$356		
6-11	\$378	\$432		
12+	\$444	\$498		
Respite	\$111			
<b>Points</b>	<b>42-46</b>	<b>47-51</b>	<b>52-56</b>	<b>57-61</b>
Age 0-5	\$411	\$466	\$522	\$576
6-11	\$487	\$543	\$599	\$654
12+	\$554	\$609	\$665	\$721
Respite	\$176			
<b>Points</b>	<b>62-66</b>	<b>67-71</b>	<b>72-75</b>	<b>76-79</b>
Age 0-5	\$631	\$686	\$742	\$809
6-11	\$709	\$764	\$819	\$885
12+	\$775	\$830	\$885	\$952
Respite	\$176			
<b>Points</b>	<b>80-83</b>	<b>84-86</b>	<b>87-88</b>	<b>89 or more</b>
Age 0-5	\$885	\$974	\$1,073	\$1,181
6-11	\$963	\$1,050	\$1,151	\$1,259
12+	\$1,029	\$1,117	\$1,216	\$1,324
Respite	\$176			