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Sequence Number: 02-04-24
Notice ID(s): 3790
File Date: 2/12/2024

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

| | |
|---------------------------------|--|
| Agency/Board/Commission: | Department of Children's Services |
| Division: | Social Services |
| Contact Person: | Robin Bain |
| Address: | 315 Deaderick Street 10 th Floor, Nashville, TN 37243 |
| Phone: | 615-982-9573 |
| Email: | Robin.bain@tn.gov |

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

| | |
|---------------------|---|
| ADA Contact: | Donovan Haynes |
| Address: | 315 Deaderick Street 7 th Floor, Nashville, TN |
| Phone: | 615-741-8422 |
| Email: | Donovan.haynes@tn.gov |

Hearing Location(s) (for additional locations, copy and paste table)

| | |
|---------------|--|
| Address 1: | William R. Snodgrass Tennessee Tower |
| Address 2: | 312 Rosa L. Parks Ave, 3 rd Floor, Conference Room D |
| City: | Nashville, Tennessee |
| Zip: | 37243 |
| Hearing Date: | 4/12/2024 |
| Hearing Time: | 9:30am |
| | <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT |

Additional Hearing Information:

Please allow enough time to go through security upon entering the building. A state-issued ID is required. All written comments from the public re: this proposed rulemaking activity may be sent to robin.bain@tn.gov and are due by close of business (4:30 PM CDT) on Wednesday, 4/17/2024.

Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

| Chapter Number | Chapter Title |
|----------------|----------------------------|
| 0250-07-14 | Relative Caregiver Program |
| Rule Number | Rule Title |

| | |
|----------------|---|
| 0250-07-14-.01 | Purpose of Chapter |
| 0250-07-14-.02 | Definitions for Purpose of Chapter |
| 0250-07-14-.03 | Procedures for the part(s) of the Relative Caregiver Program Funded through the Department of Children's Services |

0250-07-14
Relative Caregiver Program

Rule 0250-07-14-.01 Purpose is amended by deleting the authority and submitting instead the following, so that as amended, the rule shall read:

0250-07-14-.01 PURPOSE OF CHAPTER.

The purpose of this chapter is to establish the rules of the Relative Caregiver Program.

Authority: T.C.A §§ 37-1-186 and 37-5-105 and T.C.A § 37-2-422. **Administrative History:** Original rule filed November 5, 2002; effective January 19, 2003. Amendments filed December 15, 2022; effective March 15, 2023.

Rule 0250-07-14-.02 Definitions is amended by deleting the text of the rule and substituting instead the following section, so that as amended, the rule shall read:

0250-07-14-.02 DEFINITIONS.

- (1) "Case File" means the file maintained by the Relative Caregiver Program Provider on each participating family in the Relative Caregiver Program.
- (2) "Department" or "DCS" means the Department of Children's Services.
- (3) "Eligible Child" means a child under the age of 18 who meets the eligibility criteria to participate in the Relative Caregiver Program or the Relative Caregiver Program or the Relative Caregiver Stipend Program.
- (4) "Family Needs Assessment" means the needs assessment tool used to assess family needs during client intake.
- (5) "Family Needs Scale" means the standardized, Likert scale used for measuring family need during client intake.
- (6) "Foster Care Board Rate" means the regular board rate payment as determined by DCS for the payment to foster parents providing residential care to a child in state custody.
- (7) "Relative Caregiver" or "Caregiver" means an individual within a first, second, or third degree of relationship to the parent, or the stepparent of the child. This child must be under the relative caregiver's primary care, control, guidance, and supervision. Relationship is established by blood, marriage, or adoption.
- (8) "Relative Caregiver Participant," "RCP Participant," or "Participant" means the relative caregiver and family participating in the Relative Caregiver Program or the Relative Caregiver Stipend Program.
- (9) "Relative Caregiver Program" or "RCP" means the program created and operated by DCS pursuant to T.C.A § 37-1-186, T.C.A § 37-2-422, and these rules.
- (10) "Relative Caregiver Program Provider," "Relative Caregiver Provider," "RCP Provider," or "Provider" means a provider that DCS contracts with to operate and implement the Relative Caregiver Program and/or Relative Caregiver Stipend Program.
- (11) "Relative Caregiver Stipend Program," "Stipend Program," "Relative Caregiver Stipend," or "Stipend" means the program defined by T.C.A § 37-2-422 and is a subset of the Relative Caregiver Program.

- (12) "Service Plan" means the plan developed as a result of the family needs assessment which outlines the services that will be made available to the child and the relative caregiver(s).

Authority: T.C.A §§ 37-1-186 and 37-5-105 and T.C.A § 37-2-422. **Administrative History:** Original rule filed November 5, 2002; effective January 19, 2003. Amendments filed December 15, 2022; effective March 15, 2023.

Rule 0250-07-14-.03 Procedures is amended by deleting the text of the rule and substituting instead the following section, so that as amended, the rule shall read:

0250-07-14-.03 PROCEDURES.

- (1) Eligibility Guidelines for Participation in the Relative Caregiver Program.
- (a) The child must reside in the home of the relative caregiver through court order, power of attorney, or an informal agreement with the parents.
 - (b) The relative caregiver must be willing to take part in a needs assessment via the Relative Caregiver Family Needs Scale, the Home Safety Checklist, or any other needs assessment required by the Department in addition to any safety and needs scales utilized by the provider.
 - (c) The relative caregiver must agree to accept needed support services through the Relative Caregiver Program.
 - (d) The relative caregiver must be able to provide a safe home for a related child and be committed to providing that home as long as is necessary and appropriate.
 - (e) A parent of the child may not reside in the home of the relative caregiver.
 - (f) The relative caregiver must be within the first, second or third degree of relationship to the parent or stepparent of the child. The relative caregiver must be related to the child through blood, marriage, or adoption. A relative caregiver must demonstrate a qualifying relationship to the child by providing one or more of the following:
 - 1. Birth certificates or copies of birth certificates;
 - 2. Hospital birth records;
 - 3. Juvenile Court or Family Court records that specify relationship;
 - 4. Copies of income tax returns listing the child as a specific relative;
 - 5. Hospital records that specify relationship;
 - 6. DCS or other state department records that specify relationship;
 - 7. Family Bible or other family records that are in ink and have not been altered;
 - 8. Trust documents if relationship is specified in document;
 - 9. Wills and deeds to property if the individual and relationships are specified;
 - 10. Written statements of physicians or midwives who attended the births and remember the names of persons involved;
 - 11. School records that specify relationship;
 - 12. Military records that specify relationship; or
 - 13. Other proof containing sufficient evidence of relationship as approved by the Department.
 - (g) To be approved for RCP or the Stipend Program, the relative caregiver family must not be

receiving any type of DCS kinship payment or subsidy.

- (h) Eligibility for the Relative Caregiver Program does not guarantee eligibility for the Relative Caregiver Stipend Program.
 - (i) The Department may waive these requirements for the non-stipend Relative Caregiver Program for good cause shown after determining in writing that doing so would be in the best interest of the child.
- (2) Eligibility Guidelines to Receive the Relative Caregiver Stipend.
- (a) In addition to Relative Caregiver Program eligibility, to be eligible for the Stipend, relative caregivers must also meet all of the requirements of T.C.A § 37-2-422(c). If all of the statutory criteria are not met, then the family is not eligible for the Stipend but may still qualify for the Relative Caregiver Program.
 - (b) The RCP Provider will redetermine eligibility for the Relative Caregiver Stipend annually and the relative caregiver is responsible for cooperating in the redetermination to ensure continuing eligibility.
 - 1. The RCP Provider will ensure that participants maintain eligibility.
 - 2. DCS will provide guidance to RCP Providers on the requirements for participant redeterminations. The RCP Provider is responsible for gathering the necessary documents from the relative caregiver to support the approval of the participant's continued enrollment in RCP.
 - 3. RCP Providers will provide to DCS all updated eligibility documents.
 - 4. Annually, the RCP Provider will provide to DCS, in the manner prescribed by the Department, all redetermination documents even if there have been no changes from the initial submission of the documents.
 - 5. Eligibility for the Stipend ends once the child has reached the age of eighteen (18) years old.
 - 6. Failure to submit redetermination documentation may result in termination of payments and closure of the RCP case.
 - (c) If any child for whom the relative caregiver is receiving the Stipend enters the custody of the Department, the relative caregiver will no longer be eligible for the Stipend for that child and all payments for that child will cease immediately.
- (3) Guidelines for Client Intake and Service Plan Development.
- (a) Families may be referred to the Relative Caregiver Program by DCS, hospitals, the Department of Human Services (DHS), community mental health services, schools, juvenile or family courts, Community Services Agencies, private agencies, and other sources. Self-referrals are also allowable. Referrals will be processed in the order of receipt. However, priority will be given to those families referred through DCS, DHS, the courts, and children at risk of placement into state's custody.
 - (b) DCS and Relative Caregiver Program Providers are responsible for determining an individual's or a family's eligibility to participate in the program. Eligibility must be redetermined by the RCP Provider annually. The RCP Provider must work to ensure that financial aid services are provided to families in an equitable, lawful, compliant, and respectful manner. When individuals or families are determined ineligible, appropriate referrals for services will be made to ensure safety and permanence for children in relative care. DCS will monitor Relative Caregiver Program determinations of eligibility. DCS may also conduct on site case file reviews of Relative Caregiver Providers. While these rules contemplate the Relative Caregiver Program being administered by contracted providers, the Department reserves the right to directly administer the program.

- (c) A referral may be made to the Relative Caregiver Program in the following ways:
 - 1. By submitting the Relative Caregiver Program Referral form to the respective RCP Provider;
 - 2. Calling the Relative Caregiver Hotline; or
 - 3. Contacting the RCP Provider directly;
- (d) After a referral is received:
 - 1. The RCP Provider initiates contact to schedule an initial face to face visit with the family;
 - 2. The RCP Provider informs referent via email or telephone of family eligibility; and
 - 3. The RCP Provider documents contact with the family in the manner prescribed by DCS.
- (e) The RCP Provider and the family must collaboratively complete a Family Needs Scale, a family needs assessment, and develop a service plan.
- (f) In compliance with T.C.A § 37-1-403, if the Relative Caregiver Provider believes there are allegations of abuse or neglect of any child in the home of the relative caregiver, appropriate steps must be taken to ensure the child's safety. These steps include making a report to the Child Abuse Hotline and notifying the RCP supervisor and DCS Central Office staff of the situation.
- (g) Once a service plan has been developed, the Relative Caregiver Program Provider must help the family achieve the goals outlined in the agreed upon service plan.
- (h) The Family Needs Scale must be used by each Relative Caregiver Program Provider as part of the initial assessment to assess family need.
- (i) A service plan may include, but is not limited to, the following types of referrals and services: individual and family counseling, respite care, legal services, financial aid, recreation, homemaker services, transportation, advocacy, support groups, training, mediation, family conferencing, case management, mentoring, childcare, and children's activity groups as needed for eligible families. These services may not duplicate services the family is already receiving.
- (4) Guidelines for Relative Caregiver Provider Staff.
 - (a) Each Relative Caregiver Program Provider utilizing volunteers shall have written procedures that comply with the terms of their contract and DCS policy/protocol regarding volunteers.
 - (b) Relative Caregiver Program paid or volunteer staff may not solicit or accept gratuities, favors, or anything of monetary value from program participants.
 - (c) Relative Caregiver Program paid or volunteer staff may not offer for sale any type of merchandise or other service to RCP participants.
 - (d) Relative Caregiver Program paid or volunteer staff may not encourage the acceptance of children and their relative caregiver based on any particular belief or philosophy when determining eligibility.
 - (e) Each Relative Caregiver Program shall make available to DCS an up-to-date written organizational chart clearly defining established lines of authority.
 - (f) Each Relative Caregiver Program shall have clearly defined job descriptions for staff.
 - (g) A Relative Caregiver Program staff person shall be designated to ensure that services are available on a day-to-day basis according to the contract, governing statutes, and in a manner that best serves children and their relative caregivers.

- (h) Every Relative Caregiver Program paid or volunteer staff person who enters the home of caregivers must display their agency picture identification card.
 - (i) DCS Contract Agencies will conduct initial and annual background checks on all employees and volunteers who have direct contact with children or families in the RCP program. Background checks must be conducted on all prospective staff and volunteers who have direct contact with children or who work with sensitive or confidential information. These are conducted in accordance with DCS Administrative Policies and Procedures: 4.1 Employee Background Checks.
 - (j) Every Relative Caregiver Program paid or volunteers staff person must have background check identification in that person's agency personnel file, pursuant to the program's contractual agreement with DCS and the DCS Relative Caregiver Program Operations Manual.
 - (k) No Relative Caregiver Program may unlawfully discriminate against any employee, applicant for employment, or recipient of service. Each program must clearly post signs in English, and other languages as may be appropriate, at agency offices and locations where services are provided, indicating nondiscrimination in hiring, employment practices, and provisions of services.
- (5) Guidelines for Data Collection and Reporting.
- (a) Each Relative Caregiver Program Provider must maintain an accurate, confidential case file on each relative caregiver family participating in the program that documents participant identifying data, requests for services, and services provided.
 - (b) All Relative Caregiver Program Provider reports and statistics require backup documentation. This record keeping must be done on DCS-approved forms, contained within the case file, and made available to DCS.
 - (c) Each Relative Caregiver Program Provider must report program and financial data as required by DCS. Providers will submit financial data to DCS on a monthly basis on DCS-approved forms. Each Relative Caregiver Program will provide expenditures by line item in the budget and maintain appropriate backup documentation of these expenditures at the program site.
 - (d) The Relative Caregiver Program must submit monthly reports and financial invoices to DCS on DCS approved forms. The RCP Provider must submit a report detailing achievement of outcomes set forth in the agency's contract, such as aggregated data for the number of person's served, cases closed, services provided, educational workshops provided, support groups provided, demographic summaries, placement reason by county, and closed cases of caregivers and children.
- (6) Guidelines for the Dissemination of Financial Aid through the Relative Caregiver Program.
- (a) Children and their relative caregivers may have special non-recurring needs for financial aid. Meeting these needs will enable families to provide safe, stable homes for their related children that support appropriate growth, development, and good health. The Relative Caregiver Program will provide financial support to all eligible families with the need for financial aid as funds permit.
 - 1. Financial aid may be used to purchase a wide range of tangible items, supports, services, or other needs.
 - 2. Financial aid may not duplicate available existing supports.
 - 3. All financial aid determinations will be based on written requests for assistance submitted by the Relative Caregiver Program staff person to an RCP Provider designee. This written request must be contained within the case file.
 - 4. Each Relative Caregiver Program Provider should develop, utilize, and continuously update an inventory of available services and supports in their communities to ensure that Program funds are not used to duplicate existing services.

5. Each Relative Caregiver Program Provider must maintain adequate support documentation in the case file to verify that contracted and paid services and expenses actually occurred.
- (b) Relative Caregivers who qualify for the Stipend Program will utilize the funds for any caretaking function that best suits the support of the child's stability and upbringing. All other Relative Caregiver Program grant dollars that are provided as financial aid will be spent to support the permanency and well-being of the child with the caregiver.
- (7) Financial Aid Revisions, Renewals, and Terminations.
 - (a) DCS may adjust financial aid assistance and the Stipend rates and payments based on the availability of funds. If stipends are denied due to insufficient appropriations as outlined in Tenn. Comp. R. & Regs. 0250-07-14.03(11), then no appeal will be afforded.
 - (b) Relative Caregiver Stipend payments shall terminate when one of the following occurs:
 1. The relative caregiver requests termination;
 2. The relative caregiver's legal responsibility to the child ends;
 3. The relative caregiver fails to complete the redetermination process within the time frames outlined above in Tenn. Comp. R. & Regs. 0250-07-14-.03(2)(b).
 4. The child marries;
 5. The child dies;
 6. The child no longer meets the continuing eligibility criteria used to continue the Stipend as outlined in Tenn. Comp. R. & Regs. 0250-07-14-.03(2) and T.C.A § 37-2-422.
 - (c) If DCS determines that the relative caregiver was made eligible for the Stipend Program in error, DCS reserves the right to terminate the Stipend due to error or oversight concerning the determination of eligibility for the Stipend Program.
 - (d) When the Department becomes aware of overpayment to a relative caregiver, the Department may take necessary action to recover overextended funds.
- (8) Notification of Change.
 - (a) Relative caregivers will notify the Department of Children's Services relative caregiver staff when there is a change in circumstances that warrants a modification or termination of the financial aid being received or the Stipend being received. This includes, but is not limited to the child being removed from the care and custody of the relative caregiver and placed into the custody of another individual or entity.
 - (b) In the event the relative caregiver becomes incapacitated or dies, the Relative Caregiver Stipend may be transferred to a successor relative caregiver if all eligibility criteria are met.
- (9) Appeals.
 - (a) Relative caregivers may appeal DCS's denial, termination, or modification of the child(ren)'s Stipend by using the Department's Fair Hearing and Appeal Process. Relative caregivers must appeal an adverse decision within ten (10) business days of written notice of adverse action. If adverse action is upheld, the appeal payments continued during the appeal period will be considered an overpayment and will be subject to recovery. The following are the steps in the appeal process:
 1. If DCS determines the Stipend will be denied, terminated, or modified, the Relative Caregiver Provider must notify the relative caregiver, within five (5) business days, in

writing of the adverse action. The Appeal for Fair Hearing form must be given to the relative caregiver at the same time as the notification.

2. The relative caregiver must be informed about the timeframe to file an appeal and be provided with the fax number, mailing address, and email address to file the Appeal for Fair Hearing Form.
3. The DCS Administrative Procedures Division (APD) will notify the appropriate DCS office if an appeal of the Relative Caregiver Program Stipend is received. Once notified by APD, the DCS office must follow APD's direction to ensure due process protocol is followed.
4. DCS or RCP Provider staff must complete an Appeal Summary as directed by ADP.
5. This appeal process only applies to the denial, termination, or modification of receiving the Stipend and shall not apply to the appeal process for denial or termination of enrollment outlined in Tenn. Comp. R. & Regs. 0250-07-14-.03(9)(b).

(b) Relative caregivers may appeal DCS's denial or termination of their enrollment in the Relative Caregiver Program by the following process:

1. If the RCP Provider determines that enrollment in the Relative Caregiver Program is denied or terminated, the relative caregiver must inform the RCP Provider of their objection within ten (10) days of the determination. Failure to timely object will end any further appeal of the decision.
2. Upon receiving an objection, the RCP Provider notifies DCS Central Office via email within five (5) business days for a file review of the determination. DCS Central Office has ten (10) business days from the receipt of the notification to respond in writing to the relative caregiver of the outcome of the file review and the justification for the determination.
3. If DCS Central Office upholds the denial or termination of enrollment in the RCP Program, an Appeal for Fair Hearing form is included in the written notice of adverse action to the relative caregiver. The relative caregiver must also be informed about the timeframe to file an appeal and be provided with the fax number, mailing address, and email address to file the Appeal for Fair Hearing Form.
4. Relative caregivers must appeal DCS Central Office's decision denying or terminating enrollment in the Relative Caregiver Program within ten (10) business days of written notice of adverse action.
5. APD will notify the appropriate DCS office when an appeal of the Relative Caregiver Program is received. Once notified by APD, the DCS office must follow APD's direction to ensure due process protocol is followed.
6. DCS or RCP Provider staff must complete an Appeal Summary as directed by APD.

(c) A relative caregiver is not eligible for the Relative Caregiver Program or Relative Caregiver Stipend Program while the child is not in their custody but may be eligible if the child returns to their custody or a subsequent child is placed in their custody.

(10) Guidelines for the Training of Relative Caregiver Program Provider Staff.

- (a) Relative Caregiver Program Provider staff should receive adequate training in the following areas:
1. Evaluating home safety;
 2. Identifying and helping relative caregivers understand the physical and mental development patterns, emotional, and behavioral disorders of children;

3. Working with the triad consisting of the relative caregiver, the child, and birth parent (when appropriate);
 4. Observing evidence of prior or current substance abuse of caregivers;
 5. Observing the relative caregiver's physical and mental functioning;
 6. Determining the availability of a supportive extended family system;
 7. Assessing the relative caregiver's willingness and ability to provide a safe, permanent home;
 8. Implementing service plan recommendations and meeting any special needs of the child(ren) in their home;
 9. Private and public benefits potentially available to relative caregiver families; and
 10. Understanding the purpose of the Relative Caregiver Program, the role of the Department of Children's Services relative to this Program, and the philosophy, ethics, policies, and procedures for the Program.
- (b) Records identifying dates of training and topics covered are to be maintained in the Relative Caregiver Program staff personal file.
- (11) Stipend Payments in the Event of Insufficient Appropriations.
- (a) The Department will make payments to eligible relative caregivers enrolled in the Stipend Program equal to the amount specified in T.C.A § 37-2-422 for the care of the child(ren) subject to the appropriation of sufficient funds to make such payments. Should insufficient funds be appropriated for the Stipend Program to provide Stipend payments to all eligible relative caregivers, then the Department will provide funds to eligible, enrolled relative caregivers on a first-come, first-served basis. Eligible relative caregivers who do not receive the Stipend payment due to insufficient appropriations will be waitlisted and enrolled in the Stipend Program on a first-come, first-served basis once there is availability in the Stipend Program or additional funds are appropriated subject to the relative caregiver's continued eligibility.

Authority: T.C.A §§ 37-1-186 and 37-5-105 and T.C.A § 37-2-422. **Administrative History:** Original rule filed November 5, 2002; effective January 19, 2003. Amendments filed December 15, 2022; effective March 15, 2023.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 2/12/2024

Signature: _____



Name of Officer: James Layman

Title of Officer: Legislative Director of Department of Children Services

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Filed with the Department of State on: 2/12/2024



Tre Hargett
Secretary of State

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**RULES
OF
TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES
LEGAL DIVISION**

**CHAPTER 0250-07-14
RELATIVE CAREGIVER PROGRAM**

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| 0250-07-14-.01 | Purpose of Chapter | 0250-07-14-.03 | Procedures |
| 0250-07-14-.02 | Definitions | | |

Rule 0250-07-14-.01 Purpose is amended by deleting the authority and submitting instead the following, so that as amended, the rule shall read:

0250-07-14-.01 PURPOSE OF CHAPTER.

The purpose of this chapter is to establish procedures for the Relative Caregiver Program.

Authority: T.C.A §§ 37-1-186 and 37-5-105 and ~~2022 Tennessee Laws Pub. Ch. 785~~ T.C.A § 37-2-422.

Administrative History: Original rule filed November 5, 2022; effective January 19, 2003. Amendments filed December 15, 2022; effective March 15, 2023.

Rule 0250-07-14-.02 Definitions is amended by deleting the text of the rule and substituting instead the following section, so that as amended, the rule shall read:

0250-07-14-.02 DEFINITIONS.

- (1) "Case File" means the file maintained by the Relative Caregiver Program Provider on each participating family in the Relative Caregiver Program.
- (2) "Department" or "DCS" means the Department of Children's Services.
- (3) "Eligible ~~Children~~ Child" means ~~the children~~ a child under the age of 18 who ~~meet~~ meets the eligibility criteria to participate in the Relative Caregiver Program or the Relative Caregiver Program or the Relative Caregiver Stipend Program.
- (4) "Family Needs Assessment" means the needs assessment tool used to assess family needs during client intake.
- (5) "Family Needs Scale" means the standardized, Likert scale used for measuring family need during client intake.
- (6) "Foster Care Board Rate" means the regular board rate payment as determined by DCS for the payment to foster parents providing residential care to ~~children~~ a child in state custody.
- ~~(7) "Household income" means the income calculated using the guidelines for participating in the Relative Caregiver Program and Relative Caregiver Stipend Program.~~
- ~~(7)(8)~~ "Relative Caregiver" or "Caregiver" means an individual within a first, second, or third degree of relationship to the parent, or the stepparent of the child. This child must be under the relative caregiver's primary care, control, guidance, and supervision. Relationship is established by blood, marriage, or adoption.
- ~~(8)(9)~~ "Relative Caregiver Participant," "RCP Participant," or "Participant" means the relative caregiver and family participating in the Relative Caregiver Program or the Relative Caregiver Stipend Program.

(9)(10) "Relative Caregiver Program" or "RCP" means the program created and operated by DCS pursuant to T.C.A § 37-1-186, ~~2022 Tennessee Laws Pub. Ch. 785~~ T.C.A § 37-2-422, and these rules.

(10)(14) "Relative Caregiver Program Provider," "Relative Caregiver Provider," "RCP Provider," or "Provider" means a provider that DCS contracts with to operate and implement the Relative Caregiver Program and/or Relative Caregiver Stipend Program.

(11)(12) "Relative Caregiver Stipend Program," "Stipend Program," "Relative Caregiver Stipend," or "Stipend" means the program defined by ~~2022 Tennessee Laws Pub. Ch. 785~~ T.C.A § 37-2-422 and is a subset of the Relative Caregiver Program.

(13) ~~"Size of Family Unit" means the number of persons considered when determining the baseline household income amount listed in the Federal Poverty Guidelines. The Relative Caregiver, the spouse of the Relative Caregiver, and the adult children of the Relative Caregiver who are living in the same home as the Relative Caregiver should be counted to determine the size of the family unit.~~

(12)(14) "Service Plan" means the plan developed as a result of the family needs assessment which outlines the services that will be made available to the child(ren) and the relative caregiver(s).

Authority: T.C.A §§ 37-1-186 and 37-5-105 and ~~2022 Tennessee Laws Pub. Ch. 785~~ T.C.A § 37-2-422.

Administrative History: Original rule filed November 5, 2022; effective January 19, 2023. Amendments filed December 15, 2022; effective March 15, 2023.

Rule 0250-07-14-.03 Procedures is amended by deleting the text of the rule and substituting instead the following section, so that as amended, the rule shall read:

0250-07-14-.03 PROCEDURES.

(1) Eligibility Guidelines for Participation in the Relative Caregiver Program.

- (a) The ~~child(ren)~~ child must reside in the home of the relative caregiver ~~either~~ through court order, power of attorney, or an informal agreement with the parents.
- (b) The relative caregiver must be willing to take part in a needs assessment via the Relative Caregiver Family Needs Scale, the Home Safety Checklist, or any other needs assessment required by the Department in addition to any safety and needs scales utilized by the provider.
- (c) The relative caregiver must agree to accept needed support services through the Relative Caregiver Program.
- (d) The relative caregiver must be able to provide a safe home for a related ~~children~~ child and be committed to providing that home as long as is necessary and appropriate.
- (e) A parent of the child may not reside in the home of the relative caregiver.
- (f) The relative caregiver must be within the first, second or third degree of relationship to the parent or stepparent of the child. The relative caregiver must be related to the child through blood, marriage, or adoption. ~~A relative caregiver must demonstrate a qualifying relationship to the child by providing one or more of the following:~~
 - 1. Birth certificates or copies of birth certificates;
 - 2. Hospital birth records;
 - 3. Juvenile Court or Family Court records that specify relationship;
 - 4. Copies of income tax returns listing the child as a specific relative;
 - 5. Hospital records that specify relationship;
 - 6. DCS or other state department records that specify relationship;

7. Family Bible or other family records that are in ink and have not been altered;
 8. Trust documents if relationship is specified in document;
 9. Wills and deeds to property if the individual and relationships are specified;
 10. Written statements of physicians or midwives who attended the births and remember the names of persons involved;
 11. School records that specify relationship;
 12. Military records that specify relationship; or
 13. Other proof containing sufficient evidence of relationship as approved by the Department.
- (g) ~~The relative caregiver shall not have a total adjusted household income that exceeds twice the current Federal Poverty Guidelines based on the size of the family unit. Household income will be determined by including the income of the relative caregiver, the spouse of the relative caregiver, and adult children of the relative caregiver who are living in the same home as the relative caregiver.~~ To be approved for RCP or the Stipend Program, the relative caregiver family must not be receiving any type of DCS kinship payment or subsidy.
- (h) Eligibility for the Relative Caregiver Program does not guarantee eligibility for the Relative Caregiver Stipend Program.
- (i) The Department may waive these requirements for the non-stipend Relative Caregiver Program for good cause shown after determining in writing that doing so would be in the best interest of the child.
- (2) Eligibility Guidelines to Receive the Relative Caregiver Stipend.
- (a) In addition to Relative Caregiver Program eligibility, ~~to be eligible for the Stipend, relative caregivers~~ ~~eligible to receive the Stipend~~ must also meet ~~the criteria listed below~~ all of the requirements of T.C.A § 37-2-422(c). If all of the statutory criteria are not met, then the family is not eligible for the Stipend but may still qualify for the Relative Caregiver Program. ~~A relative caregiver may be eligible to receive payment equal to fifty percent of the full foster care board rate for the care of the child(ren). If all the criteria below are not met, the family is not eligible for the Stipend but may still qualify for the Relative Caregiver Program.~~
- ~~1. The child(ren) is not in state custody.~~
 - ~~2. The relative caregiver is twenty-one years of age or older.~~
 - ~~3. The relative caregiver has been awarded custody of the child by a final order of a court acting under Title 37, Chapter 1, Part 1 of the Tennessee Code.~~
 - ~~4. A parent of the child does not reside in the relative caregiver's home.~~
 - ~~5. The relative caregiver agrees to seek the establishment and enforcement of child support, including the naming of the father of a child for the purpose of paternity establishment.~~
 - ~~6. The relative caregiver is within the first, second, or third degree of relationship to the parent or stepparent of the child. The relative caregiver must be related to the child through blood, marriage, or adoption.~~
 - ~~7. The relative caregiver shall not have a total adjusted household income that exceeds twice the current Federal Poverty Guideline based on the size of the family unit. Household income will be determined by including the income of the relative caregiver, the spouse of the relative caregiver, and adult of the relative caregiver who are living in~~

~~the same home as the relative caregiver.~~

- (b) The RCP Provider will redetermine eligibility for the Relative Caregiver Stipend ~~every three months~~ annually and the relative caregiver is responsible for cooperating in the redetermination to ensure continuing eligibility.
1. The RCP Provider will ensure that participants maintain eligibility.
 2. DCS will provide guidance to RCP Providers on the requirements for participant redeterminations. The RCP Provider is responsible for gathering the necessary documents from the relative caregiver to support the approval of the participant's continued enrollment in RCP.
 3. RCP Providers will provide to DCS all updated eligibility documents.
 4. ~~On an annual basis~~ Annually, the RCP Provider will provide to DCS, in the manner prescribed by the Department, all redetermination documents even if there have been no changes from the initial submission of the documents.
 5. Eligibility for the Stipend ends once the ~~youth~~ child has reached the age of eighteen (18) years old.
 6. Failure to submit redetermination documentation may result in termination of payments and closure of the RCP case.
- (c) If ~~the child(ren)~~ any child for whom the relative caregiver is receiving the Stipend enters the custody of the Department, the relative caregiver will no longer be eligible for the Stipend for that ~~child(ren)~~ child and all payments for that ~~child(ren)~~ child will cease immediately.
- (d) ~~Documents evidencing the income of the relative caregiver, the spouse of the relative caregiver, and adult children of the relative caregiver who are living in the same home of the relative caregiver, are required to be provided by the relative caregiver to the RCP Provider. Such documents may include the following, where applicable, to determine financial eligibility:~~
- ~~1. Gross earned income or money derived from work efforts. Examples of earned income would be wages, salaries, and commissions. Garnished or diverted wages are considered to be earned income;~~
 - ~~2. Income from self-employment or from other sources such as rental income and small business enterprises;~~
 - ~~3. Pensions;~~
 - ~~4. Social security benefits;~~
 - ~~5. Veteran's benefits;~~
 - ~~6. Military allotments;~~
 - ~~7. Unemployment compensation;~~
 - ~~8. Severance pay;~~
 - ~~9. Non-recurring lump sum payments such as windfalls, cash prizes, awards, income tax credits, stimulus payments, or other payments;~~
 - ~~10. Income from a trust fund; or~~
 - ~~11. Income from interest payments, dividends, annuities, and royalties.~~
- ~~(e) A relative caregiver must demonstrate a qualifying relationship to the child by providing one or~~

~~more of the following:~~

- ~~1. Birth certificates or copies of birth certificates;~~
- ~~2. Hospital birth records;~~
- ~~3. Juvenile Court or Family Court records that specify relationship;~~
- ~~4. Copies of income tax returns listing the child as a specific relative;~~
- ~~5. Hospital records that specify relationship;~~
- ~~6. DCS or other state department records that specify relationship;~~
- ~~7. Family Bible or other family records that are in ink and have not been altered;~~
- ~~8. Trust documents if relationship is specified in document;~~
- ~~9. Wills and deeds to property if the individual and relationships are specified;~~
- ~~10. Written statements of physicians or midwives who attended the births and remember the names of persons involved;~~
- ~~11. School records that specify relationship;~~
- ~~12. Military records that specify relationship; or~~
- ~~13. Other proof containing sufficient evidence of relationship as approved by the Department.~~

(3) Guidelines for Client Intake and Service Plan Development.

- (a) Families may be referred to the Relative Caregiver Program by DCS, hospitals, ~~the~~ Department of Human Services (DHS), community mental health services, schools, juvenile or family courts, Community Services Agencies, private agencies, and other sources. Self-referrals are also allowable. ~~Referrals will be processed in the order of receipt. However, Priority priority~~ will be given to those families referred through DCS, DHS, the ~~Courts courts~~, and children ~~at-risk at risk~~ of placement into ~~state's state~~ custody.
- (b) DCS and Relative Caregiver Program Providers are responsible for determining ~~whether or not an individual or family is eligible~~ ~~an individual's or a family's eligibility~~ to participate in the program. ~~An individual's eligibility~~ Eligibility must be redetermined by the RCP Provider ~~every three months~~ annually. The RCP Provider must work to ensure that financial aid services are provided to families in an equitable, lawful, compliant, and respectful manner. When ~~individuals or~~ families are determined ineligible, appropriate referrals for services will be made to ensure safety and permanence for children in relative care. DCS will monitor Relative Caregiver Program determinations of eligibility. DCS ~~may also reserve the ability~~ conduct ~~on-site on-site~~ case file reviews of ~~the~~ Relative Caregiver Providers. While these rules contemplate the Relative Caregiver Program being administered by contracted providers, the Department reserves the right to directly administer the program.
- (c) A referral may be made to the Relative Caregiver Program in the following ways:
 1. By submitting the Relative Caregiver Program Referral form to the respective RCP Provider;
 2. Calling the Relative Caregiver Hotline; or
 3. Contacting the RCP Provider directly;
- (d) After a referral is received:

1. The RCP Provider initiates contact to schedule an initial face to face visit with the family ~~after receipt of the referral~~;
 2. The RCP Provider informs referent via email or telephone of family eligibility; and
 3. The RCP Provider documents contact with the family in the manner prescribed by DCS.
- (e) The RCP Provider and the family must collaboratively complete a Family Needs Scale, a family needs assessment, and develop a service plan.
 - (f) In compliance with T.C.A § 37-1-403, if the Relative Caregiver Provider believes ~~it is not in the best interest of the~~ there are allegations of abuse or neglect of any ~~child(ren)~~ child ~~to remain~~ in the home of the relative caregiver, appropriate steps must be taken to ensure the ~~child's~~ safety ~~of the child(ren)~~. These steps include making a report to the Child Abuse Hotline and notifying the RCP supervisor and DCS Central Office staff of the situation.
 - (g) Once a service plan has been developed, the Relative Caregiver Program Provider must help the family achieve the goals outlined in the agreed upon service plan.
 - (h) The Family Needs Scale must be used by each Relative Caregiver Program Provider as part of the initial assessment to assess family need.
 - (i) A service plan may include, but is not limited to, the following types of referrals and services: individual and family counseling, respite care, legal services, financial aid, recreation, homemaker services, transportation, advocacy, support groups, training, mediation, family conferencing, case management, mentoring, childcare, and children's activity groups as needed for eligible families. These services may not duplicate services the family is already receiving.
- (4) Guidelines for Relative Caregiver Provider Staff.
- (a) Each Relative Caregiver Program Provider utilizing volunteers shall have written procedures that comply with the terms of their contract and DCS policy/protocol regarding volunteers.
 - (b) Relative Caregiver Program paid or volunteer staff may not solicit or accept gratuities, favors, or anything of monetary value from program participants.
 - (c) Relative Caregiver Program paid or volunteer staff may not offer for sale any type of merchandise or other service to RCP participants.
 - (d) Relative Caregiver Program paid or volunteer staff may not encourage the acceptance of children and their relative caregiver based on any particular belief or philosophy when determining eligibility.
 - (e) Each Relative Caregiver Program shall make available to DCS an up-to-date written organizational chart clearly defining established lines of authority.
 - (f) Each Relative Caregiver Program shall have clearly defined job descriptions for staff.
 - (g) A Relative Caregiver Program staff person shall be designated to ~~have the responsibility of ensuring~~ ensure that services are available on a day-to-day basis according to the contract, governing statutes, and in a manner that best serves children and their relative caregivers.
 - (h) Every Relative Caregiver Program paid or volunteer staff person who enters the home of caregivers must display their agency picture identification card.
 - (i) DCS Contract Agencies will conduct initial and annual background checks on all employees and volunteers who have direct contact with children or families in the RCP program. Background checks must be conducted on all prospective staff and volunteers who have direct contact with children or who work with sensitive or confidential information. These are conducted in accordance with DCS Administrative Policies and Procedures: 4.1 Employee Background Checks.

- (j) Every Relative Caregiver Program paid or volunteers staff person must have background check identification in that person's agency personnel file, pursuant to the program's contractual agreement with DCS and the DCS Relative Caregiver Program Operations Manual.
 - (k) No Relative Caregiver Program may unlawfully discriminate against any employee, applicant for employment, or recipient of service. Each program must clearly post signs in English, and other languages as may be appropriate, at agency offices and locations where services are provided, indicating nondiscrimination in hiring, employment practices, and provisions of services.
- (5) Guidelines for Data Collection and Reporting.
- (a) Each Relative Caregiver Program Provider must maintain an accurate, confidential case file on each relative caregiver family participating in the program ~~which~~ that documents participant identifying data, requests for services, and services provided.
 - (b) All Relative Caregiver Program Provider reports and statistics require backup documentation. This record keeping must be done on DCS-approved forms, contained within the case file, and made available to DCS.
 - (c) Each Relative Caregiver Program Provider must report program and financial data as required by DCS. Providers will submit financial data to DCS on a monthly basis on DCS-approved forms. Each Relative Caregiver Program will provide expenditures by line item in the budget and maintain appropriate backup documentation of these expenditures at the program site.
 - (d) The Relative Caregiver Program must submit monthly reports and financial invoices to DCS on DCS approved forms. The RCP Provider must submit a report detailing achievement of outcomes set forth in the agency's contract, such as aggregated data for the number of person's served, cases closed, services provided, educational workshops provided, support groups provided, demographic summaries, placement reason by county, and closed cases of caregivers and children.
- (6) Guidelines for the Dissemination of Financial Aid through the Relative Caregiver Program.
- (a) Children and their relative caregivers may have special non-recurring needs for financial aid. Meeting these needs will enable families to provide safe, stable homes for their related children that support appropriate growth, development, and good health. The Relative Caregiver Program will provide financial support to all eligible families with the need for financial aid as funds permit.
 - 1. Financial aid may be used to purchase a wide range of tangible items, supports, services, or other needs.
 - 2. Financial aid may not ~~be made that duplicates~~ duplicate available existing supports.
 - 3. All financial aid determinations will be based on written requests for assistance submitted by the Relative Caregiver Program staff person to an RCP Provider designee. This written request must be contained within the case file.
 - 4. Each Relative Caregiver Program Provider should develop, utilize, and continuously update an inventory of available services and supports in their communities to ensure that Program funds are not used to duplicate existing services.
 - 5. Each Relative Caregiver Program Provider must maintain adequate support documentation in the case file to verify that contracted and paid services and expenses actually occurred.
 - (b) Relative caregivers who qualify for the Stipend Program will utilize the funds for any caretaking function that best suits the support of the child's stability and upbringing. All other Relative Caregiver Program grant dollars that are provided as financial aid will be ~~spent~~ to support the permanency and well-being of the child with the caregiver.

(7) Financial Aid Revisions, Renewals, and Terminations.

- (a) DCS may adjust financial aid assistance and the Stipend rates and payments based on the availability of funds. If stipends are denied due to insufficient appropriations as outlined in Tenn. Comp. R. & Regs. 0250-07-14.03(11), then no appeal will be afforded.
- (b) Relative Caregiver Stipend payments shall terminate when one of the following occurs:
 - 1. ~~Upon the~~ The relative ~~caregiver's request~~ caregiver requests termination;
 - 2. The relative caregiver's legal responsibility to the child ends;
 - 3. The relative caregiver fails to complete the redetermination process within the time frames outlined above in Tenn. Comp. R. & Regs. 0250-07-14-.03(2)(b).
 - 4. ~~If the~~ The child(ren) child marry marries;
 - 5. ~~If the~~ The child(ren) child die dies;
 - 6. The child(ren) child no longer ~~meet~~ meets the continuing eligibility criteria used to continue the Stipend as outlined in Tenn. Comp. R. & Regs. 0250-07-14-.03(2) and ~~statute T.C.A § 37-2-422; or.~~
 - 7. ~~If DCS determines that the relative caregiver was made eligible for the Stipend Program in error, DCS reserves the right to terminate the Stipend due to error or oversight concerning the determination of eligibility for the Stipend Program.~~
- (c) ~~When the Department becomes aware of overpayment to a Relative Caregiver, the Department may take necessary action to recover overextended funds.~~ If DCS determines that the relative caregiver was made eligible for the Stipend Program in error, DCS reserves the right to terminate the Stipend due to error or oversight concerning the determination of eligibility for the Stipend Program.
- (d)(e) When the Department becomes aware of overpayment to a relative caregiver, the Department ~~will~~ may take necessary action to recover overextended funds.

(8) Notification of Change.

- (a) Relative caregivers will notify the Department of Children's Services relative caregiver staff when there is a change in circumstances that warrants a modification or termination of the financial aid being received or the Stipend being received. This includes, but is not limited to the ~~child(ren)-child~~ being removed from the care and custody of the relative caregiver and placed into the custody of another individual or entity.
- (b) In the event the relative caregiver becomes incapacitated or dies, the relative caregiver Stipend may be transferred to a successor relative caregiver if all eligibility criteria are met.

(9) Appeals.

- (a) Relative caregivers may appeal DCS's denial, termination, or modification of the child(ren)'s Stipend by using the Department's Fair Hearing and Appeal Process. Relative caregivers must appeal an adverse decision within ten (10) business days of written notice of adverse action. If adverse action is upheld, the appeal payments continued during the appeal period will be considered an overpayment and will be subject to recovery. The following are the steps in the appeal process:
 - 1. If DCS determines the Stipend will be denied, terminated, or modified, the Relative Caregiver Provider must notify the relative caregiver, within five (5) business days, in writing of the adverse action. The Appeal for Fair Hearing form must be given to the relative caregiver at the same time as the notification.

2. The relative caregiver must be informed about the timeframe ~~in which they have~~ to file an appeal and be provided with the fax number, ~~and~~ mailing address, ~~and email address~~ to file the Appeal for Fair Hearing Form.
 3. The DCS Administrative Procedures Division (APD) will notify the appropriate DCS office if an appeal of the Relative Caregiver Program ~~Stipend~~ is received. Once notified by ~~the DCS Administrative Procedures Division APD~~, the DCS office must follow ~~the APD's~~ direction ~~of that office~~ to ensure due process protocol is followed.
 4. DCS or RCP Provider staff must complete an Appeal Summary as directed by ~~the DCS Administration Procedures Division ADP~~.
 5. This appeal process only applies to the denial, termination, or modification of receiving the Stipend and shall not apply to the appeal process for denial or termination of enrollment outlined in Tenn. Comp. R. & Regs. 0250-07-14-.03(9)(b).
- (b) Relative caregivers may appeal DCS's denial or termination of their enrollment in the Relative Caregiver Program by the following process:
1. If the RCP Provider determines that enrollment in the Relative Caregiver Program is denied or terminated, the relative caregiver must inform the RCP Provider of their objection within ten (10) days of the determination. Failure to timely object will end any further appeal of the decision.
 2. Upon receiving an objection, the RCP Provider notifies DCS Central Office via email ~~within five (5) business days~~ for a file review of the determination. DCS Central Office has ten (10) business days from the receipt of the ~~request notification~~ to respond in writing to the relative caregiver ~~about of~~ the outcome of the file review and the justification for the determination.
 3. If DCS Central Office upholds the denial or termination of enrollment in the RCP Program, ~~the an~~ Appeal for Fair Hearing form is included in the written notice of adverse action to the relative caregiver. The relative caregiver must also be informed about the timeframe ~~in which they have~~ to file an appeal and be provided with the fax number, ~~and~~ mailing address, ~~and email address~~ to file the Appeal for Fair Hearing Form.
 4. Relative caregivers must appeal DCS Central Office's decision denying or terminating enrollment in the Relative Caregiver Program within ten (10) business days of written notice of adverse action.
 5. ~~The DCS Administrative Procedures Division APD~~ will notify the appropriate DCS office ~~if~~ ~~when~~ an appeal of the Relative Caregiver Program is received. Once notified by ~~the DCS Administrative Procedures Division APD~~, the DCS office must follow ~~the APD's~~ direction to ensure due process protocol is followed.
 6. DCS or RCP Provider staff must complete an Appeal Summary as directed by ~~the DCS Administrative Procedures Division ADP~~.
- (c) ~~If the child(ren) is removed from the custody of the relative caregiver, then the relative caregiver will no longer be eligible for the Relative Caregiver Program. A relative caregiver is not eligible for the Relative Caregiver Program or Relative Caregiver Stipend Program while the child is not in their custody but may be eligible if the child returns to their custody or a subsequent child is placed in their custody.~~
- (10) Guidelines for the Training of Relative Caregiver Program Provider Staff.
- (a) Relative Caregiver Program Provider staff should receive adequate training in the following areas:
1. Evaluating home safety;
 2. Identifying and helping relative caregivers understand the physical and mental

development patterns, emotional, and behavioral disorders of children;

3. Working with the triad consisting of the relative caregiver, the child, and birth parent (when appropriate);
4. Observing evidence of prior or current substance abuse of caregivers;
5. Observing the relative caregiver's physical and mental functioning;
6. Determining the availability of a supportive extended family system;
7. Assessing the relative caregiver's willingness and ability to provide a safe, permanent home;
8. Implementing service plan recommendations and meeting any special needs of the child(ren) in their home;
9. Private and public benefits potentially available to relative caregiver families; and
10. Understanding the purpose of the Relative Caregiver Program, the role of the Department of Children's Services relative to this Program, and the philosophy, ethics, policies, and procedures for the Program.

- (b) Records identifying dates of training and topics covered are to be maintained in the Relative Caregiver Program staff personal file.

(11) Stipend Payments in the Event of Insufficient Appropriations.

- (a) The Department will make payments to eligible relative caregivers enrolled in the Stipend Program equal to ~~fifty percent of the full foster care board rate~~ the amount specified in T.C.A. § 37-2-422 for the care of the child(ren) subject to the appropriation of sufficient funds to make such payments. Should insufficient funds be appropriated for the Stipend Program to provide Stipend payments to all eligible relative caregivers, then the Department will provide funds to eligible, enrolled relative caregivers on a first-come, first-served basis. Eligible relative caregivers who do not receive the Stipend payment due to insufficient appropriations will be waitlisted and enrolled in the Stipend Program on a first-come, first-served basis once there is availability in the Stipend Program or additional funds are appropriated subject to the relative caregiver's continued eligibility.

Authority: T.C.A. §§ 37-1-186 and 37-5-105 and ~~2022 Tennessee Laws Pub. Ch. 785~~ T.C.A. § 37-2-422.

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