

## CHAPTER 370

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**HUMAN SERVICES - SOCIAL SERVICES**

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## HOUSE BILL 17-1292

BY REPRESENTATIVE(S) Young, Hamner, Rankin, Buckner, Ginal, Herod, Hooton, Lontine, Melton, Mitsch Bush, Rosenthal, Singer, Duran;  
also SENATOR(S) Lundberg, Lambert, Moreno, Court, Crowder, Fields, Garcia, Jones, Kefalas, Martinez Humenik, Tate, Todd.

**AN ACT**

**CONCERNING CHILD WELFARE LICENSED OUT-OF-HOME PLACEMENT PROVIDER RATES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 26-5-104, **amend** (6); and **add** (6.1) and (6.2) as follows:

**26-5-104. Funding of child welfare services - rules - report - provider contracts - funding mechanism review - definitions.** (6) **County negotiations with providers.** (a) Subject to rules promulgated by the state department pursuant to ~~paragraph (b) of this subsection (6)~~ **SUBSECTION (6)(b) OF THIS SECTION**, a county ~~shall be~~ is authorized to negotiate rates, services, and outcomes with LICENSED OUT-OF-HOME PLACEMENT providers if the county has a request for proposal process in effect for soliciting bids from LICENSED OUT-OF-HOME PLACEMENT providers or another mechanism for evaluating the rates, services, and outcomes that it is negotiating with such LICENSED OUT-OF-HOME PLACEMENT providers that is acceptable to the state department.

(b) ~~No later than~~ ON OR BEFORE January 1, 2008, AND AS NECESSARY THEREAFTER, the state department shall promulgate rules governing the methodology by which counties may negotiate rates, services, and outcomes with licensed OUT-OF-HOME PLACEMENT providers.

(c) ~~A county that negotiates or renegotiates rates, services, and outcomes pursuant to paragraph (a) of this subsection (6) shall include as part of such negotiations or renegotiations cost of living adjustments and provider rate increases approved by the general assembly.~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(d) By July 1, 2008, and by July 1 of each even-numbered year thereafter, the state department shall complete a review of the methodology by which counties EVALUATE AND negotiate rates, services, and outcomes with licensed OUT-OF-HOME PLACEMENT providers. The methodology used is governed by rules promulgated by the state department pursuant to ~~paragraph (b) of this subsection (6)~~ SUBSECTION (6)(b) OF THIS SECTION. In preparing for and conducting the review, the state department shall convene a group of persons representing the directors of county departments of human or social services and the LICENSED OUT-OF-HOME PLACEMENT provider community. ON OR BEFORE SEPTEMBER 1 OF EACH FISCAL YEAR, THE GROUP SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE DETAILING ANY CHANGES TO THE RATE-SETTING METHODOLOGY THAT RESULTS FROM THE REVIEW CONDUCTED PURSUANT TO THIS SUBSECTION (6)(d).

(e) On or before ~~August 1, 2016~~ SEPTEMBER 29, 2017, as a continuation of the review conducted pursuant to ~~paragraph (d) of this subsection (6)~~ SUBSECTION (6)(d) OF THIS SECTION of the methodology by which counties EVALUATE AND negotiate rates, services, and outcomes with licensed OUT-OF-HOME PLACEMENT providers, the state department shall ~~convene a group of representatives from the state department, counties, the provider community, and the joint budget committee to review the rate-setting process for provider compensation. On or before December 15, 2016, the group shall provide the joint budget committee and the child welfare allocations committee with a report that recommends whether any changes to the rate-setting process for provider compensation are advisable and, if so, the recommended process or methodology. The group is not required to recommend changes to the current rate-setting process if it determines that the current rate-setting process is the preferable option.~~ CONTRACT WITH AN INDEPENDENT VENDOR TO:

(I) PERFORM A SALARY SURVEY RELATED TO THE DELIVERY OF CHILD WELFARE SERVICES. WHEN POSSIBLE, THE ENTITY MUST NOT DUPLICATE EXISTING EFFORTS THAT COLLECT PUBLIC EMPLOYEE SALARY INFORMATION BUT MUST INSTEAD INCORPORATE EXISTING INFORMATION INTO THE OVERALL ANALYSIS. THE SURVEY MUST INFORM THE DEVELOPMENT OF THE RATE-SETTING METHODOLOGY PURSUANT TO SUBSECTION (6)(e)(III) OF THIS SECTION AND MUST ACCOUNT FOR THE FUNCTIONS, RESPONSIBILITIES, QUALIFICATIONS, AND OTHER RELEVANT INFORMATION FOR EACH POSITION. THE STUDY MUST ALSO GUARANTEE THAT AVAILABLE INFORMATION IS GATHERED FROM A DIVERSE RANGE OF GEOGRAPHICAL LOCATIONS THROUGHOUT COLORADO, INCLUDING URBAN, SUBURBAN, RURAL, AND MOUNTAIN RESORT COMMUNITIES. THE STUDY MUST INCLUDE INFORMATION PERTAINING TO FEDERAL AND STATE REGULATIONS OR LICENSING REQUIREMENTS FOR EACH POSITION. THE STUDY MUST ALSO INCLUDE SALARY SURVEYS THAT REPRESENT EMPLOYEES PERFORMING ALL FACETS OF SIMILAR WORK, UTILIZING SIMILAR KNOWLEDGE, SKILLS, AND ABILITIES FOR:

(A) LICENSED OUT-OF-HOME PLACEMENT PROVIDERS WHO HAVE A CONTRACT WITH THE STATE DEPARTMENT OR A COUNTY;

(B) CHILD PLACEMENT AGENCY EMPLOYEES;

(C) RESIDENTIAL CHILD CARE FACILITY EMPLOYEES; AND

(D) COUNTY EMPLOYEES INVOLVED WITH THE PROVISION OF CHILD WELFARE SERVICES.

(II) PERFORM AN ACTUARIAL ANALYSIS OF THE COSTS NECESSARY TO PROVIDE SERVICES AT A LEVEL REQUIRED BY STATE STATUTE, DEPARTMENTAL RULE, OR FEDERAL RULES AND REGULATIONS, AS APPROPRIATE FOR THE FAMILIES REFERRED, INCLUDING SALARY COMPARISONS BETWEEN LICENSED OUT-OF-HOME PLACEMENT PROVIDER CATEGORIES AND OVERHEAD AND ADMINISTRATIVE COSTS, AND DETERMINE THE EXTENT TO WHICH THE SALARY SURVEY IDENTIFIED IN SUBSECTION (6)(e)(I) OF THIS SECTION SHOULD INFORM THE ACTUARIAL ANALYSIS. THE ANALYSIS MUST INFORM THE DEVELOPMENT OF THE RATE-SETTING METHODOLOGY PURSUANT TO SUBSECTION (6)(e)(III) OF THIS SECTION AND MUST ALSO GUARANTEE THAT AVAILABLE INFORMATION IS GATHERED FROM A DIVERSE RANGE OF GEOGRAPHICAL LOCATIONS THROUGHOUT COLORADO, INCLUDING URBAN, SUBURBAN, RURAL, AND MOUNTAIN RESORT COMMUNITIES.

(III) DEVELOP THE RATE-SETTING METHODOLOGY FOR LICENSED OUT-OF-HOME PLACEMENT PROVIDER COMPENSATION. THE INDEPENDENT VENDOR SHALL SOLICIT INPUT FROM REPRESENTATIVES FROM THE STATE DEPARTMENT, COUNTIES, THE LICENSED OUT-OF-HOME PLACEMENT PROVIDER COMMUNITY, AND THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING. THE METHODOLOGY MUST BE BASED ON EQUAL REPRESENTATION BY COUNTIES AND LICENSED OUT-OF-HOME PLACEMENT PROVIDERS.

(f) ON OR BEFORE APRIL 2, 2018, THE STATE DEPARTMENT SHALL PROVIDE THE JOINT BUDGET COMMITTEE WITH A REPORT DEFINING THE RATE-SETTING METHODOLOGY DEVELOPED PURSUANT TO SUBSECTION (6)(e)(III) OF THIS SECTION, INCLUDING THE PROCESS THROUGH WHICH THE DAILY RATE WAS DETERMINED.

(g) THE METHODOLOGY MUST BE IMPLEMENTED ON OR BEFORE JULY 1, 2018, EXCEPT FOR THOSE RATES THAT MUST BE APPROVED BY CMS. RATES THAT MUST BE APPROVED BY CMS MUST BE IMPLEMENTED UPON APPROVAL. IN THE EVENT THAT THE REPRESENTATIVES IDENTIFIED IN SUBSECTION (6)(e) OF THIS SECTION DO NOT AGREE ON THE RATE-SETTING METHODOLOGY ON OR BEFORE FEBRUARY 1, 2018, THE STATE DEPARTMENT, THE COUNTY REPRESENTATIVES, AND THE LICENSED OUT-OF-HOME PLACEMENT PROVIDERS SHALL SUBMIT ALTERNATIVES TO THE JOINT BUDGET COMMITTEE. THE JOINT BUDGET COMMITTEE SHALL THEN SELECT A METHODOLOGY PRIOR TO THE START OF THE SUCCEEDING STATE FISCAL YEAR.

(h) THE RATE-SETTING METHODOLOGY DEVELOPED PURSUANT TO SUBSECTION (6)(e)(III) OF THIS SECTION MUST CLEARLY UTILIZE THE DAILY RATE AND INCLUDE:

(I) A PROCESS THROUGH WHICH PROVIDER RATE ADJUSTMENTS, INCLUDING ANY COST OF LIVING ADJUSTMENTS, THAT ARE APPROVED BY THE GENERAL ASSEMBLY MUST BE FACTORED INTO ESTABLISHING THE DAILY RATE; AND

(II) A PROCESS THROUGH WHICH OUTCOMES RELATED TO THE STABILITY AND WELL-BEING OF THE CHILD ARE FACTORED INTO ESTABLISHING THE DAILY RATE CONTRACT WITH A LICENSED OUT-OF-HOME PLACEMENT PROVIDER.

(6.1)(a) ON OR BEFORE SEPTEMBER 1, 2018, AND ON OR BEFORE SEPTEMBER 1 OF

EACH FISCAL YEAR THEREAFTER, THE STATE DEPARTMENT, WITH INPUT FROM COUNTIES, SHALL SUBMIT TO THE JOINT BUDGET COMMITTEE A REPORT INCLUDING INFORMATION ON WORKLOAD INCREASES OR DECREASES FOR THE PRECEDING CALENDAR YEAR AND THE COSTS ASSOCIATED WITH SUCH CHANGES. THE STATE DEPARTMENT IS ENCOURAGED TO INCLUDE IN THE REPORT DATA ON THE COST OF SERVING CHILDREN PLACED IN THE CARE OF LICENSED OUT-OF-HOME PLACEMENT PROVIDERS BASED ON CASE ACUITY.

(b) NOTWITHSTANDING SECTION 24-1-136, THE REPORTING REQUIREMENT IN SUBSECTION (6.1)(a) OF THIS SECTION CONTINUES INDEFINITELY.

(6.2) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACUITY" MEANS THE LEVEL OF SERVICE NEEDED BY THE CHILD OR FAMILY.

(b) "CMS" MEANS THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(c) "LICENSED OUT-OF-HOME PLACEMENT PROVIDER" MEANS A LICENSED RESIDENTIAL CHILD CARE FACILITY, A CHILD PLACEMENT AGENCY, OR A SECURE RESIDENTIAL TREATMENT CENTER, AS DEFINED IN SECTION 26-6-102.

(d) "WORKLOAD" MEANS THE NUMBER OF CHILD WELFARE CHILD ABUSE AND NEGLECT HOTLINE CALLS, REFERRALS, ASSESSMENTS, OPEN CASES, OUT-OF-HOME PLACEMENTS, NEW ADOPTIONS, AND ADOPTION SUBSIDIES BEING HANDLED BY A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES.

**SECTION 2. Appropriation.** For the 2017-18 state fiscal year, \$300,000 is appropriated to the department of human services for use by the division of child welfare. This appropriation is from the general fund. To implement this act, the division may use this appropriation for the development of the child welfare rate-setting methodology.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 2017