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| MEMORANDUM**TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES** |

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| TO: | Department of Family and Protective Services Logo**Chair and MembersDepartment of Family and Protective Services Council** |
| FROM: | **John J. Specia, Jr.Commissioner** |
| SUBJECT: | **Agenda Item 6c: Recommendation to propose rule changes in 40 TAC, Chapter 700, Subchapter J, Assistance Programs For Relatives And Other Caregivers**  |
| DATE: | **October 18, 2013** |

## BACKGROUND AND PURPOSE

The Child Protective Services (CPS) Division recommends the proposal of a rule amendment to 40 TAC, Chapter 700, §700.1005 (a)(1) to reflect changes made to Texas Family Code § 264.755(b) by Senate Bill (S.B.) 502, 83rd Legislature, Regular Session, 2013. The rule amendment is proposed for the reasons explained below.

Since March 2006, the Relative and Other Designated Caregiver Assistance Program established by the 79th Legislature, S.B. 6, has sought to ensure the availability of financial support for kinship placements that may not otherwise be sustained due to the financial strain of providing care for a kin child. Over the past ten years, Texas has more than doubled the percentage of children and youth placed in kinship care and financial payments to kinship caregivers.

The Relative and Other Designated Caregiver Assistance Program provides two types of cash assistance to kinship caregivers: one-time integration payments and annual reimbursement payments. Both require the kinship caregiver's income to be at or below 300% of the federal poverty limit.

The purpose of the integration payment is to provide continuity and stability for children who are in the conservatorship of DFPS, by helping eligible unverified kinship caregivers afford the costs associated with integrating a child into the home. It is an initial, one-time cash payment intended to defray the costs incurred for essential items at the time of the child’s placement. The integration payment is paid only once per placement and only once per child or sibling group for the life of a foster care episode. If a sibling group is separated into different homes, the integration payment may be paid once to each home in which the children are placed.

Currently, under Texas Family Code § 264.755(b) and the corresponding CPS rule at 40 TAC § 700.1005 (a)(1), unverified kinship caregivers may qualify for an integration payment of up to $1000 per sibling group. The integration payment is provided to kinship caregivers who are caring for either a single child or a sibling group consisting of two or more children. Under the existing rule, an unverified kinship caregiver receives a maximum $1,000 integration payment regardless of whether they are caring for one child or a sibling group.

With the passage of S.B. 502’s amendment to Texas Family Code § 264.755(b), the integration payment for the initial placement of a sibling group will increase to at least $1,000 for the sibling group, but may not exceed $1,000 for each child in the group. In order to implement this statutory provision, effective September 1, 2013, DFPS will provide an initial integration payment of $1,000 for the first child placed in an eligible kinship home, and an additional $495 for each additional child placed in the same home during the same foster care episode, regardless of when placed. The amended rule will allow DFPS to increase or decrease the amount of payment for each additional child placed in the home commensurate with current and future funding under this program, provided the additional per-child placement does not exceed $1,000 per child.

The amendment to the Texas Family Code and the conforming rule amendment will allow the agency to provide increased financial assistance to kinship caregivers who care for more than one child. This, in turn, allows for improved financial assistance and placement stability by providing more equitable financial support proportionate to the size of the placement.

The change in Texas Family Code § 264.755(b) becomes effective on September 1, 2013.

## DETAILED SECTION ANALYSIS AND DISPOSITION TABLE

| **Current Rule Sections** | **Proposed Action; New Rule Section** | **Summary Explanation of Proposed Action** |
| --- | --- | --- |
| 700.1005(a)(1) | Amend | The rule amendment will reflect recent legislative changes to Texas Family Code § 264.755(b), by increasing the maximum amount of the integration payment from a cap of $1,000 per sibling group to *at leas*t $1,000 for the first child placed in the home, and an additional amount, to be determined by DFPS, for each additional child placed in the home . The rule amendment will update the current rule to address these changes. |

## STATUTORY AUTHORITY AND STATUTES AFFECTED

The modification is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Department of Family and Protective Services Council shall study and make recommendations to the executive commissioner and the commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The rule amendment implements Section § 264.755(b), Family Code, which mandates an initial integration payment of at least $1,000 per sibling group placed in a home, with a total payment not to exceed $1,000 per child.

## FISCAL IMPLICATIONS

(a) Fiscal Impact. SB502 was funded by the Legislature through an exception item and the rule amendments proposed allow maximum flexibility to ensure that payments made under this program do not result in an increase or decrease in state expenditures beyond those appropriated for this purpose. Beginning September 1, 2013, DFPS will provide an integration payment of $1,000 for a child without siblings in a kinship placement. For a sibling group, DFPS will provide an integration payment of $1,000 for the first child placed in the group and an integration payment of $495.00 for each additional child placed in the same home during the same foster care episode.

(b) Public Costs and Benefits. For each of the first five years that the proposed section will be in effect, the public benefit anticipated as a result of the rule change is significant.

Instead of receiving a maximum $1,000 integration payment regardless of the number of siblings placed in a kinship home, the rule change will allow unverified kinship caregivers to receive an integration payment for each child in a sibling group. Additionally, the caregiver will receive a minimum $1,000 integration payment for a sibling group, rather than a maximum $1,000 integration payment. Thus, for qualifying caregivers who are caring for a sibling group under DFPS conservatorship, financial integration assistance will increase.

There is no anticipated economic cost to persons who are required to comply with the proposed sections. Because kinship caregivers of sibling groups will receive higher integration payments, the initial burden of integrating a child into a kinship caregiver’s home is reduced. This may encourage the placement of more siblings in relative homes rather than in foster care. It may also aid in reducing foster care costs and disproportionality.

(c) Impact on Business. There is no anticipated adverse impact on small, micro, and large businesses as a result of the proposed rule change because the proposed rule change should not affect the cost of doing business; does not impose new requirements on any business; and does not require the purchase of any new equipment or any increased staff time in order to comply.

(d) Local Employment Impact and Takings Statements. No local employment impact statement was required for this rule. The agency is not required to complete a takings impact assessment regarding the proposed section(s).

(e) Technology Impact. IMPACT does not currently have the functionality to process the integration payment in an amount other than $1,000. According to IT, changes to IMPACT will cost $582,855.

## STAKEHOLDER INPUT

Stakeholder input will be considered as it is received during the period for comments on the rule.

## RECOMMENDATION

It is recommended that the Council consider the proposed rule action, as discussed in this memorandum, and that the Council recommend proposal, with or without changes to the rules as they are attached to this memo.

## ATTACHMENTS

Attached is a copy of the proposed change to the rule section as staff recommended for submittal to the *Texas Register*.