

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Health and Human Services

Bureau name:

Children's Services Agency

Name of person filling out RIS:

Talisa Gauthier

Phone number of person filling out RIS:

517-284-4853

E-mail of person filling out RIS:

GauthierT1@michigan.gov

Rule Set Information:

ARD assigned rule set number:

2024-16 HS

Title of proposed rule set:

Child Care Fund

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

The rules are required under MCL 400.117a(3) :The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to monitor juvenile justice services money and to prescribe child care fund accounting, reporting, and authorization controls and procedures and child care fund expenditure classifications.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There are no federal standards for these rules.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The Child Care Fund Reimbursement program is unique to the State of Michigan. The program governed by these rules is designed to provide cost sharing with county governments of Michigan for delivery of child welfare and juvenile justice services statewide. There are no other standards in the nation similar to Michigan's child care fund reimbursement program.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

To the best of the Department's knowledge, no other state has this cost sharing process. Therefore, there are no standards exceeded in other states to compare.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There is no duplication, overlap, or conflict with any laws, rules, or other legal requirements with the proposed rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The rules support the statutory framework for the state's child care fund operations. The proposed rule changes reference the statutory changes to enhance program eligibility for the child care fund, including utilization of assessments and screening tools, and quality assurance measures. The rules, as with the statute, also follow the budget language as well. The amendments allow for this change in eligibility for the reimbursement process through the child care fund, and are reflected in the proposed rules. There are no federal laws applicable, and no local laws are affected to the best of the Department's knowledge.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The proposed rule changes are designed to clarify new eligibility requirements for reimbursement of allowable services for courts, counties, and tribes for juvenile justice services.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

Each county will be entitled to an increase in the reimbursement rate for juvenile justice services in compliance with legislative requirements.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The child care fund eligibility requirements do not require the use of screening tools and assessments to guide decisions related to juvenile justice programming and services through the child care fund. The new process will allow for statewide uniformity on the use of the tools, ensuring a quality assurance process and performance metrics are met. The changes intend to decrease the utilization of detention and residential placements of youth, as well as provide a cost savings and ensure that juvenile justice youth receive appropriate treatment and services based on their individual needs.

C. What is the desired outcome?

Courts, counties, and tribes will utilize screening tools and assessments to allow for objective decision making with determining appropriate level of care and supervision of juvenile justice youth, including diverting low risk youth. Providing funding to courts, counties, and tribes to incentivize the development, expansion, and strengthening of community-based services and formal alternatives to detention and incarceration, including diversion, allows for this outcome to be achieved.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Inconsistent and lack of understanding of certain rules and procedures may lead to disallowances on reimbursable expenses.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The statutory amendments to MCL 400.117a resulted in a conflict with these rules. Modification and clarification via the rules in aligning with the statute will expedite reimbursement to courts, counties, and tribes and streamline payments to vendors providing services to youth and families served by the state's child welfare and juvenile justice programs.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The rules allow the courts, counties, and tribes to provide needed services to Michigan's juvenile justice populations. The courts, counties, and tribes are statutorily required to pay for the services of those youth who come into their court system. The child care fund statute and rules lay out a framework designed for reimbursement for services to youth and families who may be in the court system or may be at risk for entering the court system. The proposed rules create efficiency and remove barriers to timely and consistent payment.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

There are no rules that were determined to be unnecessary or obsolete in the proposed rule changes.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

By incentivizing community-based services for juvenile justice youth, it will reduce the number of youth that are placed in out of home placements such as residential programs and detention. There is significant cost associated with placing youth in residential placements and detention as a result of lack of assessments to determine appropriate care and/or lack of services to meet the youth's needs. This will reduce the overall cost of programming for juvenile justice youth to the courts, counties, and tribes, as they will be able to maintain services within the community that meet the needs of the youth, rather than placing in facilities that carry significant cost to the state.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

The child care fund is funded annually by a legislative appropriation.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rule changes are necessary to ensure courts, counties, and tribes are documenting and submitting appropriate child care fund budgets and expenditures for reimbursement uniformly through the child care fund.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

Counties, courts, and tribes will need to adhere to the proposed rule changes as a result of statutory changes.

Adherence to the changes will allow for consistency on eligibility requirements through the reimbursement process with the child care fund.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

Statutory changes will allow for courts, counties, and tribes to receive an increase in reimbursement by offering community-based services to juvenile justice youth. By incentivizing these services, the courts, counties, and tribes will be able increase the rate of reimbursement received back to them. Additional costs will be absorbed by the state to offer training to courts, counties, and tribes to ensure their compliance with the proposed rule changes.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The changes in the proposed rules will affect all counties and tribes that submit for reimbursement through the child care fund. Courts, counties, and tribes must also provide a quarterly report to demonstrate adherence and progress with the proposed rule changes.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

Courts, counties, and tribes must provide an annual budget to the state regarding the anticipated costs of juvenile justice services or reimbursement from the child care fund will not occur.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

There are no known appropriations or funding sources to the state or local government, other than the annual appropriation to operate the child care fund, for any additional expenditures associated with the proposed rule changes.

Rural Impact

14. In general, what impact will the rules have on rural areas?

Rural courts, counties, and tribes may need additional support and guidance on implementation of evidence-based programming and training on screening and assessment tools.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

Increased capacity for evidenced based programming to align with the youth and family needs allows for strengthened relationships between youth and family.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

There is no impact on the environment as a result of these rules.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

An exemption of small businesses should be irrelevant to these proposed rule changes as the rules involve the State and county governments. The Department did not consider exempting small businesses.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The agency did not reduce the economic impact of the proposed rules on small businesses as the opposite will occur upon promulgation of the rules; small businesses providing services to juvenile justice youth will experience increased levels of services as a result of incentivizing community-based services for courts, counties, and tribes and positive economic impact on the businesses.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

In 2016, there were 67 community-based service businesses that address care for youth. That number should increase exponentially when the new juvenile reform for reimbursement to counties for the incentive of using community-based services for youth.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

There are no differing compliance or reporting requirements for small businesses.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

There are no consolidated compliance or reporting requirements for small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

Performance standards as required by the proposed rules have not changed.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

Small businesses are not anticipated to be negatively affected by these proposed rule changes, rather they may see increased services for their business.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no known reports or costs of preparation of any materials due to the proposed rules.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

Small businesses are not anticipated to see any costs for compliance by these proposed rule changes.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

Small businesses are not anticipated to have any legal, consulting, or accounting services costs incurred by these proposed rule changes.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Small businesses are not anticipated to have any economic harm from any costs by these proposed rule changes.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Small businesses are not exempt, nor will there be lesser standards established for compliance with the rules. Small businesses are expected to fully comply with the rules without deviation. No costs to the agency as there are no exemptions and no deviations.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There will be no impact on the public interest as there is no exemption or setting lesser standards for the small businesses anticipated to provide services for vulnerable youth.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

Small businesses were not involved with the development of the proposed rule changes. However, courts, counties, and tribes were given the opportunity to participate in subcommittee work to discuss and draft language.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small businesses were not involved in the development of these rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The bill package would have an immediate fiscal impact of roughly \$32.0 million to the DHHS and a savings of between \$25.5 to \$28.5 million for the counties based on the enhanced reimbursement rate offered by the State to the counties for community-based services and the cost of the required quality assurance specialist and screening tools. See Senate Fiscal Analysis- <https://www.legislature.mi.gov/documents/2023-2024/billanalysis/Senate/htm/2023-SFA-0418-C.htm>

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

83 counties with 63 circuit courts would be impacted by the rule, however, any additional costs imposed on the county/court will be reimbursed as a result of the new reimbursement structure that the state agency will pay 75% of costs from the current reimbursement of 50%. Small businesses should see an increase in business that may result in hiring but will be reimbursed for its costs to comply with the new law.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There may be additional costs for the counties to meet the requirements in the proposed rule changes, but those costs are anticipated to be absorbed by the State. All 83 counties and 62 circuit courts statewide, and the juveniles families may be impacted by fees and other costs. As noted in 26A, small businesses that provide services to at-home juveniles will see an increase in labor and the associated costs with new employees, including accounting and recordkeeping.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There are no anticipated compliance costs of the proposed rules on individuals, regulated or public. The proposed rule changes are to comply with statute changes under MCL 400.117a and are the responsibility of the State through appropriations.

A. How many and what category of individuals will be affected by the rules?

The juveniles who are currently confined to juvenile facilities, juveniles pending sentencing, juveniles pending petitions, all 83 counties and 62 circuit courts statewide, and juvenile's families. 2022 estimation of juveniles arrested where determination of petition and confinement is pending totaled 941,980 in 2022 and all may be considered for juvenile services. See <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fmichigancommitteeonjuvenilejustice.com%2Fwp-content%2Fuploads%2F2022-Arrests-Rates.xlsx&wdOrigin=BROWSELINK>

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

Training will be provided to assist courts, counties and tribes to meet the new legislative requirements. This will allow for more consistency in assessing youths needs and eligibility process of the child care fund. There are no known quantitative impacts.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

Consistently applying the eligibility requirements for courts, counties, and tribes reduces the costs due to errors made during the process of the reimbursement process and ensures that eligibility standards are met. All 83 counties and 62 circuit courts will benefit from cost reductions in reducing number and cost of placement to intense in-home services, together with an increase of the county's reimbursement for juvenile justice costs from 50% to 75%.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules ensure that all counties have full knowledge of what the eligibility requirements are and can plan for their annual budgets accordingly. Efforts have been made over this past year with subcommittee work and quarterly town hall meetings to provide updates to eligibility requirements and legislative changes including the proposed rules.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The trend from confinement in out of home placement to in-home services may provide business growth with added job creation for the contractors to provide those services to these youth. Because there will be the need for confinement of some youth, there is no anticipated job elimination to the current juvenile justice detention centers.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

There are no known disproportionate impacts to individuals or businesses by these proposed rule changes.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

Due to the changes with the proposed rules, additional cost may impact the courts, counties, and tribes as additional community-based services will need to be provided. The concern for the lack of services, and cost associated with implementing and maintaining such programs has been discussed in subcommittee work with stakeholders. For a comprehensive review of all the reports and resources the Michigan's Juvenile Justice Reform Task Force relied on in its final report, please see : <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fmichigancommitteeonjuvenilejustice.com%2Fwp-content%2Fuploads%2FMCJJ-report-database.xlsx&wdOrigin=BROWSELINK>

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

More than 100 focus groups and interviews with stakeholders from across the state to better understand how the juvenile justice system functions. Conversations included, but were not limited to, representatives from the following groups:

- o Law enforcement
- o School resource officers
- o Court administrators
- o Judges and referees
- o Detention staff
- o Line-level probation officers and probation managers
- o Prosecutors
- o Public defenders
- o Community-based and residential service providers (local, private, and state operated)
- o Michigan Department of Health and Human Services (MDHHS) juvenile justice, child welfare, behavioral health, finance, data, and other staff and leadership
- o Education officials
- o Community mental health and other behavioral health professionals
- o Advocates
- o Tribal populations
- o Youth and families with lived experience in the juvenile justice system

Counties-83, Circuit Courts-63, community-based providers (unknown at this time; last reference is 67 in 2016)

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

The administrative rules, along with the statute and the Child Care Fund Handbook make up the child care fund program. There is no reasonable alternative, and the rule changes are needed to compliment the business process of child care eligibility and reimbursement.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No statutory amendments are necessary. There is no reasonable alternative other than rule promulgation.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Private market mechanisms to oversee a state administered program that supports court and county government has not been considered.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The Department established committees with external stakeholders that represented the courts, counties, and tribes, as well as Department staff that are responsible for the management and oversight of the child care fund.

Subcommittee work has continued for several years, including prior to the legislative changes and after, to gather feedback and recommendations regarding the rule changes.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The Department has developed a Child Care Fund Handbook, which is the procedural guide that is provided to all courts, counties, and tribes who seek reimbursement under the child care fund.