TEXAS Health and Human Services

TO: Health and Human Services Commission Executive Council

DATE: June 22, 2017

FROM: Pam McDonald, Financial Services Division

AGENDA ITEM: 2.b

SUBJECT: Rate-Setting Methodology for 24-Hour Residential Child Care Reimbursements

BACKGROUND: ☐ Federal ☒ Legislative ☐ Other: Program Initiative

The Texas Health and Human Services Commission (HHSC) proposes amendments to §355.7103, concerning Rate-Setting Methodology for 24-Hour Residential Child-Care Reimbursements.

The 2018-19 General Appropriations Act appropriated general revenue for general payment rate increases for the 24-Hour Residential Child Care (24 RCC) program as described in DFPS Rider 42. In addition, the Appropriations Act appropriated general revenue for a new Intense Plus service level for General Residential Operations/Residential Treatment Centers (GRO/RTC) and for the new services Treatment Foster Family, Integrated Care Coordination, and Temporary Emergency Services. The amendment to §355.7103 adds the new rates for the 24 RCC program and add a reimbursement methodology for the new services.

As well, the amendments add a five percent risk corridor for rates for Single Source Continuum Contractors (SSCCs) under the Community-based Foster Care program. Rates for SSCCs are determined using the official forecast of case mix for paid foster care for the catchment area in which the SSCC operates that is available when the payment rates are determined. Once the SSCC rates are determined, they do not change unless rates for legacy 24-Hour Residential Child-Care are updated. SSCC rates do not vary by the level of need of the child while legacy rates do vary by level of need. As a result, changes in case mix and associated changes in provider costs are accounted for in the legacy system but are not accounted for in the Community-based Foster Care program. The addition of a risk corridor will allow HHSC to update SSCC rates to recognize changes in a catchment area's case mix when the impact of such changes exceeds a certain percentage, either positive or negative.

ISSUES AND ALTERNATIVES:

None. The proposed revision is legislatively mandated.

STAKEHOLDER INVOLVEMENT:

The proposed rule amendment will be shared with external stakeholders for review prior to the Executive Council meeting.

FISCAL IMPACT:

☒ Yes

	SFY18	SFY18	SFY20	SFY21	SFY22
State	$75,455,478	$71,693,507	$55,247,970	$47,711,794	$46,640,075
Federal	$10,449,165	$10,985,436	$7,144,874	$7,259,289	$9,086,074
Total	$85,904,643	$82,678,943	$62,392,844	$54,971,083	$55,726,149

SERVICES IMPACT STATEMENT:

It is anticipated that the increased rates will ensure providers are reimbursed adequately, which will result in better results for children in state custody. The new services are designed to better meet the needs of children with high needs in state custody.

RULE DEVELOPMENT SCHEDULE:

June 2017	Publish proposed rules in *Texas Register*
June 2017	Present to HHSC Executive Council
August 2017	Publish adopted rules in *Texas Register*
September 2017	Effective date

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §355.7103, concerning Rate-Setting Methodology for 24-Hour Residential Child-Care Reimbursements.

BACKGROUND AND JUSTIFICATION

The proposed amendments are necessary to comply with the 2018-19 General Appropriations Act (Article II, Department of Family and Protective Services, Senate Bill 1, 85th Legislature, Regular Session, 2017).

The 2018-19 General Appropriations Act (the Act) appropriated general revenue for general payment rate increases for the 24-Hour Residential Child Care (24 RCC) program as described in Department of Family and Protective Services (DFPS) Rider 42. In addition, the Act appropriated general revenue for a new Intense Plus service level for General Residential Operations/Residential Treatment Centers (GRO/RTCs) and for the new services Treatment Foster Family, Integrated Care Coordination Placement, Integrated Care Coordination Case Management and Temporary Emergency Placement. The proposed amendment to §355.7103 adds the new rates for the 24 RCC program and adds a reimbursement methodology for the new services.

Also, the proposed amendment adds a 5 percent risk corridor for rates for Single Source Continuum Contractors (SSCCs) under the Community-based Foster Care program. Rates for SSCCs are determined using the official forecast of case mix for paid foster care for the catchment area in which the SSCC operates that is available when the payment rates are determined. Once the SSCC rates are determined, they do not change unless rates for legacy 24 RCC are updated. SSCC rates do not vary by the child’s level of need, while legacy rates do vary by level of need. As a result, changes in case mix and associated changes in provider costs are accounted for in the legacy system but are not accounted for in the Community-based Foster Care program. The addition of a risk corridor will allow HHSC to update SSCC rates to recognize changes in a catchment area’s case mix when the impact of such changes exceeds a certain percentage, either positive or negative.

Finally, the proposed amendment to §355.7103 includes some renumbering of rules for clarity.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §355.7103(q) deletes the language relating to the rates effective September 1, 2015, and renumbers the definitions that remain in this subsection. This is done to provide clarity that these definitions apply to all rates; not just the rates effective September 1, 2017. The proposed amendment to §355.7103(q) also adds new definitions for Community-based Care, Integrated Care Coordination and Temporary Emergency Placement.

The proposed amendment to §355.7103(r) deletes the language relating to the reimbursement methodology for Foster Care Redesign, which is moved to new §355.7103(t), and adds the reimbursement methodology for legacy system reimbursement rates effective September 1, 2015.

Proposed new §355.7103(s) adds the reimbursement methodology for legacy system reimbursement rates effective September 1, 2017.

Proposed new §355.7103(t) adds the language for the Foster Care Redesign program, now called Community-based Foster Care. This new subsection also includes the reimbursement methodology for a risk corridor for the SSCC in the Community-based Foster Care program.

Proposed new §355.7103(u) adds reimbursement methodologies for Treatment Foster Family, Integrated Care Coordination Placement, Integrated Care Coordination Case Management and Temporary Emergency Placement.

FISCAL NOTE

Greta Rymal, Deputy Executive Commissioner for Financial Services, has determined that for each year of the first five years that the amended rule is in effect, there will be a cost to state government. Specifically $75,455,478 General Revenue (GR) ($85,904,643 All Funds (AF)) for State Fiscal Year (SFY) 2018, $71,693,507 GR ($82,678,943 AF) for SFY 2019, $55,247,970 GR ($62,392,844 AF) for SFY 2020, $47,711,794 GR ($54,971,083 AF) for SFY 2021, and $46,640,075 GR ($55,726,149 AF) SFY 2022.

There is no anticipated impact to costs and revenues of local governments.

SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Rymal has also determined that there will be no adverse economic effect on small businesses or micro-businesses to comply with the amended rule.

Implementation of the amended rule does not require any changes in practice or any additional cost.

PUBLIC BENEFIT AND COST

Pam McDonald, Director of Rate Analysis, has determined that for each year of the first five years the rule is in effect, the public will benefit from adoption of the rule. The anticipated public benefit will be that the increased rates will lead to improved service delivery by 24 RCC providers, the risk corridor for SSCCs will ensure that changes in case mix in a catchment area are recognized in the SSCC rates, and the addition of reimbursement methodologies for new services will allow for reimbursement of new services designed to better meet the needs of children with high needs in state custody.

Ms. McDonald has also determined that there are no probable economic costs to persons required to comply with the amended rule.

HHSC has determined that the amended rule will not affect a local economy. There is no anticipated negative impact on local employment.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under §2007.043 of the Government Code.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Sarah Hambrick, Texas Health and Human Services Commission, Rate Analysis Department, Mail Code H-400, P.O. Box 85200, Austin, TX, 78705-5200; by fax to (512) 730-7475; or by e-mail to RAD-LTSS@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

The last day to submit comments falls on a Sunday; therefore, comments should be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 1R040" in the subject line.

STATUTORY AUTHORITY

The amendment is proposed under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority.

The proposed amendment affects Texas Government Code Chapter 531. No other statutes, articles, or codes are affected by this proposal.

This agency hereby certifies that this proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

TITLE 1 ADMINISTRATION
PART 15 TEXAS HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 355 REIMBURSEMENT RATES
SUBCHAPTER H REIMBURSEMENT METHODOLOGY FOR 24-HOUR CHILD CARE FACILITIES

§355.7103. Rate-Setting Methodology for 24-Hour Residential Child-Care Reimbursements.

(a) The following is the authority and process for determining payment rates:

(1) For payment rates established prior to September 1, 2005, the Department of Family and Protective Services (DFPS; formerly the Department of Protective and Regulatory Services) reviewed payment rates for providers of 24-hour residential child care services every other year in an open meeting, after considering financial and statistical information, DFPS rate recommendations developed according to the provisions of this subchapter, legislative direction, staff recommendations, agency service demands, public testimony, and the availability of appropriated revenue. Before the open meeting in which rates were presented for adoption, DFPS sent rate packets containing the proposed rates and average inflation factor amounts to provider association groups. DFPS also sent rate packets to any other interested party, by written request. Providers who wished to comment on the proposed rates could attend the open meeting and give public testimony. Notice of the open meeting was published on the Secretary of State's web site at http://www.sos.state.tx.us/open. DFPS notified all foster care providers of the adopted rates by letter.

(2) For payment rates established September 1, 2005 and thereafter, the Health and Human Services Commission (HHSC) approves rates that are statewide and uniform. In approving rate amounts HHSC takes into consideration staff recommendations based on the application of formulas and procedures described in this chapter. However, HHSC may adjust staff recommendations when HHSC deems such adjustments are warranted by particular circumstances likely to affect achievement of program objectives, including economic conditions and budgetary considerations. Reimbursement amounts will be determined coincident with the state's biennium. HHSC will hold a public hearing on proposed reimbursements before HHSC approves reimbursements. The purpose of the hearing is to give interested parties an opportunity to comment on the proposed reimbursements. Notice of the hearing will be provided to the public. The notice of the public hearing will identify the name, address, and telephone number to contact for the

materials pertinent to the proposed reimbursements. At least ten working days before the public hearing takes place, material pertinent to the proposed statewide uniform reimbursements will be made available to the public. This material will be furnished to anyone who requests it.

(b) For payment rates in effect for state fiscal year (SFY) 2002 and 2003, DFPS develops rate recommendations for Board consideration for foster homes serving Levels of Care 1 through 4 children as follows:

(1) For all Level of Care 1 rates, DFPS analyzes the most recent statistical data available on expenditures for a child published by the United States Department of Agriculture (USDA) from middle income, dual parent households for the "Urban South." USDA data includes costs for age groupings from 0 to 17 years of age. An age differential is included with one rate for children ages 0-11 years, and another rate for children 12 years and older. Foster homes providing services to Level of Care 1 children receive the rate that corresponds to the age of the child in care.

(A) DFPS excludes health care costs, as specified in the USDA data, from its calculations since Medicaid covers these costs. USDA specified child-care and education costs are also excluded since these services are available in other DFPS day-care programs.

(B) DFPS includes the following cost categories for both age groups as specified in the USDA data: housing, food, transportation, clothing, and miscellaneous.

(C) The total cost per day is projected using the Implicit Price Deflator-Personal Consumption Expenditures (IPD-PCE) Index from the period covered in the USDA statistics to September 1 of the second year of the biennium, which is the middle of the biennium that the rate period covers. Information on inflation factors is specified in subsection (h) of this section.

(2) For Levels of Care 2 through 4 rates, DFPS analyzes the information submitted in audited foster home cost surveys and related documentation in the following ways:

(A) A statistically valid sample of specialized (therapeutic, habilitative, and primary medical) foster homes complete a cost survey covering one month of service if they meet the following criteria:

(i) the foster home currently has a DFPS foster child(ren) residing in the home; and

(ii) the number of children in the home, including the children of the foster parents, is 12 or fewer.

(B) For rates covering the fiscal year 2002-2003 biennium, child-placing agency homes are the only foster homes that complete a cost survey because the children they serve are currently assigned levels of care verified by an independent contractor. By September 1, 2001, children served in DFPS specialized foster homes will also be assigned levels of care verified by an independent contractor. All future sample populations completing a one-month foster home cost survey will include both child-placing agency and DFPS specialized foster homes. As referenced in subsection (j) of this section, during the 2004-2005 biennium, when the rate methodology is fully implemented, DFPS specialized foster homes and child-placing agency foster homes will be required to receive at a minimum the same foster home rate as derived by this subsection.

(C) Cost categories included in the one-month foster home cost survey include:

(i) shared costs, which are costs incurred by the entire family unit living in the home, such as mortgage or rent expense and utilities;

(ii) direct foster care costs, which are costs incurred for DFPS foster children only, such as clothing and personal care items. These costs are tracked and reported for the month according to the level of care of the child; and

(iii) administrative costs that directly provide for DFPS foster children, such as child-care books, and dues and fees for associations primarily devoted to child care.

(D) A cost per day is calculated for each cost category and these costs are combined for a total cost per day for each level of care served.

(E) A separate sample population is established for each type of specialized foster home (therapeutic, habilitative, and primary medical). Each level of care maintenance rate is established by the sample population's central tendency, which is defined as the mean, or average, of the population after applying two standard deviations above and below the mean of the total population.

(F) The rates calculated for each type of specialized foster home are averaged to derive one foster care maintenance rate for each of the Levels of Care 2 through 4.

(G) The total cost per day is projected using the IPD-PCE Index from the period covered in the cost report to September 1 of the second year of the biennium, which is the middle of the biennium that the rate period covers. Information on inflation factors is specified in subsection (h) of this section.

(c) For payment rates in effect for state fiscal year (SFY) 2002 and 2003, DFPS develops rate recommendations for Board consideration for child-placing agencies serving Levels of Care 1 through 4 children as follows:

(1) The rate-setting model defined in subsection (g) of this section is applied to child-placing agencies' cost reports to calculate a daily rate.

(2) At a minimum, child-placing agencies are required to pass through the applicable foster home rate derived from subsection (b) of this section to their foster homes. The remaining portion of the rate is provided for costs associated with case management, treatment coordination, administration, and overhead.

(3) For rate-setting purposes, the following facility types are included as child-placing agencies and will receive the child-placing agency rate:

(A) child-placing agency;

(B) independent foster family/group home;

(C) independent therapeutic foster family/group home;

(D) independent habilitative foster family/group home; and

(E) independent primary medical needs foster family/group home.

(d) For payment rates in effect for state fiscal year (SFY) 2002 and 2003, DFPS develops rate recommendations for Board consideration for residential care facilities serving Levels of Care 1 through 6 as follows:

(1) For Levels of Care 1 and 2, DFPS applies the same rate paid to child-placing agencies as recommended in subsection (c) of this section.

(2) For Levels of Care 3 through 6, the rate-setting model defined in subsection (g) of this section is applied to residential care facilities' cost reports to calculate a daily rate.

(3) For rate-setting purposes, the following facility types are included as residential care facilities and will receive the residential care facility rate:

(A) residential treatment center;

(B) therapeutic camp;

(C) institution for mentally retarded;

(D) basic care facility;

(E) halfway house; and

(F) maternity home.

(e) For payment rates in effect for state fiscal year (SFY) 2002 and 2003, DFPS develops rate recommendations for Board consideration for emergency shelters as follows:

(1) DFPS analyzes emergency shelter cost report information included within the rate-setting population defined in subsection (f) of this section. Emergency shelter costs are not allocated across levels of care since, for rate-setting purposes, all children in emergency shelters are considered to be at the same level of care.

(2) For each cost report in the rate-setting population, the total costs are divided by the total number of days of care to calculate a daily rate.

(3) The total cost per day is projected using the IPD-PCE Index from the period covered in the cost report to September 1 of the second year of the biennium, which is the middle of the biennium that the rate period covers. Information on inflation factors is specified in subsection (h) of this section.

(4) The emergency shelter rate is established by the population's central point or central tendency. The measure of central tendency is defined as the mean, or average, of the population after applying two standard deviations above and below the mean of the total population.

(f) For payment rates in effect for state fiscal year (SFY) 2002 and 2003, level of care rates for contracted providers including child-placing agencies, residential care facilities, and emergency shelters are dependent upon provider cost report information. The following criteria applies to this cost report information:

(1) DFPS excludes the expenses specified in §700.1805 and §700.1806 of this title (relating to Unallowable Costs and Costs Not Included in Recommended Payment Rates). Exclusions and adjustments are made during audit desk reviews and on-site audits.

(2) DFPS includes therapy costs in its recommended payment rates for emergency shelters and for Levels of Care 3 through 6, and these costs will be considered as allowable costs for inclusion on the provider's annual cost report, only if one of the following conditions applies. The provider must access Medicaid for therapy for children in their care unless:

(A) the child is not eligible for Medicaid or is transitioning from Medicaid Managed Care to fee-for-service Medicaid;

(B) the necessary therapy is not a service allowable under Medicaid;

(C) service limits have been exhausted and the provider has been denied an extension;

(D) there are no Medicaid providers available within 45 miles that meet the needs identified in the service plan to provide the therapy; or

(E) it is essential and in the child's best interest for a non-Medicaid provider to provide therapy to the child and arrange for a smooth coordination of services for a transition period not to exceed 90 days or 14 sessions, whichever is less. Any exception beyond the 90 days or 14 sessions must be approved by DFPS before provision of services.

(3) DFPS may exclude from the database any cost report that is not completed according to the published methodology and the specific instructions for completion of the cost report. Reasons for exclusion of a cost report from the database include, but are not limited to:

(A) receiving the cost report too late to be included in the database;

(B) low occupancy;

(C) auditor recommended exclusions;

(D) days of service errors;

(E) providers that do not participate in the level of care system;

(F) providers with no public placements;

(G) not reporting costs for a full year;

(H) using cost estimates instead of actual costs;

(I) not using the accrual method of accounting for reporting information on the cost report;

(J) not reconciling between the cost report and the provider's general ledger; and

(K) not maintaining records that support the data reported on the cost report.

(4) DFPS requires all contracted providers to submit a cost report unless they meet one or more of the conditions in §355.105(b)(4)(D) of this title (relating to General Reporting and Documentation Requirements, Methods, and Procedures).

(g) For payment rates in effect for state fiscal year (SFY) 2002 and 2003, a rate-setting model is applied to child-placing agencies' and residential care facilities' cost report information included within the rate-setting population defined in subsection (f) of this section. Three allocation methodologies are used in the rate-setting model to allocate allowable costs among the levels of care of children that are served. The methodologies are explained below and are applied as follows:

(1) The first methodology is a staffing model, validated by a statistically valid foster care time study, driven by the number of direct care and treatment coordination staff assigned to a child-placing agency or residential care facility to care for the children at different levels of care. The staffing model produces a staffing complement that is applied to direct care costs to allocate the costs among the levels of care.

(A) Staff positions reported on the direct care labor area of the cost report are grouped into the following categories to more clearly define the staffing complement required at each level of care:

(i) case management;

(ii) treatment coordination;

(iii) direct care;

(iv) direct care administration; and

(v) medical.

(B) A categorized staffing complement for each Level of Care 1 through 6 is derived as follows:

(i) A 14-day foster care time study is applied to a representative sample of residential care facilities and child-placing agencies that completed a cost report.

(ii) Contracted staff, or employees, within the sampled facilities complete a foster care time study daily activity log that assigns half-hour units of each employee's time to the individual child(ren) with whom the employee is engaged during the time period. By correlating the distribution of the employee's time with the level of care assigned to each child, the employee's time is distributed across the Levels of Care 1 through 6.

(iii) The foster care time study daily activity log also captures the type of activity performed. The total amount of time spent in each of these activities is a component in determining the number of staff needed in each of the categories included in the staffing complement. The activities performed include:

(I) care and supervision;

(II) treatment planning and coordination;

(III) medical treatment and dental care; and

(IV) other (administrative, managerial, training functions, or personal time).

(iv) An analysis of the cumulative frequency distribution of these time units by level of care of all children served in the sample population, by category of staff performing the activity, and by type of activity, establishes appropriate staffing complements for each level of care in child-placing agencies and in residential care facilities. These time units by level of care are reported as values that represent the equivalent of a full-time employee. The results are reported in the following chart for incorporation into the rate-setting model:

Attached Graphic

(v) The foster care time study should be conducted every other biennium, or as needed, if service levels substantially change.

(C) Staff position salaries and contracted fees are reported as direct care labor costs on the cost reports. Each staff position is categorized according to the staffing complement outlined for the time study. The salaries and contracted fees for these positions are grouped into the staffing complement categories and are averaged for child-placing agencies and residential care facilities included in the rate-setting population. This results in an average salary for each staffing complement category (case management, treatment coordination, direct care, direct care administration, and medical).

(D) The staffing complement values, as outlined in the chart at paragraph (1)(B)(iv) of this subsection, are multiplied by the appropriate average salary for each staffing complement category. The products for all of the staffing complement categories are summed for a total for each level of care for both child-placing agencies and residential care facilities. The total by level of care is multiplied by the number of days of service in each level of care, and this product is used as the primary allocation statistic for assigning each provider's direct care costs to the various levels of care.

(E) Direct care costs include the following areas from the cost reports:

(i) direct care labor;

(ii) total payroll taxes/workers compensation; and

(iii) direct care non-labor for supervision/recreation, direct services, and other direct care (not CPAs).

(2) The second methodology allocates the following costs by dividing the total costs by the total number of days of care for an even distribution by day regardless of level of care. This amount is multiplied by the number of days served in each level:

(A) direct care non-labor for dietary/kitchen;

(B) building and equipment;

(C) transportation;

(D) tax expense; and

(E) net educational and vocational service costs.

(3) The third methodology allocates the following administrative costs among the levels of care by totaling the results of the previous two allocation methods, determining a percent of total among the levels of care, and applying those percentages:

(A) administrative wages/benefits;

(B) administration (non-salary);

(C) central office overhead; and

(D) foster family development.

(4) The allocation methods described in paragraphs (1) - (3) of this subsection are applied to each child-placing agency and residential care facility in the rate-setting population, and separate rates are calculated for each level of care served. Rate information is included in the population to set the level of care rate if the following criteria are met:

(A) Providers must have at least 30% of their service days within Levels of Care 3 through 6 for residential settings. For example, for the provider's cost report data to be included for calculating the Level of Care 3 rate, a provider must provide Level of Care 3 services for at least 30% of their service days.

(B) For Levels of Care 5 and 6, a contracted provider could provide up to 60% of "private days" services to be included in the rate-setting population. They must provide at least 40% state-placed services.

(5) Considering the criteria in paragraph (4) of this subsection, the rate-setting population is fully defined for each level of care. Based on this universe, each level of care rate will be established by the group's central point or central tendency. The measure of central tendency is defined as the mean, or average, of the population after applying two standard deviations above and below the mean of the total population.

(6) The total cost per day for each child-placing agency and residential care facility is projected using the IPD-PCE Index from the period covered in the cost report to September 1 of the second year of the biennium, which is the middle of the biennium that the rate period covers. Information on inflation factors is specified in subsection (h) of this section.

(h) For payment rates in effect for state fiscal year (SFY) 2002 and 2003, DFPS uses the Implicit Price Deflator - Personal Consumption Expenditures

(IPD-PCE) Index, which is a general cost inflation index, to calculate projected allowable expenses. The IPD-PCE Index is a nationally recognized measure of inflation published by the Bureau of Economic Analysis of the United States Department of Commerce. DFPS uses the lowest feasible IPD-PCE Index forecast consistent with the forecasts of nationally recognized sources available to DFPS when the rates are prepared. Upon written request, DFPS will provide inflation factor amounts used to determine rates.

(i) All reimbursement rates will be equitably adjusted to the level of appropriations authorized by the Legislature.

(j) There will be a transition period for the fiscal year 2002-2003 biennium. During this period current rates will not be reduced, and any increased funding will be applied to those levels of care that are less adequately reimbursed according to the methodology. Since increased funding was appropriated at a different percentage for each year of the 2002-2003 biennium, the rates will be set separately for each year instead of setting a biennial rate, and inflation factors will be applied to the middle of each year of the biennium.

(k) For the SFY 2004 through 2005, DFPS determines payment rates using the rates determined for SFY 2002 and 2003 from subsections (a) - (h) of this section, with adjustments for the transition from a six level of care system to a four service level system of payment rates.

(l) For the state fiscal year 2006 through 2007 biennium, the 2005 payment rates in effect on August 31, 2005 will be adjusted by equal percentages based on a prorata distribution of additional appropriated funds.

(m) For the state fiscal year 2008 through 2009 biennium, rates are paid for each level of service identified by the DFPS. For foster homes, the payments effective September 1, 2007 through August 31, 2009 for each level of service will be equal to the minimum rate paid to foster homes for that level of service in effect August 31, 2007 plus 4.3 percent. For Child Placing Agencies (CPAs), the rates effective September 1, 2007, through August 31, 2009 for each level of service will be equal to the rate paid to CPAs for that level of service in effect August 31, 2007, plus 4.3 percent. Additional appropriated funds remaining after the rate increase for foster homes and CPAs shall be distributed proportionally across general residential operations and residential treatment centers based on each of these provider type's ratio of costs as reported on the most recently audited cost report to existing payment rates.

(n) HHSC may adjust payment rates, if determined appropriate, when federal or state laws, rules, standards, regulations, policies, or guidelines are changed or adopted. These adjustments may result in increases or decreases in payment rates. Providers must be informed of the specific law, rule, standard, regulation, policy or guideline change and be given the opportunity to comment on any rate adjustment resulting from the change prior to the actual payment rate adjustment.

(o) To implement Chapter 1022 of the Acts of the 75th Texas Legislature, §103, the executive director may develop and implement one or more pilot competitive procurement processes to purchase substitute care services, including foster family care services and specialized substitute care services. The pilot programs must be designed to produce a substitute care system that is outcome-based and that uses outcome measures. Rates for the pilot(s) will be the result of the competitive procurement process, but must be found to be reasonable by the executive director. Rates are subject to adjustment as allowed in subsections (a) and (m) of this section.

(p) Payment rates for psychiatric step-down services are determined on a pro forma basis in accordance with §355.105(h) of this title (relating to General Reporting and Documentation Requirements, Methods, and Procedures). Payment rates for psychiatric step-down services effective September 1, <u>2017</u> [~~2015~~], will be equal to the rates in effect on August 31, 2015.

(q) [~~Rates effective September 1, 2015.~~]

[~~(1)~~] Definitions.

<u>(1)</u> [~~(A)~~] Child-placing agency (CPA)--Child-placing agencies as defined in 40 Texas Administrative Code (TAC) §745.21.

<u>(2) Community-based Care--Community-based Care as defined in 40 TAC §700.108.</u>

<u>(3)</u> [~~(B)~~] CPA retainage--The portion of the rate that includes the CPA's costs for administering the service, including, but not limited to recruiting and training foster families, matching children with foster families, monitoring foster families and foster homes, and the associated overhead costs.

<u>(4)</u> [~~(C)~~] Emergency Care Services--Emergency care services as defined in 40 TAC §748.61.

(5) [~~(D)~~] Foster home--Foster home as defined in 40 TAC §749.43 and §750.43.

(6) [~~(E)~~] General Residential Operation (GRO)--General residential operations as defined in 40 TAC §748.43.

(7) Integrated Care Coordination (ICC)--Integrated Care Coordination as defined in 40 TAC §700.110.

(8) [~~(F)~~] Levels of service--Levels of service as described in 40 TAC Chapter 700, Subchapter W.

(9) [~~(G)~~] Residential Treatment Center (RTC)--Residential treatment center as defined in 40 TAC §748.43.

(10) Temporary Emergency Placement (TEP)--Temporary Emergency Placement as defined in 40 TAC §700.1337.

(11) Treatment Foster Care (TFF)--Treatment Foster Care as defined in 40 TAC §700.1335.

(r) [~~(2)~~] Rates effective September 1, 2015. Rates are paid for each level of service identified by DFPS.

(1) [~~(A)~~] For CPAs, the rate consists of a foster home payment described in subparagraph (B) and a CPA retainage. Effective September 1, 2015, the CPA retainage for each level of service will be equal CPA retainage for that level of service in effect August 31, 2015:

(A) [~~(i)~~] plus 9.39 percent for the basic level of service;

(B) [~~(ii)~~] plus 1.14 percent for the moderate level of service;

(C) [~~(iii)~~] plus 0.42 percent for the specialized level of service; and

(D) [~~(iv)~~] plus 0.01 percent for the intense level of service.

(2) [~~(B)~~] For foster homes, the minimum daily rate to be paid to a foster home effective September 1, 2015, for each level of service will be equal to the rate for that level of service in effect August 31, 2015.

(3) [~~(C)~~] For GROs and RTCs, the rates effective September 1, 2015, will be equal to the rates paid to GROs and RTCs in effect August 31, 2015:

(A) [~~(i)~~] plus 9.58 percent for the specialized level of service;

(B) [~~(ii)~~] plus 0.3 percent for the intense level of service; and

(C) [~~(iii)~~] unchanged for other levels of service.

(4) [~~(D)~~] For emergency care services the rates effective September 1, 2015, will be equal to the rates in effect August 31, 2015, plus 6.0 percent.

[~~(r) Payment rates for Single Source Continuum Contractors under Foster Care Redesign are determined on a pro forma basis in accordance with §355.105(h) of this title.~~]

(s) Rates effective September 1, 2017. Rates are paid for each level of service identified by DFPS.

(1) For CPAs, the rate consists of a foster home payment described in paragraph (2) and a CPA retainage. Effective September 1, 2017, the combined CPA retainage and foster home payment for each level of service will be:

(A) $48.47 for the basic level of service;

(B) $85.46 for the moderate level of service;

(C) $109.08 for the specialized level of service; and

(D) $186.42 for the intense level of service.

(2) For foster homes, the minimum daily rate to be paid to a foster home effective September 1, 2017, for each level of service will be:

(A) $27.07 for the basic level of service;

(B) $47.37 for the moderate level of service;

(C) $57.86 for the specialized level of service; and

(D) $92.43 for the intense level of service.

(3) For GROs and RTCs, the rates effective September 1, 2017, will be:

(A) $45.19 for the basic level of service;

(B) $103.03 for the moderate level of service;

(C) $197.69 for the specialized level of service;

(D) $277.37 for the intense level of service; and

(E) $400.72 for the intense plus level of service.

(4) For emergency care services, the rate effective September 1, 2017, will be $129.53.

(5) For treatment foster care, the rate effective September 1, 2017, will be $277.37.

(t) Community-based Care.

(1) Initial payment rates for a defined rate period for Single Source Continuum Contractors under Community-based Care are determined on a pro forma basis in accordance with §355.105(h) of this title using the official forecast of case mix for paid foster care for each specific catchment area for the rate period available at the time the payment rates are calculated.

(2) HHSC will recalculate payments rates whenever a new official forecast of case mix for paid foster care is available.

(3) HHSC will compare the payment rates calculated using actual paid foster care case mix data for each catchment area to the payment rates in place for the rate period to determine the percentage difference between the two sets of payment rates.

(4) If the payment rates calculated using actual paid foster care case mix data for a catchment area are at least 5% greater than the initial payment rates for the rate period, HHSC will increase the catchment area payment rates.

(5) If the payment rates calculated using actual paid foster care case mix for a catchment area are at least 5% less than the initial payment rates for the rate period, HHSC will reduce the catchment area payment rates;

(6) Calculations and prospective rate adjustments, if any, will be performed separately for each catchment area.

(u) Treatment Foster Family, Integrated Care Coordination Placement, Integrated Care Coordination Case Management, and Temporary Emergency Placement.

(1) The payment rates for these services are developed based on rates determined for other programs that provide similar services. If payment

rates are not available from other programs that provide similar services, payment rates are determined using a pro forma approach in accordance with §355.105(h) of this title. The information in §355.101 of this title (relating to Introduction) and §355.105(g) of this title also applies.

(2) Reporting of cost. To gather adequate financial and statistical information upon which to base reimbursement, HHSC may require a contracted provider to submit a cost report for one or more of these services.