

Date of Notice to the Public: September 29, 2017

**STATE OF RHODE ISLAND
DEPARTMENT OF HUMAN SERVICES
ADVANCED NOTICE OF DIRECT FINAL
RULE-MAKING**

In accordance with the R.I. Gen. Laws, Chapter 42-35, as amended (specifically Chapter 42-35-2.11 of the amended Administrative Procedures Act), the Department of Human Services (DHS) hereby proposes to repeal the following as a direct final rule:

Emergency Assistance for DCYF Services, Section 0242

This rule is proposed to be repealed in its entirety. The rule is obsolete and any relevant provisions relating to this rule are captured in other, more up-to-date regulations such as those promulgated by the Department of Children, Youth and Families.

The Department of Human Services believes that this proposed action is noncontroversial and anticipates that no objections will be received to this proposed repeal.

In the development of these rules, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) or available in hard copy upon request (401-462-2018 or RI Relay, dial 711. If no formal objection is received on or before Sunday, October 29, 2017, the Department of Human Services will file the amendment without opportunity for public comment). All written objections should be sent to Maria Cimini, Office of Policy Development, Department of Human Services, Louis Pasteur Building, Bldg. 57, Howard Avenue, Cranston, RI 02920 or maria.cimini@dhs.ri.gov and must be received not later than 11:59 PM on Sunday, October 29, 2017.

The Department of Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

**STATE OF RHODE ISLAND
DEPARTMENT OF HUMAN SERVICES
CONCISE SUMMARY OF PROPOSED NON-TECHNICAL AMENDMENTS**

In accordance with the R.I. Gen. Laws, Chapter 42-35, as amended (specifically Chapter 42-35-2.11 of the amended Administrative Procedures Act), the Department of Human Services provides the following concise summary of proposed non-technical amendments:

Emergency Assistance for DCYF Services, Section 0242

This rule is proposed to be repealed in its entirety. The rule is obsolete and any relevant provisions relating to this rule are captured in other, more up-to-date regulations such as those promulgated by the Department of Children, Youth and Families.

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~~EMERGENCY ASSISTANCE FOR DCYF SERVICES — SECTION 0242~~

~~STATEMENT OF PURPOSE~~

~~0242.05~~

~~REV:07/1994~~

~~The Rhode Island Departments of Human Services (DHS) and Children, Youth and Families (DCYF) have established a program to deliver Emergency Assistance (EA) to families who are in potentially emergent situations. The purpose of the Title IV A Emergency Assistance program for Abuse, Neglect, and Delinquency of Children is to provide assistance to needy families with: (1) children who are the subject of abuse, neglect, dependency, abandonment, and delinquency (including waywardness); (2) children who are in emergent situations where continued presence in the home is not in the best interests of the child; and (3) children who are at risk of removal from the home because of abuse, neglect, dependency, delinquency (including waywardness), or the inability of parents to provide care. In the Emergency Assistance (EA) program, families will be determined to be in a potentially emergent situation as a result of:~~

- ~~* Being the subject of a child abuse and neglect report; or~~
- ~~* A child needing, or at risk of needing, an out-of-home placement; or~~
- ~~* A family being opened for DCYF services when a family emergency places a child at risk of child abuse and neglect, i.e., Preventive Services.~~

~~In order for DHS and DCYF to determine whether clients are eligible to receive Emergency Assistance, each family referred to DCYF or a DCYF funded program because of a CANTS report, a voluntary request for services, or a Family Court referral will undergo an Emergency Assistance eligibility determination process. The family and child may receive, with prior authorization by the Department of Human Services (DHS), any direct care services that will address the emergency situation. This assistance is limited to a maximum duration of twelve (12) months or less as necessary to alleviate the emergency condition, and must be authorized within a single thirty (30) day period no less than twelve (12) months after the beginning of the family's last EA authorization period.~~

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~~ELIGIBILITY DETERMINATION PROCESS~~

~~REV:07/1994~~

~~Federal regulations require that an application process be in place for Emergency Assistance. In order to meet this requirement, the Rhode Island Title IV A Emergency Assistance Application (EA 200 and EA 210 (for use by community based programs)), the Emergency Assistance Eligibility Determination Checklist (EA-220), and the Authorized Services for Emergency Assistance (EA-230) have been developed. These forms document the client's application for Emergency Assistance and document the determination of the client's eligibility for those services.~~

~~It is important that all household members are listed on the application. In order for a family to be eligible for Emergency Assistance, staff must document that:~~

- ~~1. The application is filed by an adult member of the child's family. (The application must be filed by a parent, except where both parents are absent or unwilling to apply, in which case another adult relative or the state agency acting on behalf of a child may file the application). Every effort should be made to obtain a parent's signature especially for cases receiving in-home services.~~
- ~~2. An emergency exists in the family and the emergency did not arise out of a parent's refusal without good cause to accept employment or training for employment.~~
- ~~3. The child has resided with one or both parents (or a specified relative) within the last six (6) months, i.e.,~~
 - ~~* father, adoptive father, mother, adoptive mother;~~
 - ~~* stepfather, stepmother (but not the parent of either);~~
 - ~~* grandfather, great grandfather, great great grandfather, great great great grandfather;~~
 - ~~* grandmother, great grandmother, great great grandmother, great great great grandmother;~~
 - ~~* adoptive grandparent if the grandchild is the~~

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~~natural child of a parent who was adoptive, or if the grandchild is the adopted child of a parent who was the natural child of the grandparent;~~

~~* brother, half brother, adoptive brother, stepbrother, sister, half sister, adoptive sister, stepsister;~~

~~* uncle, great uncle, great-great-uncle, aunt, great aunt, great-great aunt (including uncle or aunt of whole or half blood);~~

~~* nephew, great nephew, great-great nephew, niece, great niece, great-great niece (including nephew or niece of whole or half blood);~~

~~* first cousin (including first cousin of whole or half blood), first cousin once removed.~~

~~Spouses of any of the persons in the listed groups meet the relationship requirement and continue to meet it even after the marriage is terminated by death or divorce.~~

~~4. The family is receiving AFDC, SSI, Food Stamp benefits, or Medical Assistance coverage in the month of application; or the family would be eligible for AFDC, SSI, Food Stamp benefits, or Medical Assistance coverage; or the family does not have cash available to provide needed emergency care or services.~~

~~5. In the case of a child whose parents cannot be located or who refuse to cooperate in supporting the child or applying for emergency assistance, and where the emergency assistance is necessary to avoid destitution of a child or to provide living arrangements in a home or child care facility, the child's income alone is considered in the above income test.~~

~~The CANTS 2 Investigation Form functions as a pre application form for DCYF cases which enter through the Child Abuse Neglect Tracking System (CANTS). The full EA application process is completed when the decision has been made that an emergency exists and that direct care services should be delivered to the client. The application forms (EA-200/210, 220 and 230) are then forwarded to the DHS EA Unit for review and for authorized approval prior to actual delivery of direct care services. DHS~~

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~~staff must verify that an emergency situation exists before approving a family for Emergency Assistance. The following conditions constitute an emergency:~~

- ~~* If it is determined that abuse, neglect, dependency, abandonment, or delinquency (including waywardness) has occurred, approve EA to ameliorate the problems which caused the emergency; or~~
- ~~* If it is determined that the report is unsubstantiated preventive services indicated, or a preventive services family is referred, approve EA if an emergency situation exists in the family and the child is at risk of abuse, neglect, dependency, abandonment, or delinquency (including waywardness); or~~
- ~~* If it is determined that a child needs, or is at risk of needing, an out of home placement; or~~
- ~~* If a child is placed in alternative care because of abuse, neglect, dependency, abandonment, or delinquency (including waywardness); the child and his/her family (if reunification is the plan) are eligible for EA.~~

~~This eligibility determination process also includes having an adult member of the family sign the EA application form, especially for cases receiving in-home services. If both parents are absent or unwilling to apply, the state agency acting on behalf of the child may file the EA application. In addition, a determination must be made as to the most recent EA eligibility period. If the beginning of the family's last 30 day authorization period was within the past twelve (12) months, the client is not eligible for EA and the application process must be terminated at that point. It is critical that the DHS authorizing agent be able to track one 30 day authorization period and one twelve (12) month eligibility period for delivery of services to a client. This tracking documentation will allow DHS to claim federal financial participation for Emergency Assistance.~~

~~Emergency Assistance is available for a period not to exceed twelve (12) months. The family will be eligible for all appropriate EA services for at least twelve (12) months unless a particular service will not be needed for the entire twelve months, e.g., evaluation and diagnosis. If services continue to be needed after the maximum allowable period, the child/family~~

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~~can continue to receive services, but Federal reimbursements will not be available through the EA program. Any contractual service may be delivered under the EA program in the twelve month period. Staff will use the current authorization process now in place to authorize those services.~~

~~KINDS OF ASSISTANCE AND SERVICES PROVIDED — 0242.15~~

~~REV: 07/1994~~

~~The kinds of assistance provided to meet the emergency situation are: (1) shelter care, foster family care, or residential group care for children separated from their parents, including food, clothing, and supervision unless the child has such assistance provided under other Title IV programs and also including needed medical care unless the child is eligible for such care under Title XIX; and (2) assistance to meet and/or maintain rent, housing, and utility costs to prevent child neglect and to permit reunification of families or to prevent the need for removal from the home; assistance to meet transportation costs related to reunification efforts or the maintenance of the child in foster care.~~

~~Assistance is limited to a maximum duration of twelve (12) months or less as necessary to alleviate the emergency condition, and must be authorized within a single thirty (30) day period no less than twelve (12) months after the beginning of the family's last EA authorization period.~~

~~The kinds of services provided to meet the emergency situation are:~~

- ~~o Case management, counseling, legal services, and in-home family services provided to alleviate the emergency condition, as determined appropriate and necessary by the state child protective services agency;~~
- ~~o Parenting education and training, either in-home or out-of-home, including household management training and incidental homemaker support services provided to alleviate the emergency condition, as determined appropriate and necessary by the designated state child protective services agency;~~
- ~~o Child care and respite care provided to alleviate the~~

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~~emergency condition and to avoid out of home placement of the child at risk, as determined appropriate and necessary by the designated state child protective services agency.~~

~~In addition to the above specified statewide services, the Department of Children, Youth and Families will engage in activities incidental to and necessary for the proper and efficient administration of the Emergency Assistance (EA) program, including investigation of emergency conditions, activities supporting determination of EA eligibility, information, referral, case management, counseling, court-related services, legal services, securing of shelter and child care, and other administrative activities.~~

~~Services are limited to a maximum of twelve (12) months of service or less as necessary to alleviate the emergency condition and must be authorized during a single thirty (30) day period no less than twelve (12) months after the beginning of the family's last EA authorization period.~~

~~0242.20 ————— SERVICE DELIVERY~~

~~REV:07/1994~~

~~After it has been determined that an emergency exists and the family/child is eligible, Federal funds are available to pay for services provided to families and children to alleviate the emergency created by a child abuse/neglect or delinquency situation, or the need for out of home placement. In order to meet the federal requirements for the service delivery element of the Emergency Assistance (EA) program, several well defined tasks as noted in subsection 0242.15 under the Eligibility Determination Process must be completed. If eligibility for EA is determined to exist by the Department of Human Services and the direct care services are not currently being provided through other Federal programs, the services that can be authorized include all of DCYF's current direct care services as stated in Section 0242.15.~~