

ALABAMA DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION
ADMINISTRATIVE CODECHAPTER 660-5-42
FOSTER CARE FOR ADULTS

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660-5-42-.01 Foster Care For Adults.

(1) Foster care for adults provides services in private approved homes on a 24-hour basis for persons who are in need of residential care in a family setting. It serves the individual who is unable to live in his or her own home and whose family is unable to meet the client's needs because of distance, ill health, estrangement or the family's inability to provide adequate care. Foster care for adults must be an appropriate part of the case plan.

(2) Service includes:

- (a) Medical examination (when not available without cost to the Department) to determine appropriateness of services;
- (b) Information and referral;
- (c) Case management services to assure placement appropriate to the need of the individual being served, proper care, continuing appropriateness of foster care;
- (d) Legal services;
- (e) Planning with the provider of care;
- (f) Limited transportation; and
- (g) Recruitment and study of foster homes.

Services do not include payment for room and board and client must have sufficient resources to pay this cost.

Author: Kay Pilgreen

Statutory Authority: Code of Ala. 1975, Title 38; Title XX of the Social Security Act, 42 U.S.C. 1937; Social Security Act, Title XVI; 20 C.F.R. 416

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660-5-42-.02 Eligibility.

(1) To be eligible for foster care, an adult recipient must be:

(a) At risk of abuse, neglect, or exploitation; or

(b) At risk of institutionalization; and

(c) Able to live safely outside of an institution with the provision of foster care and other available services; and

(d) Unable to live alone because of incapacities or infirmities, such as senility, mental retardation, physical handicap; and

(e) Without family with whom he or she can live, or with whom it is appropriate for him or her to live.

Author: Kay Pilgreen

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660-5-42-.03 Financial Determination.

(1) The amount of the client's payment for room and board is to be agreed upon between the client and the foster family, with help from the service worker. It is expected that the client's payment shall be an amount at least equal to 75 percent of the SSI standard. If the client needs and the foster family agrees to provide laundry and medicine chest supplies, the effect these items would have on the client's payment should be negotiated between the client and the foster family. The amount to be paid should provide adequate payment to the foster family and leave the client sufficient income to take care of personal needs. Exception to the minimum payment requirement must be approved by the State Department of Human Resources.

(2) A service fee will be paid based on the client's condition and eligibility for service.

Author: Kay Pilgreen

Statutory Authority: Code of Ala. 1975, Title 38; Title XX of the Social Security Act, 42 U.S.C. 1397.

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660-5-42-.04 Minimum Standards For Foster Homes For Adults.

(1) The State Department of Human Resources has established policies and procedures for a program of foster care for adults which prescribes minimum standards to be met by the homes to provide such care.

(2) As designated agents of the State Department of Human Resources, each County Department of Human Resources is authorized to approve and reapprove Adult Foster Homes within its borders which meet the standards prescribed. Only homes that have received such approval are to provide foster care for adults referred by the County Department. Families and individuals wishing to provide such foster care may apply directly to the appropriate County Department.

Author:

Statutory Authority: Code of Ala. 1975, Title 38; Title XX of the Social Security Act, 42 U.S.C. 1397.

History: Effective June 28, 1983. Emergency amendment effective September 7, 1990. Succeedent permanent amendment effective December 7, 1990.

660-5-42-.05 Application And Procedures.

(1) Application is made to the local County Department of Human Resources to operate a foster family home. Forms to be used for that purpose may be secured at the county office. The following are procedures for approving or denying operation of a foster family home:

(a) Upon receipt of the completed application, an examination of the foster family home and an investigation of the foster family shall be made by a representative of the Department;

(b) Upon completion of the examination and investigation, a decision to approve or deny the application will be made by the County Department based upon findings. If the decision is to approve the application, the approval will be issued to the applicant;

(c) All approvals are dated from date of issuance and expire one year from that date unless terminated by either party. Homes may be reapproved based upon the re-examination and evaluation by the Department, if they continue to conform to standards and regulations;

(d) Approval to provide foster care for adults applies to the residence occupied by the applicant at the time approval is given. If change of residence is made, the foster family must notify the County Department, who must determine if approval is to be continued. The decision of the County Department will be furnished to the foster family in writing;

(e) The number of clients for which a foster home may be approved to provide adult foster care is a maximum of three. Factors to be considered are: space in the home, the number of persons making up the foster family and the care they require, the ability of the foster family to care for the number of persons being considered for foster care, etc.;

(f) Applicants conducting a rooming or boarding house will not be approved to provide foster care for adults;

(g) The foster home shall accept no unrelated individual into the adult foster care home except those placed by the County Department; and

(h) Approval to provide foster care for adults may be revoked by the County Department of Human Resources when the home fails to meet standards prescribed and regulations set forth here. In such case, the County Department will furnish a written notice to the home stating the reason(s) for revocation.

Author:

Statutory Authority: Code of Ala. 1975, Title 38; Title XX of the Social Security Act, 42 U.S.C. 1937.

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660-5-42-.06

The Foster Family Home Requirements.

(1) Requirements for the foster family home are as follows:

(a) The house shall meet regulations regarding sanitation, fire protection and building safety of the city or county in which it is located. The foster family home and grounds shall be free from anything which constitutes a danger such as abandoned automobiles and household appliances, uncovered wells and cisterns, stacked lumber with exposed nails, and

explosives. Safeguards must be provided against potential hazards such as guns, poisons, medications, open fires and heaters. (Inspections by the state or local fire department and by the state or local health department shall be requested as determined necessary by the Department.)

1. A smoke detector shall be installed and maintained in operating condition within ten feet of each bedroom and no more than 30 feet apart in hallways. In a two-story house (upstairs or basement) a smoke detector shall be installed and maintained in operating condition at the head of the stairway. It is the responsibility of the foster care provider to maintain the smoke detector in operating condition.

2. A 2 A-10BC dry chemical fire extinguisher no less than 5 pounds in weight shall be installed and maintained in operating condition, in an accessible place in plain view, near room exits which provide an escape route. It is the responsibility of the foster care provider to maintain the fire extinguisher in operating condition.

3. If the foster family home has a private swimming pool, inspections by the state or local health department shall be requested as determined necessary by the Department or foster family. The foster care provider shall make swimming pool inaccessible to the adult in foster care except when supervised by individuals who have completed a basic water safety course and have received training in Cardiovascular Pulmonary Resuscitation (CPR).

(b) All windows and doors shall be screened against insects unless the home is air conditioned.

(c) The foster family home shall be maintained in clean condition.

(d) All mobile homes shall conform to the National Mobile Home Construction and Safety Standard Act of 1974. An aluminum plate, permanently attached to the mobile home, will indicate conformity with the 1974 Act. Mobile homes shall comply with anchoring and tie-down requirements as specified in Code of Ala. 1975, §24-5-30 through §24-5-34.

(e) The foster family home shall be located near churches, doctors, and medical facilities, stores, places of recreation, etc. If this is not the case, a plan should be developed to secure access to necessary transportation.

(f) Every foster family home shall have reasonable access to a telephone. Arrangements must be made for 24-hour access if there is no telephone in the foster home.

(g) There must be provided for each person in foster care a comfortable bed, sufficient drawer and closet space for clothing and a reasonable amount of other possessions (keepsakes, etc.), a comfortable chair, a table or desk. The area provided for the client must be well-lighted, adequately ventilated, and comfortably heated and cooled. If the person in foster care has physical limitations, the safeguards necessary for his safety (for instance, guard rail on bathtub) must be provided. The client shall not share a bedroom with a member of the provider's family. Clients of the same sex may share the same room. A husband and wife can share the same room.

(h) Unvented natural gas heaters are prohibited in bedrooms and bathrooms. Unvented propane gas space heaters equipped with oxygen depletion devices are permitted in foster homes (including bedrooms and bathrooms) which are one- or two-family dwellings if the heaters are installed in accordance with local and national gas codes as verified to the Department by a written statement from a qualified professional. This type heater is not allowed in manufactured homes (mobile homes) or modular homes. No stove or combustion heater shall be so located as to block escape in case of fire arising from malfunctioning of the stove or heater.

(i) The foster family home shall have adequate and appropriate facilities for the storage, protection, and preparation of food.

(j) The foster family shall provide the adult in foster care with wholesome, well-balanced meals including meats or meat substitutes, vegetables, milk, fruits, cereal, bread and dessert. Special diets, where prescribed or recommended by a physician, shall be provided. A minimum of three meals per day will be provided.

(k) The services and facilities of the foster home shall be such that the person in foster care is not taken advantage of and the emotional and physical needs of the person in foster care are met in a way that will protect and promote the client's health, safety, comfort, and well-being.

(l) A certificate of rabies vaccination shall be on file in the home for any animal on the premises required by law to be vaccinated. Animals posing a threat to the health or safety of an adult in foster care shall be kept in an area inaccessible to the adult.

(2) The Foster Family:

(a) The foster care provider shall be of the age of majority. For placements made on or after September 15, 1991, the foster care provider shall be able to read and write.

(b) The foster family must be qualified to provide foster care by virtue of training or experience. Specific training may be required to meet the needs of particular clients.

(c) The foster family will be required to provide names of people to serve as a reference. The County Department may contact additional references which have not been provided by the foster family.

(d) All members of the foster household must be responsible people of good character and reputation (as verified by references), and all of them must be willing to accept the person in foster care into the home as a member of the family.

(e) All members of the household must be in such physical and mental health as will not be harmful to the client. Since the health of the provider/household members could pose a risk to some portion of the client population to be served, a licensed practicing medical doctor's or a physician assistant's (as defined in §34-24-290(4), Code of Ala. 1975) statement indicating whether each member of the household is free of communicable and infectious disease and physically fit to provide care is required. This statement or other verification must include date and results of an Intradermal Tuberculin Test (Mantoux) and if positive, date and results of a chest x-ray. Where there is indication of possible disease, the members of the family must have tests necessary to clear any question as to the health of the individual(s) concerned; such tests are to be secured at the expense of the family. A new medical must be obtained every four years on providers and household members under 62 years of age or every two years on providers over 62 years of age. If there is question about the health of the provider or a household member, additional medicals may be requested.

(f) There is no restriction on the size of the family that is to provide foster care for adults. A principal requirement is that the home is able to meet the needs of the person in foster care. The County Department must be immediately informed of any changes in the composition of the household.

(g) The foster family must be flexible in their attitudes and expectations towards the adult in foster care. The foster family must be willing to show understanding and patience. The family shall have the capacity and willingness to give time and attention to the needs of the adult in foster care.

(h) If an adult is in care and the foster family desires that other plans be made for the adult, the family plans to move to another dwelling, or the family desires to relinquish the approval, the family shall give a two-week notice to the County Department prior to taking desired action.

(i) The foster family shall notify the County Department before taking an adult in foster care out of the county or state.

(j) The foster family home must have sufficient income to meet its own needs; the room and board payment made by the person in foster care will be used to meet the participant's needs. Department of Human Resources service fee payments made to the provider may be considered when determining whether the foster family has sufficient income to meet its own needs.

(k) The foster family must not borrow money, solicit, accept or receive gifts from the foster care participant or from the participant's friends or relatives. Excluded is payment to the foster care provider for room and board, service fee, and/or additional services and supplies.

(l) The foster provider may be employed outside the home if it is determined by the County Department that such employment would not have a detrimental effect upon the client's health or safety. A suitable substitute care plan must be submitted to the Department for approval. The County Department must concur that the substitute care plan provides for uninterrupted care and supervision. However, under no circumstance is the caregiver for a client approved for Adult Foster Care Model Waiver Services permitted to work outside of the home.

(m) If substitute care is needed, care may be provided by an approved day health, day care, or day treatment program or by an individual approved by the County Department as a substitute provider. Substitute care which is provided in the foster care home may be provided by an unrelated person who is a registered volunteer with the Department and is providing care on a volunteer basis, or by a relative. The substitute provider must agree to provide care in the absence of the provider in a manner which is in compliance with the policies and procedures governing the foster care program. The Department will meet with the potential substitute provider and discuss the foster care standards, contact references who are not related to the candidate for substitute provider, and complete medical information and criminal records checks. The foster care provider is responsible for making financial arrangements with the substitute provider. The foster care provider must notify the County Department of the use of a substitute care plan, regardless of the reason, for any absence of six or more hours.

(n) The foster family shall:

1. Accept supervision by the Department of Human Resources so far as the welfare of the person in foster care is concerned; and

2. Notify the agency about unusual illness, accident or disturbing behavior of the person in foster care.
3. If necessary, help the person in foster care carry out prescribed medical plans.
4. If necessary, provide personal services such as help with shaving, dressing, etc.
5. Provide or arrange for necessary transportation to the doctor, mental health center, clinic, etc. The provider must have a valid Alabama Driver License and vehicle liability insurance if responsible for transporting a client.

(3) Character and Suitability Requirements

(a) No home can be approved where any adults (or individuals tried as an adult) in the household has been convicted of a crime (felony or misdemeanor) in this or another state at any time involving:

1. a sex-related crime. Such crimes include, but are not limited to, sexual abuse, sexual exploitation, molestation, rape, child pornography, sale or exhibition of obscene materials, sodomy, sexual mischief, incest, enticement for immoral purposes, prostitution, pandering or promoting prostitution, and obscenity; or
2. serious intentional, reckless or negligent physical injury, danger or death of any person. Such crimes include, but are not limited to, murder, homicide, manslaughter, assault with a weapon, reckless endangerment, kidnapping, and unlawful imprisonment; or
3. a crime against a child. In addition to those crimes listed above, such crimes include, but are not limited to, abandonment, endangerment, nonsupport, assault; or
4. a crime against an adult in need of protective services as defined in §38-9-2, Code of Ala. 1975. Such crimes as defined in §38-9-7, Code of Ala. 1975, include: intentional or reckless abuse or neglect causing physical or serious physical injury or emotional abuse or exploitation; or
5. major intrusion upon property or use of weapon to secure property. Such crimes include, but are not limited to, burglary and robbery; or
6. arson; or

7. manufacture, sale, distribution or possession of controlled substances, opiates, illegal, addictive, or narcotic drugs. Such crimes include, but are not limited to, convictions for the sale, distribution or possession of cocaine, heroin, LSD, marijuana, or alcohol.

(b) Convictions for crimes other than those listed will be evaluated to determine whether or not they constitute a danger based on the seriousness of the crime, the existence of extenuating circumstances, the propensity to recommit the crime, and evidence of rehabilitation since the crime was committed.

(c) The character and suitability of an individual foster care applicant/provider may also be assessed by a review of the past history of the individual regarding their truthfulness and their ability to care for clients. False or misleading statements made by the individual to the Department or other government personnel regarding incidents or events occurring while providing foster care or surrounding part of any adult/child abuse or neglect investigation conducted by the Department, law enforcement or other government officials are considered as evidence of unsuitable character.

(d) Exceptions:

1. On an individual basis, the Adult Services Division may make an exception which will allow for the approval of an application notwithstanding the facts that a household member has a criminal conviction involving (1) major intrusion upon property or use of a weapon to secure property (other than those crimes falling under the no exception category) or (2) arson. An exception will only be given where there is evidence of rehabilitation by the felon supported by credible documentation.

(i) Credible documentation includes: (1) written statements from law enforcement or community leaders; (2) statements regarding extenuating circumstances surrounding the crime and indicating that the crime is not likely to recur in the future; (3) statements regarding involvement in community organizations or programs; or (4) statements establishing successful completion of a rehabilitation program indicating rehabilitation and a propensity not to recommit the crime in the future.

2. On an individual basis, a special committee established by the State Department of Human Resources may grant an exception which will allow for the approval of an application notwithstanding the fact that a household member has a criminal conviction [other than to

those crimes falling in the no exception category] for a (1) sex related crime; (2) serious, intentional, reckless or negligent physical injury, danger or death of any person; (3) a crime against a child; (4) a crime against an adult in need of protective services as defined in §§38-9-2 and 38-9-7, Code of Ala. 1975; or (5) the manufacture, sale, distribution or possession of controlled substances, opiates or illegal, addictive or narcotic drugs. However, due to the serious nature of these offenses certain conditions must exist before a request for an exception will be evaluated. In the case of a felony conviction, ten years must have elapsed since the sentence was served or probation ended, whichever is later. In the case of a misdemeanor, five years must have elapsed since the sentence was served or probation ended, whichever is later.

(i) Request for exceptions will be reviewed by a three person Exception Committee, none of whom has been involved in the case. In addition to the information cited above, the Committee will require evidence of rehabilitation supported by credible documentation. Credible documentation includes: (1) written statements from law enforcement or community leaders; (2) statements regarding extenuating circumstances surrounding the crime and indicating that the crime is not likely to recur in the future; (3) statements regarding involvement in community organizations or programs; (4) statements establishing successful completion of a rehabilitation program indicating rehabilitation and a propensity not to recommit the crime in the future; or (5) a pardon, if it exists. Furthermore, additional information may be requested by the Committee, such as a medical examination, drug screening, psychological evaluation or personal interview with the County Department and applicant. A recommendation will be made by the Exception Committee to the Adult Services Division Director for a final decision.

(e) No exception will be granted where there is a criminal conviction involving:

1. a sex-related crime against a child or adult in need of protective services as defined in §38-9-2, Code of Ala. 1975; or

2. serious intentional reckless or negligent physical injury or death of a child or adult in need of protective services as defined in §§38-9-2 and 38-9-7, Code of Ala. 1975.

Author: Patricia Brooks

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