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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

CWP 8-2018
CHAPTER 413
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE PROGRAMS

FILED
01/10/2018 8:51 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Wrong versions filed 1/1/18. Amending child welfare rules regarding current caretaker/relative caregiver.

EFFECTIVE DATE: 01/10/2018 THROUGH 06/29/2018

AGENCY APPROVED DATE: 12/28/2017

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NEED FOR THE RULE(S):

The wrong versions of these rules were filed January 1, 2018. Effective January 1, 2018, ORS 419A.004, SB 830 (Oregon Laws 2017 Chapter 351) changes the definition of "current caretaker" as it relates to foster parents of children in the care and custody of the Department of Human Services. The amendments require the Department to change its definition of "current caretaker." In addition, the use of a permanency committee is currently required by the Department when a current caretaker or relative caregiver is requesting to be considered as a potential adoptive resource. However, the Department has determined that the purpose of a permanency committee in this situation can be fulfilled in a more efficient and as effective manner, through a staffing. This will benefit the children in the department's custody.

JUSTIFICATION OF TEMPORARY FILING:

The wrong versions of these rules were filed January 1, 2018. The Department finds that failure to act promptly by amending the rule will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public, the Department, and children served will immediately benefit when the Department's rule reflects the obligations of the Department pursuant to law passed in the 2017 session regarding current caretakers, and revising the permanency process will support more expeditious and efficient analysis of permanent placement options for children in the Department's custody.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

RULES:

413-070-0516, 413-120-0735

AMEND: 413-070-0516

SUSPEND: Temporary 413-070-0516 from CWP 31-2017

RULE TITLE: Composition, Scheduling, Responsibilities, and Recommendations of the Permanency Committee

RULE SUMMARY: The wrong version of this rule was filed January 1, 2018. Changes to OAR 413-070-0514 eliminates the requirement of a permanency committee when a current caretaker or relative caregiver requests consideration as a potential adoptive resource and the adoption home study regarding the child or sibling group has not been completed. The change to OAR 413-070-0514 causes a portion of this rule to be obsolete, specifically the portion explaining the requirements for a permanency committee when a current caretaker or relative caregiver has requested consideration as an adoptive resource.

RULE TEXT:

(1) A permanency committee is composed of the following individuals:

(a) Two individuals who have been appointed by a Child Welfare Program Manager to attend a permanency committee.

(A) A committee facilitator, who must be a Department staff member and who must ensure all of the following:

(i) The meeting is held according to the requirements of OAR chapter 413.

(ii) Individuals are informed of the responsibilities of the committee and the confidentiality of information presented during the meeting.

(iii) Committee recommendations are thoroughly and accurately documented.

(B) A second individual who may be either a community partner or another Department staff member.

(C) The individuals in this subsection must meet the following requirements:

(i) Be knowledgeable about permanency issues.

(ii) Be knowledgeable of the importance of lifelong family attachment and cultural connections.

(iii) Have no current personal or professional relationship to the child or a potential placement resource or potential adoptive resource being considered.

(b) The following members of the child's team:

(A) The caseworker of the child or young adult;

(B) The attorney of the child or young adult;

(C) The CASA of the child or young adult;

(D) A representative of the child's tribe, if the caseworker knows or there is reason to know the child is an Indian child pursuant to OAR 413-115-0060; and

(E) A member of the RCWAC, if the child or young adult is a refugee child.

(2) The substitute caregiver of the child or young adult, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to present information to the permanency committee but is excused after presenting information and responding to questions.

(3) The Child Welfare Program Manager or designee responsible for making the decision on behalf of the Department attends the permanency committee and may ask clarifying questions but does not participate in the deliberation and recommendation.

(4) The Department is responsible for scheduling and notifying the following individuals of the date, time, and location of the permanency committee:

(a) Appointed permanency committee members;

(b) The Child Welfare Program Manager or designee making a recommendation or decision on the issue before the permanency committee;

(c) Each member of the child's or young adult's team identified in subsection (1)(b) of this rule; and

(d) Any other individual invited to present specific information to the permanency committee.

(5) Each individual attending a permanency committee is bound by Oregon statutes regarding confidentiality and OAR 413-010-0010 to 413-010-0075.

(6) Consideration, review, and recommendation.

- (a) The permanency committee must consider and review the information presented by any individual invited to the permanency committee, whether the information is presented in person, by phone, through other electronic communication, or in writing.
- (b) The permanency committee may seek clarification of information presented and may request additional information during the presentations.
- (c) The permanency committee must consider the safety, permanency, and well-being needs of the child or young adult and, when there are siblings, the safety, permanency, and well-being needs of each sibling and make a recommendation regarding the issue brought before the committee to the Child Welfare Program Manager or designee as follows:
- (A) When the caseworker recommends a change in permanency plan to guardianship, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-0660 and OAR 413-070-0665 subject to OAR 413-070-0518.
- (B) When the caseworker recommends a change in permanency plan to placement with a fit and willing relative, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-1020 subject to OAR 413-070-0518.
- (C) When a caseworker recommends a change in permanency plan to APPLA, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-0550(1).
- (D) When a caseworker considers the separation of siblings in adoption under OAR 413-110-0132, the permanency committee provides a recommendation based upon the considerations in OAR 413-110-0132(2).
- (E) When the caseworker requests that a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption, the permanency committee provides a recommendation based upon the considerations in OAR 413-120-0750(6)(b).
- (d) When members of the permanency committee have not come to consensus on a recommendation, the committee facilitator must document all recommendations and the basis provided by the permanency committee member for that recommendation.
- (e) The committee facilitator must provide the written documentation of the permanency committee's recommendation or recommendations to the Child Welfare Program Manager or designee within three business days of the date on which the permanency committee was held.

STATUTORY/OTHER AUTHORITY: ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 418.005

ADOPT: 413-120-0735

SUSPEND: Temporary 413-120-0735 from CWP 31-2017

RULE TITLE: Current Caretaker or Relative Caregiver Request for an Adoption Home Study

RULE SUMMARY: The wrong version of this rule was filed. This is a new rule that describes the responsibilities of the Department when a current caretaker or relative caregiver requests an adoption home study, specifically around convening a staffing.

RULE TEXT:

(1) When a current caretaker or relative caregiver requests a home study to be considered as a potential adoptive resource for a child or sibling group that are under consideration for adoption, prior to the completion of the adoption home study, the Department shall:

(a) Convene a staffing that includes:

(A) The caseworker for the child;

(B) The assigned courtesy caseworker for the child, if applicable;

(C) The assigned supervisor for each caseworker assigned to the child;

(D) The assigned DHS certifier or ICPC worker for the current caretaker or relative caregiver;

(E) The assigned DHS adoption worker or, if known, ICPC adoption worker, if different from the assigned certifier or ICPC worker; and

(F) The assigned DHS certification supervisor.

(b) Notify and invite the following individuals to the staffing:

(A) The attorney of the child or young adult;

(B) The CASA of the child or young adult;

(C) A representative of the child's tribe, if the caseworker knows or there is reason to know the child is an Indian child pursuant to OAR 413-115-0060;

(D) A member of the RCWAC, if the child or young adult is a refugee child; and

(E) Any other individual who a caseworker, in consultation with a supervisor, believes may provide valuable input regarding the child and the ability of the current caretaker or relative caregiver to meet the current and lifelong needs of the child or sibling group under consideration for adoption.

(2) Participants of the staffing must consider the following:

(a) The safety, attachment, and well-being needs of the child or sibling group under consideration for adoption and how well the current caretaker or relative caregiver has met those needs;

(b) The history of the current caretaker or relative caregiver in meeting the standards of certification pursuant to OAR 413-200-0301 to 413-200-0396;

(c) Any child abuse or neglect reports made to the Department that were assigned for assessment, closed at screening, or documented in the Department's electronic information system;

(d) Recommendations for continued contact with birth parents, birth family, or other significant persons for the child or sibling group under consideration for adoption; and

(e) Any other information pertinent to the evaluation of the ability of the current caretaker or relative caregiver to meet the lifelong safety, attachment, and well-being needs of the child or sibling group under consideration.

(3) The Department certifier for the family must document in a case note in the provider's file any specific information the staffing participants determine must be explored in the adoption home study for the current caretaker or relative caregiver.

(4) If the current caretaker or relative caregiver lives outside of Oregon, the Department must document in the ICPC request for an adoption home study any specific information the staffing participants determine must be explored in the adoption home study for the current caretaker or relative caregiver.

STATUTORY/OTHER AUTHORITY: ORS 109.309, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 109.309, ORS 409.010, ORS 418.005, ORS 418.280, ORS 418.285, ORS 418.937, ORS 419B.090, ORS 419B.100, ORS 419B.192