

Child Foster Care... Relative Search, Emergency Relative Placement, & Licensing

Minnesota Department of Human Services

September 2015

FOSTER CARE LICENSING REQUIREMENTS: WHY CAN'T THE KIDS BE
PLACED WITH GRANDMA?

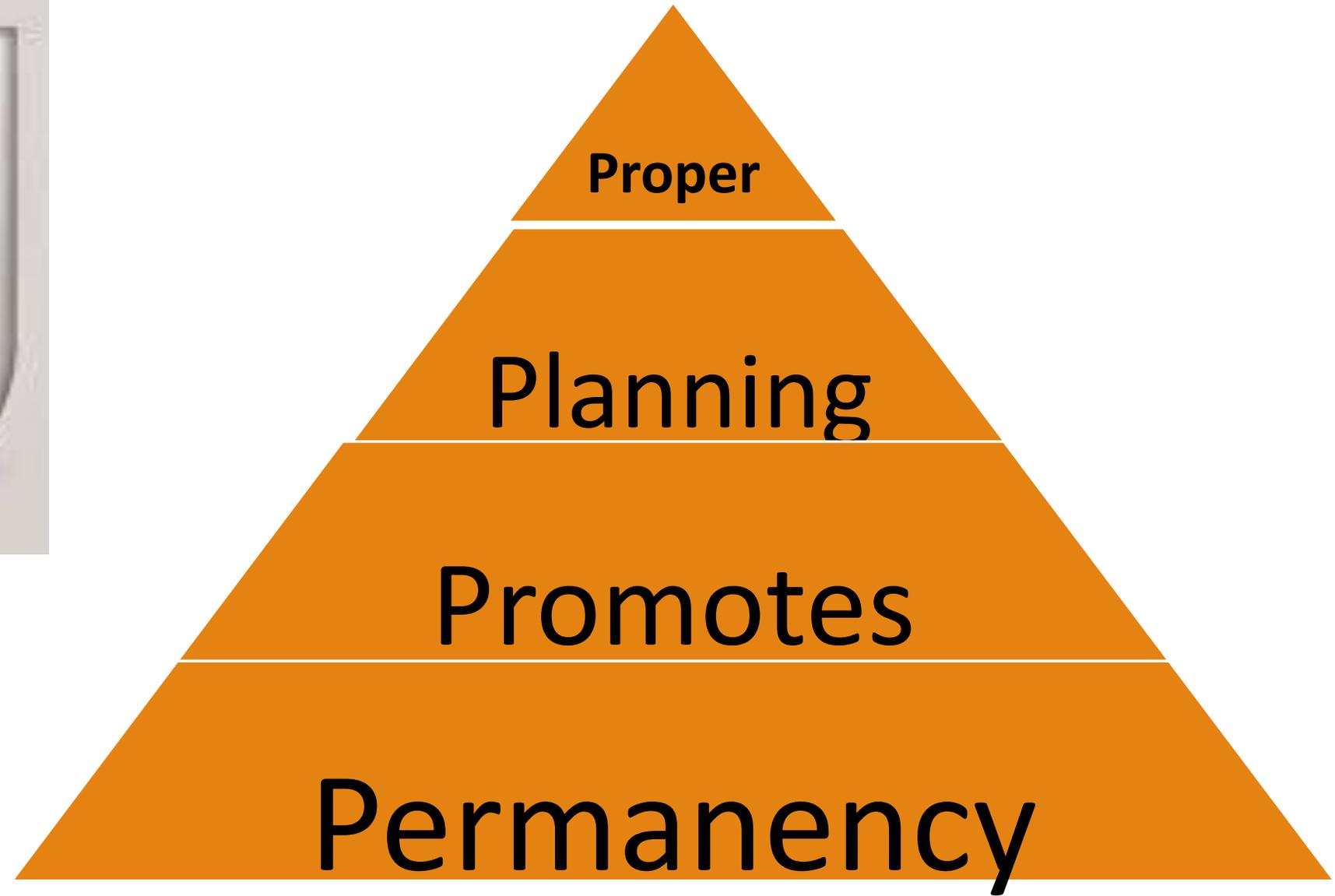
MN Department of Human Services

Presenters:

Mary Larson, Licensing Consultant , Licensing Division
651-431-6551, mary.larson@state.mn.us

Mical Peterson, Supervisor, Adoptions, Child Safety and Permanency,
651-431-4728 mical.petson@state.mn.us

Deborah Beske Brown, Agency Policy Specialist, Child Safety and Permanency
651-431-4731, deborah.Beske.brown@state.mn.us



Foster Care - Definition

"Foster care" means 24 hour substitute care for children placed away from their parents or guardian and for whom a responsible social services agency has placement and care responsibility.

"Foster care" includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes.

Foster Care Definition continued...

A child is in foster care under this definition regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed which is not licensed.

"Foster care" does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular correction's facility not meeting requirements for title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails.

Foster care is intended to provide for a child's safety or to access treatment. Foster care must not be used as a punishment or consequence for a child's behavior.

Children living with a parent

Minnesota Statutes, section 260C.201, subd. 1

Noncustodial Parent

- Court may place the child in need of protection or services under protective supervision of the responsible social service agency, and
- Order the child into the home of the noncustodial parent,
- Child is not in foster care placement.

Trial Home Visit

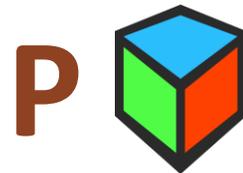
- Court transferred legal custody to the responsible social service agency, child is placed in foster care.
- Court may order a trial home visit without modifying the transfer of legal custody, and
- returned to the care of the parent from whom the child was removed.
- Child is in foster care placement.

Children in Foster Care

Right from the Beginning: Child Safety,
Permanency and Wellbeing

consider

Proper **P**lanning **P**romotes **P**ermanency*



Reasonable Efforts to finalize permanency plan

Minnesota Statutes, section 260.012

- Reunify child with parent from whom the child was removed
- Assess a noncustodial parent to provide day-to-day care of the child
- Conduct a relative search and provide notice to adult relatives
- Place siblings removed from their home in the same home for foster care, adoption or transfer of permanency legal and physical custody to a relative when a child cannot return to the parent from whom the child was removed, plan for and finalize a safe and legally permanent alternative home for the child.

*ICWA required identification of an Indian Child and Tribal Notice

Reference Indian Child Welfare Act Active Efforts Best Practice Guide (DHS 5572)

Relative Search and Notice

The first step to relative foster care placement

Relative Search – Due Diligence

Minnesota Statutes, section 260C.221

Responsible agencies shall exercise due diligence to Identify and notify adult relatives:

- Prior to placement
- Within 30 days after the child's removal
- Court order or voluntary placements
- Maternal and paternal relatives of the child's parents – Paternity does not need to be adjudicated

Sample notice letters are in SSIS

Relative Search – Due Diligence continued...

Agency efforts (due diligence) to identify relatives:

- Includes getting information from the child – with whom have they lived or had contact
- Must meet active effort requirements and placement preferences for ICWA cases
- May use internet and other reasonable means
- Release from parents is not required

Relative Search – Notices

Minnesota Statutes, section 260C.221

Notice must include:

1. Child's need for foster care placement, the option to be a placement resource and the possible need for a permanent placement
2. Relative's responsibility to keep the agency and court informed of their current address to receive notice of permanency progress review hearing and permanent placement
3. Relative's decision to not be identified as a potential permanent placement resource or participate in planning for the child at the beginning shall not affect whether they are considered for placement later

Relative Search – Notices continued...

Notice requirements:

4. Relative may participate in the care and planning for the child. Care and planning includes but is not limited to:

- Participation in case planning for the parent and child
- Identifying the strengths and needs of the parent and child
- Supervising visits
- Providing respite and vacation visits for child
- Providing transportation for appointments
- Suggesting other relatives who might be able to help support the case plan
- Helping maintain, to the extent possible, the child's regular activities, and contact with friends and family

Relative Search – Notices

continued...

Notice requirements concluded:

5. Family foster care licensing requirements, including how to complete an application, request a variance from licensing standards and supports available
6. Relative's right to ask to be notified of any court proceeding regarding the child, to attend hearings and of the relatives right or opportunity to be heard by the court.

Placement decision

Minnesota Statutes, section 260C.212, subd. 2

When removal from the parental home is necessary, relatives are the first considered for placement

Placement decision continued...

County agency must make an individualized determination to select a home that meets the needs of the child, including:

- Child's current functioning and behavior
- Child's medical needs
- Child's educational needs
- Child's developmental needs
- Child's history and past experiences
- Child's religious and cultural
- Child's connections with community, school, faith
- Child's interest and talents
- Child's relationships to current caretakers, parents, siblings and relatives

- Reasonable preference of the child

For Indian Children, defined in Minnesota Statutes section 260.755, subd. 2a.

Best interest of an Indian Child supports the child's sense of belonging to family, extended family and tribe.

Best Interest of an Indian child are interwoven with the best interest of the Indian child's tribe.

ICWA and Tribal Placement Preferences

Any local social service agency or private child placing agency considering placement on a Indian child shall make **active efforts** to identify and locate extended family members.

Minnesota Statutes, section 260.761, subd.7

Indian Child Welfare Act, Active Efforts Best Practices, (DHS 5572)

Agency considers relative placement...

Minnesota Statutes, section 260C.221

- Without delay, right from the beginning
- Whenever a child must move
- Whenever a child is returned to foster care

Relative Search*- Review Hearing

At a regularly scheduled hearing, no later than 3 months after placement - report to court:

- Efforts to identify maternal and paternal relatives, engage relatives, and document that they have been properly notified
- Document agency's individual determination using the 10 best interest factor to select a home that meets the needs of the child
- Disclose data about particular relatives identified, searched for and contacted. (Consult with County Attorney about specific data practices questions)

*Minnesota Statutes, sections, 260C.193, 260C.201, 260C.202, 260C.212 and 260C.221

Relative Search*- Review Hearing

At a regularly scheduled hearing, no later than 3 months after placement :

- If the court is satisfied that the agency has exercised due diligence, the court may find that the agency has made reasonable efforts to conduct a relatives search to identify and properly notify relatives
- If the court is not satisfied that the agency has exercised due diligence, the court may order the agency to continue its search and notice efforts and to report back to the court

*Minnesota Statutes, section 260C.193, 260.202 and 260C.22

Relative Search*- Review Hearing

After the finding that the agency has made reasonable efforts to conduct a relative search, the agency:

Has the continued responsibility to appropriately involve relatives who have responded to the notice

Consider placement with a relative anytime the child must move or be returned to foster care

*Minnesota Statutes, section 260C.202 and 260C.2

Child Foster Care Licensing



Why is child foster care licensing required?

- ❑ All children in foster care must be provided with the protections established in Title IV-B and IV-E of the Social Security Act.
- ❑ Section 471 of the Social Security Act requires states to be responsible for establishing and maintaining standards for foster family homes

What governs Child Foster Care licensing??

Human Services Licensing Act (Minnesota Statutes, Chapter 245A)

Rule 2960 (Minnesota Rules, parts 2960.3000–2960.3340)

Rule 13 (Minnesota Rules, parts 9543.0010-9543.0150)

Rule 4 (Minnesota Rules, parts 9545.0755-9545.0845)

Human Services Background Studies Act (Minnesota Statutes, Chapter 245C)

and in some cases... Home and Community-Based Services Standards
(Minnesota Statutes, Chapter 245D)

Types of Child Foster Care

“Foster family setting” – means a foster home in which the license holder resides

“Foster residence setting” – means a foster home in which the license holder does not reside

“Treatment foster care” – means a culturally relevant, community-based and family-based method by which planned, integrated treatment services are provided to foster children and their parents by foster parents who are qualified to deliver treatment services.

Emergency Relative Placement

(Minnesota Statutes 245A.035)



Regulation 7- Sending State Important Items to Note

The local agency needs to submit the complete request, including Regulation 7 court order within 3 business of court order signature. MN ICPC must submit the request to receiving state within 2 business days. (5 business days from signature of court order)

The specific expedited court order needs to be in compliance with Regulation 7.

Only a relative home study can be requested for a Regulation 7 ICPC request.

The child can not be currently residing (or visiting) at the placement resource's home.

Expedited Placement Decision Criteria

Child is under jurisdiction of child welfare agency and placement of the child is being considered in another state with a parent, stepparent, grandparent, adult uncle or aunt, adult brother or sister, or the child's guardian and the case must meet one of the following:

- ❖ unexpected dependency due to a sudden or recent incarceration, incapacitation or death of a parent or guardian
- ❖ the child sought to be placed is four years of age or younger, including older siblings sought to be placed with the same proposed resource
- ❖ the court finds that any child in the sibling group sought to be placed has a substantial relationship with the proposed resource
- ❖ the child is currently in an emergency placement

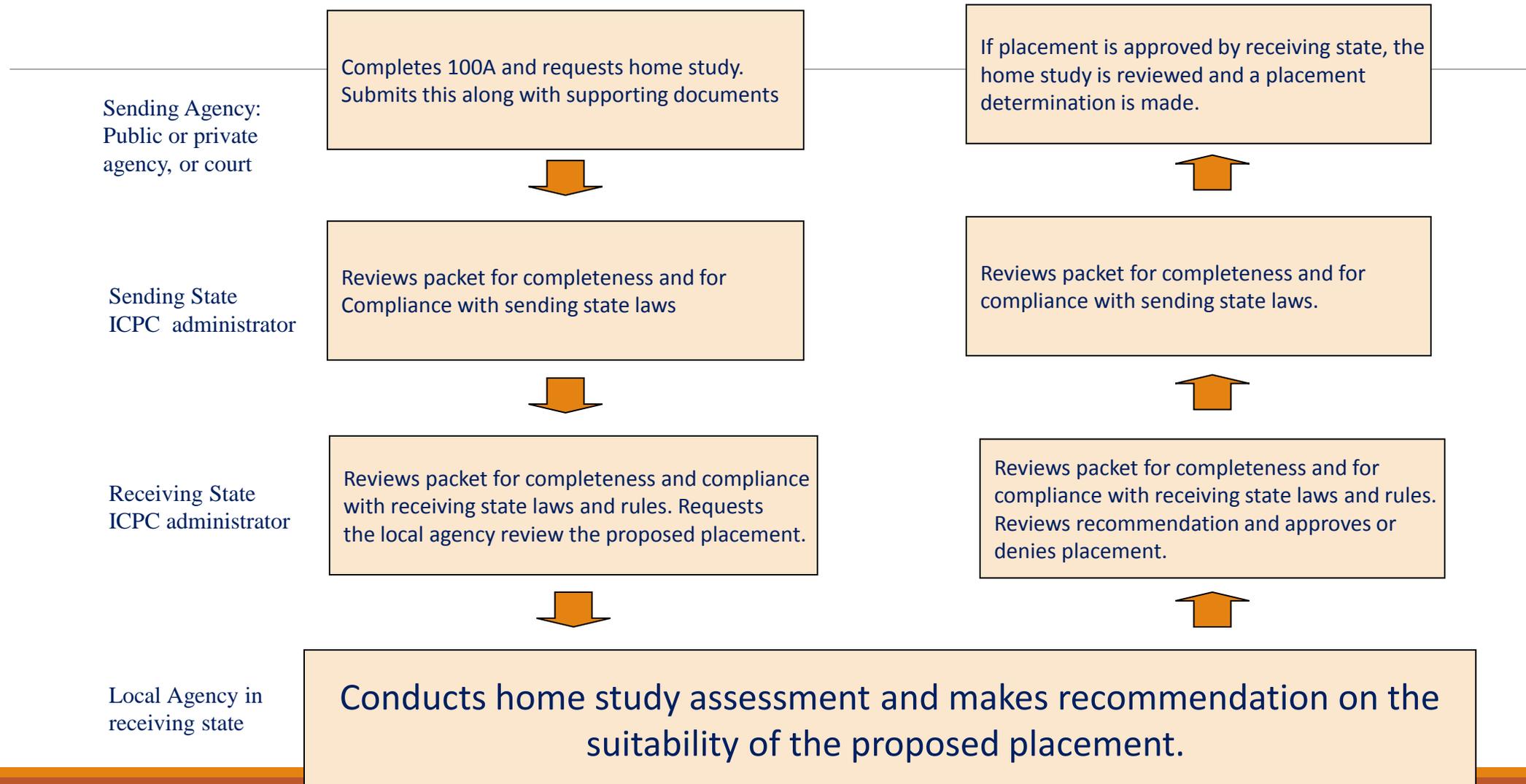


Relative Placement Requests

In Minnesota placement resources, who receive a child for care, are required to pursue and complete foster care licensing. Minnesota Statutes, section 245A.035, provides a process for suitable relatives to immediately receive a child for placement until they are licensed.

Other states may not have similar requirements. Relative studies will be completed and a recommendation provided – it is not ok to assume the resource will be automatically licensed for foster care

ICPC Request Process



Unlicensed Emergency Relative Placement

- ❑ A county agency may place a child with a relative who is not licensed to provide foster care.
- ❑ Relative means a person related to the child by blood, marriage, adoption, or is an important friend with whom the child has lived or had significant contact.
- ❑ For an Indian child, the child's tribe determines who is defined as a relative.

Regulation No. 7 – Priority Placement



The court in the sending state must determine that a priority placement is required – a court order must be prepared.

The court order is only valid if it contains one or more of the following circumstances:

- The proposed placement is a relative, and, the child is under two; or, the child is in an emergency shelter; or the court finds that the child has spent a substantial amount of time in the home of the proposed placement recipient.
- The receiving state has a completed ICPC request and the sending agency has not received a placement recommendation.

A placement determination must be made as soon as possible, but no later than 20 business days from the date the request was received by the receiving state. As a receiving state it is important this deadline is upheld.

Agencies may place children with relatives prior to licensure when they have the responsibility for placement...

- ❑ Law enforcement hold (72 hour hold)
- ❑ Voluntary placement agreement:
 - *Minnesota Statutes, section 260C.227
 - *Minnesota Statutes, section 260D.03
- ❑ Juvenile Court ordered foster care:
 - *Minnesota Statutes, section 260C.178 – Emergency Removal
 - *Minnesota Statutes, section 260C.201 – Disposition
 - *Minnesota Statutes, section 260B.198 - Disposition, Delinquency

Preliminary background study

Minnesota Statutes, section 260C.209

- The county agency that is making the placement should conduct a background study as part of an emergency placement process. This does not take the place of the Adam Walsh background study that must be completed by DHS prior to licensure.

Under what circumstances should a child NOT be placed with a relative?

- If anyone requiring a background study has a disqualification that cannot be set aside, an emergency placement must not be made.
- If there are physical plant concerns that may immediately affect the health and safety of a child being placed in the home, placement should not be made

The county that places a child with an unlicensed relative must...

- Conduct an initial inspection of the home, whenever possible, prior to placing the child in the relative's home, but no later than 72 hours after placing the child in the home.
- The county agency shall conduct the inspection using the home safety checklist and the child foster care addendum.
- At the time of the inspection or placement, whichever is earlier, the county agency must provide the relative with a child foster care application form.

The Home Safety Checklist and the CFC Addendum...

- Used by the placing worker for the preliminary inspection of the home
- Items that need completion should be indicated on the checklist
- Very important to address sleeping space for the relative foster children on the addendum
- Provide to the licensing worker along with the application materials

In addition...

The placing county must provide the application materials to the relative...this includes the following:

- The Minnesota Adoption and Foster Care Application
- Initial background study information
- Fingerprints

For relatives with a child already in placement

- They must complete the child foster care license application within ten days of the placement.
- The county agency must assist them in completing the application.

When two county agencies are involved...

A county agency making an emergency relative placement in a different county must complete the Emergency Relative Placement Foster Care Referral Form and provide the form to the child foster care licensing unit in the receiving county.

It is essential that the information regarding the placement be provided as soon as the placement is made in order to begin the licensing process.

The Bulletin...Procedures for Emergency Relative Foster Care Placements

- Bulletin #11-68-05 has complete information regarding emergency relative placements
- The bulletin is in the process of being updated

The licensing process is the same for all applicants... relatives and non-relatives

According to Minnesota Statutes, 245A.035, subd. 5

“The granting of a child foster care license to a relative applicant shall be under the procedures in this chapter and according to the standards in Minnesota rules, chapter 2960.”

Things to note...

- To be licensed by a county – the application must be made in the county of residence
- While not common, relative applicants may choose to be licensed by a private child-placing agency rather than the county in which they live

Application...

- ❑ The primary application to become licensed for child foster care and approved for adoption is the Minnesota Adoption and Foster Care Application
- ❑ In addition, applicants are required to complete the Family Systems Child Foster Care supplemental application that includes specific licensing requirements that are not on the primary application

Once an application has been received...

- A background study must be completed for all required individuals
- Minnesota Statutes, section 245C.03, subdivision 1, defines who requires a background study
- Adam Walsh BGS - completed by DHS
- Age 18 and above – fingerprint-based
- Under age 18 – NetStudy only

Background study notices

- Clearance notice
- Clearance notice with data forward
- Disqualification letter

If an applicant has a disqualification...

They may request reconsideration of the disqualification (DQ)

- Information in the letter provides timelines and information related to requesting reconsideration of the DQ
- If the DQ is a permanent bar – only the correctness of the disqualifying information can be reviewed if the applicant requests reconsideration

For relative applicants...

- The commissioner shall consider the importance of maintaining the child's relationship with relatives as an additional significant factor in determining whether a disqualification should be set aside or a variance granted.

(Minnesota Statutes, section 245A.035, subd. 5)

When is a fire safety inspection required?

Here are the “triggers”...

- Free standing solid fuel heating appliance
- Manufactured home built before 6/15/76
- Licensing agency identifies hazard in single-family home or mixed or multiple occupancy building
- Home is licensed for 4 or more foster children
- Room used for foster child to sleep is 50% or more below ground level

The Home Safety Checklist

- All items on the home safety checklist and CFC addendum must be completed prior to licensure

Beyond the physical plant...other requirements

- Statement of Intended Use
- Review of the Foster Parent Agreement Form
- Individual fact sheets for applicants and adult household members
- Family Disaster Plan
- Drug & Alcohol Use Policy; Grievance Procedure; Discipline Policy

Training

- ❑ Children's mental health training – 2 hours initial
- ❑ Sudden unexpected infant death and abusive head trauma training if providing care to children through five years of age
- ❑ Child passenger Restraint Systems Training if providing care for children under nine years of age
- ❑ Orientation – 6 hours – there are specific requirements in the rule, but the training listed above may be counted in the 6 hours

Home Study Assessment

- This document is the agency assessment of the applicants ability to provide a safe and healthy environment for children
- It must be on the Commissioner's Designated Format, and is completed by the licensing agency

Variations

- County and child placing agencies may grant variations to CFC rules that do not affect the health or safety of persons in a licensed program
- Family Systems has identified some parts of the CFC rule that may be varied

The Fostering Connections to Success and Increasing Adoptions Act

Clarified that states may grant variances to licensing standards that do not effect health and safety on a case-by-case basis in order to eliminate barriers to placing children safely with relatives in licensed homes.

Once all licensing requirements are completed...

The county or private child-placing agency sends the recommendation for licensure to DHS or...

The county recommends a denial of the license application



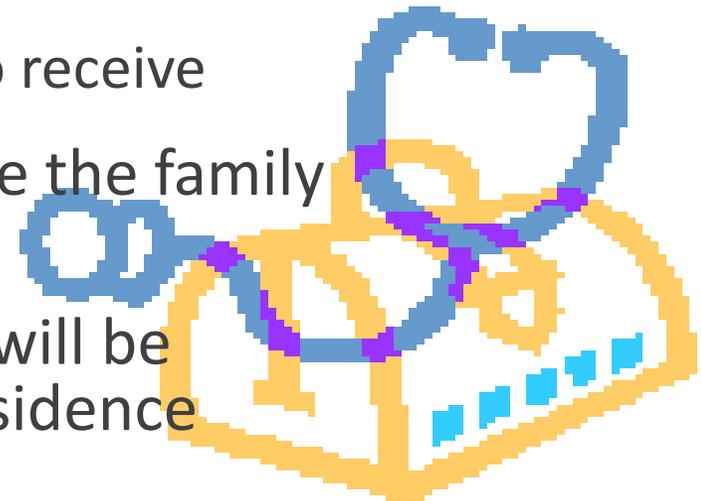
Financial/Medical Responsibility When a child is placed out of the Minnesota

A financial/medical form –must be submitted with each ICPC request and must indicate:

- That the sending state is financially responsible for the child/ren
- What type of financial assistance the placement resource will receive
- If the child/ren is IV-E eligible
- What type of medical coverage the child will be eligible to receive

Coverage may be different depending on the state where the family resides.

Not ALL children receiving Northstar Kinship Assistance will be eligible for Medical Assistance in the families state of residence



A quick snapshot...

From July 1, 2014 through June 30, 2015 –
1,352 new licensed CFC homes

In the same time period, DHS issued 115
denials of CFC licensing applications

Breaking it down...

68 – due to a disqualification of an applicant

16 – due to a disqualification of another individual requiring a background study

1 – due to substantiated maltreatment

30 – due to failure to complete licensing requirements or serious/chronic licensing violations (e.g. false and misleading info, failure to submit BGS)

Northstar Care for Children

*See Ann Ahlstrom handout

Impact of placing a foster child in a home that cannot be licensed: Safety

- Foster child is **not** provided safety protocols set in the licensing standards as required by federal and state law.
- Child is **not** eligible for the foster care liability insurance, leaving the child and relative without liability coverage. [Minnesota Statutes, section 245.814]

Impact of placing a foster child in a home that cannot be licensed: Transfer of Permanent and Legal and Physical Custody

Northstar Kinship Assistance eligibility requires:

1. The foster child must be placed with the prospective relative custodian who has been a licensed foster parent for at least six months, or
2. Commissioner has granted an exemption from the six month requirement, and
3. The prospective relative custodian and household members complete a background study that meets the requirements

Eligibility not required if the prospective relative custodians decline Northstar Kinship Assistance, written notice required.

Northstar Kinship financial support is not available when eligibility is not met.

[Section 473 (d) of the Social Security Act and Minnesota Statutes, section 256N. 22]

Impact of placing a foster child in a home that cannot be licensed: Adoption

Child Foster care licensing is not required for adoption, but if the prospective adoptive parent(s) have not completed the following, the adoption cannot proceed:

- Completed Adam Walsh background study, and
- Approved written home study.

Prospective adoptive parents may decline Northstar Adoption Assistance, written notice suggested.

[Section 473 of the Social Security Act and Minnesota Statutes, sections 256N. 23 and 259.41]

Federal and Minnesota Legal Requirements for Child Foster Care

HELPFUL INFORMATION FOR JUDGES AND COUNTY ATTORNEYS

Thank you

THE END

