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**OVERVIEW**

The Michigan Department of Health and Human Services (MDHHS) must make efforts to normalize the lives of children who are placed in the custody of MDHHS. This includes empowering caregivers to encourage children to engage in extracurricular activities that promote child well-being.

**DEFINITIONS**

**Caregiver** - For purposes of the Reasonable and Prudent Parent Standard, caregiver is defined as a licensed foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed.

**REASONABLE AND  
PRUDENT PARENT  
STANDARD**

Foster children have the right to participate in age and developmentally appropriate activities that are accepted as suitable for children of the same chronological age or level of maturity. The Reasonable and Prudent Parent Standard is a standard of decision making that allows a caregiver to make routine parenting decisions regarding the participation in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain a child's health, safety, and best interests while encouraging the emotional and developmental growth of the child. Caregivers may make certain decisions, similar to daily decisions that a parent is expected to make, regarding the child's participation in activities without prior approval of the child's caseworker, the licensing or approval agency, or the juvenile court.

**Requirements for  
Decision Making**

A caregiver must use the Reasonable and Prudent Parent Standard in determining whether to permit a child to participate in an extracurricular, enrichment, cultural, or social activity. The caregiver must consider the following:

- The child's overall age, maturity and developmental level to maintain the overall health and safety of the child;
- Potential risk factors and the appropriateness of the activity;
- Federal and state laws, and licensing requirements;
- The best interest of the child based on the caregiver's knowledge of the child;
- The importance of encouraging the child's emotional and developmental growth;
- The importance of providing the child with the most family-like living experience possible;
- The behavioral history of the child and the child's ability to safely participate in the proposed activity.

An activity cannot override or interfere with case plans or other court-ordered requirements, such as parenting time.

### **Participation in Activities**

Caregivers must ensure that the child has the safety equipment, necessary permissions, and training to safely engage in each activity the child participates in. The [DHS-5331, Caregiver Guidelines for Reasonable and Prudent Parent Standard](#), is available to provide caregivers with guidance on the types of activities they can approve and the types of activities that require further approval.

### **Residential Setting Activities**

When children are placed in a residential treatment setting, the provider must incorporate normalcy activities into residential programming. These activities must be in compliance with the Reasonable and Prudent Parent Standard and will help children with skills essential for positive development. A designated individual(s) is to be onsite and authorized to apply the standard to decisions involving the child's participation in age or

developmentally appropriate activities. This designated individual must be trained in how to use and apply the standard.

### **Caseworker Role**

The caseworker is responsible for providing a child's information such as health, mental health, and education to the caregiver to assist with decision-making. The caseworker must document the child's regular and ongoing opportunities to engage in age or developmentally appropriate activities and what the foster parent or child caring institution is doing to support those activities in accordance with the Reasonable and Prudent Parent Standard. This information is to be documented in the *Child Information* section under *Child Engagement and Perception of Circumstances* in MISACWIS.

### **Licensing Worker Role**

The licensing worker is responsible for ensuring that the foster parent completes the Reasonable and Prudent Parent Standard training prior to licensure and is adequately prepared with the appropriate knowledge and skills to make careful and thoughtful parental decisions under the standard.

For the initial home evaluation, the licensing worker is to indicate in the narrative section of MiSACWIS if the foster parent has completed the online training and has been provided with the DHS-5331, Caregiver Guidelines for Reasonable and Prudent Parent Standard.

The licensing worker must verify annually that the foster parent(s) is promoting and protecting a foster child's ability to participate in age-appropriate activities according to the standard and must assess if there is a need for ongoing training.

### **Liability**

When exercising the Reasonable and Prudent Parent Standard a caregiver may not be liable for harm caused to a child while engaged in an activity or experience approved by the caregiver if:

- The foster parent is licensed and acting within the scope of his or her authority as a foster parent.

- The caregiver has completed the required training related to the reasonable and prudent parent standard.
- The caregiver has considered all the factors in the standard when approving the activity, and
- The approval does not conflict with any federal or state laws, licensing rules, court orders or the case service plan.

In the event that legal action is taken against the licensed foster parent, the Department of Health and Human Services may reimburse the foster parent for the costs of legal counsel. The reimbursement shall not impose any liability on the department or the foster parent. See [FOM 903-09, Reimbursement to Foster Parents of Private Attorney Fees](#).

Unlicensed relatives are not provided the liability protection under the law, though it is best practice for relatives to make decisions under the Reasonable and Prudent Parent Standard. The caseworker must discuss licensure with the relative; see [FOM 722-03B, Relative Engagement and Placement](#). If a relative refuses licensure and signs the DHS-875, Waiver of Foster Home Licensure, the relative understands that they are waiving liability protections when parenting under the standard.

## **Parental Engagement**

When the goal is reunification, caseworkers and caregivers must engage the legal parent in discussions regarding regular and ongoing activities that pertain to the child and support normalcy. The discussions may include participation in extracurricular activities that the child was involved in prior to entering care, or future involvement in activities such as sports, dating, or activities that the foster family participates in.

## **PARENTAL AUTHORITY TO CONSENT**

Decisions made under the standard do not supersede the existing legal rights of a legal parent/guardian to consent or approve certain activities while their children are in care. This includes decisions

such as entering the military, marriage, entering into contracts or leases, and education.

### ***Temporary Wards***

The legal parent/guardian is the consenting authority for activities that require legal consent. If the parents' whereabouts are unknown or the parents refuse to consent, the court may be petitioned to give consent.

### ***MCI Wards***

When a child is committed to the Michigan Department of Health and Human Services pursuant to Act 220 of the Public Acts of 1935, or Act 296 of 1973, the child becomes a ward of the Michigan Children's Institute (MCI), and the MCI superintendent is appointed as the child's legal guardian.

### ***Permanent Court Wards***

The court is the legal guardian for permanent court wards.

### ***Youth 18 years of age and older***

Youth age 18 and older can consent for themselves, but must be advised that if he/she participates in the activity, they do so without the authority of the supervising agency.

## **Public Use of Photographs**

The consenting authority for public use of a child's photograph or video that identifies him/her as a foster child is as indicated above.

The DHS-199, Consent for Publication, is required for photo releases for all children under the age of 18. For temporary wards, the form must be completed and signed by the child's legal parent/guardian.

## **Media Interviews**

Media interviews of children in foster care will be granted in cases when the appropriate authorizing party has determined that the interview is in the best interest of the child. Even with the appropriate authority's consent, the child has the right to decline to

be interviewed. Youth age 18 and older can consent for themselves, but must be advised that if he/she participates in the interview, they do so without the authority of the supervising agency.

Foster parents/caregivers do not have the authority to decide if an interview should be conducted with a child.

If there is a dispute or questions about youth participating in a media interview [MDHHS Office of Communications](#) must be contacted.

### **Out-of-State Travel**

The legal parent/guardian must give consent for a temporary court ward to travel out-of-state. The foster parent/caregiver must be provided with evidence of authority to travel with the child on department/agency letterhead.

If the parents' whereabouts are unknown or the parents refuse to consent, the court must be petitioned to give consent. The foster parent/caregiver must be provided with a copy of the court order authorizing travel.

If the child is a Michigan Children's Institute/state ward, the supervising agency can give permission to travel out of state. Consultation with the MCI Superintendent is not necessary. The foster parent/caregiver must be provided with evidence of authority to travel with the child on department/agency letterhead.

If the youth is a permanent court ward, local court procedures must be followed.

For all children under the care and supervision of the department, the court and MDHHS monitoring worker, if applicable, must be provided notice each time a child travels out of state.

### **Legal Action or Suits on Behalf of a Ward**

If the supervising agency becomes aware of legal action/suit being brought on behalf of (or against) a child under the care and

supervision of the department, the [Children's Services Legal Division](#) must be contacted immediately.

**Note:** If the child is an MCI ward, the MCI superintendent must also be immediately notified.

The written notification is to include pertinent information regarding who is bringing suit, why the suit is being brought, and a copy of the child's commitment order. Under no circumstances is a local county MDHHS, Placing Agency Foster Care, foster parent, or any other party to initiate or give another person permission to initiate legal action/suit on behalf of a child/youth without the approval of the Children's Services Legal Division.

### **Driver's License**

Only the legal parent/guardian may sign a driver's license application for temporary wards of the court. The caseworker may sign the driver's license application for the youth if the youth is a MCI ward. Signing the application does not normally result in civil liability for negligent operation of a motor vehicle on the part of the youth; liability may result for the owner of the vehicle or for the youth.

### **Medical Consent**

For policy pertaining to consent for non-emergency elective surgery, clinical trials, use of psychotropic medication, and immunizations, see [FOM 802-1, Authority to Consent to Psychotropic Medication](#); [FOM 801, Authority to Consent](#); [FOM 801, Immunizations](#)

## **LEGAL BASE**

### **Federal Law**

#### **Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183. Section 111 Supporting Normalcy for Children in Foster Care**

Section 111 of this act establishes standards for normalcy for a child who is in the custody of the state and includes a Reasonable and Prudent Parent Standard and normalizing activities for children.

Michigan communicated the implementation of this provision to foster children through the [Foster Children Bill of Rights](#).

## State Law

### **Reimbursement of Legal Costs of Foster Parents, 1980 PA 33, MCL 722.161 et seq.**

An ACT to provide for the reimbursement of certain legal costs of foster parents; to provide for the recognition and nonrecognition of certain causes of action against foster parents and legal guardians; and to prescribe powers and duties of the department of social services.

## Child Placing Agency

### **Mich Admin Code, R 400.12315.**

Rule 315. Child's communication with his/her family and friends.

## Foster Family Homes and Foster Family Group Homes for Children

### **Mich Admin Code, R 400.9419.**

Rule 419. Opportunities for participation in activities.

## Child Caring Institution

### **Mich Admin Code, R 400.4124.**

Rule 124. Child's communication with his/her family and friends.

### **Mich Admin Code, R 400.4135.**

Rule 135. Work experience for residents.

### **Mich Admin Code, R 400.4136.**

Rule 136. Recreational activities.

**POLICY CONTACT**

Questions about this policy item may be directed to the Child Welfare Policy Mailbox, [Child-welfare-policy@michigan.gov](mailto:Child-welfare-policy@michigan.gov).