

RULE 129. QUALIFIED RESIDENTIAL TREATMENT PROGRAM REVIEW

(a) Applicability. This rule shall apply when a child who is in the custody of the Department of Health and Human Services (the department) under Title 22 of the Maine Revised Statutes is placed in a children's residential treatment program that qualifies as a qualified residential treatment program (QRTP).

(b) Notice of Placement. The department shall file a notice and request for a review hearing (the notice of placement) with the court within 7 days after placing a child into a children's residential treatment program that qualifies as a QRTP as that term is defined in 22 M.R.S. § 4002(6-C). The notice of placement shall state the date of placement, the name of the provider, and the location of the placement. The department shall provide a copy of the notice of placement to all counsel, self-represented parties, and the child's guardian ad litem.

(c) Records for Initial Placement Review. Within 42 days after a child's placement in a QRTP, the department shall file with the court a needs assessment of the child prepared by a qualified individual as that term is defined in 22 M.R.S. § 4002(6-B). The assessment shall comply with all the requirements set forth in 42 United States Code, Section 675a(c), as amended. The needs assessment shall assist the court in determining the following:

- (1) Whether the needs of the child cannot be met through placement in a family foster home as defined in 22 M.R.S. § 8101(3) and instead support placement in a QRTP;
- (2) Whether the placement of the child in the QRTP provides effective and appropriate care in the least restrictive environment; and
- (3) Whether the placement of the child in the QRTP is consistent with the short-term and long-term goals for the child as specified in the permanency plan of the child if a permanency plan has been developed under 22 M.R.S. § 4038-B.

(c) Initial Placement Review. The court shall review every initial placement of a child in a QRTP and determine the appropriateness of the placement within 60 days after the placement as required by 22 M.R.S. § 4038(8).

(d) Records for Continued Placement Review.

(1) After the initial placement review, for as long as a child remains placed in a QRTP, at least 14 days before every judicial review or permanency hearing, the department shall file with the court the following records:

(A) An ongoing needs assessment, as prepared by qualified individuals, of the strengths and needs of the child, which includes records concerning the specific services or treatment being provided to the child at the QRTP and the length of time the child is expected to need the treatment or services; and

(B) Records of the department's specific efforts to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

(2) The records filed under subdivision (d)(1) shall assist the court in determining the following:

(A) Whether the needs of the child cannot be met through placement in a family foster home as defined in 22 M.R.S. § 8101(3) and instead support placement in a QRTP;

(B) Whether the placement of the child in the QRTP provides effective and appropriate care in the least restrictive environment; and

(C) Whether the placement of the child in the QRTP is consistent with the short-term and long-term goals for the child as specified in the permanency plan of the child if a permanency plan has been developed under 22 M.R.S. § 4038-B.

(e) Continued Placement Review. The court shall review the continued placement of a child in a QRTP at every judicial review and permanency hearing pursuant to 22 M.R.S. § 4038(9).

(f) Admissibility of Records. In a hearing to review the initial or continued placement of a child in a QRTP, records of evaluations of the child and medical, behavioral, and mental health records of the child are admissible upon showing that the records contain information relevant to the issues before the court, as long as the records are made available to counsel at least 10 days prior to the hearing.

(g) Notice of Discharge. Upon discharge of a child from a QRTP, the department shall file a notice of discharge with the court no later than the date of the judicial review or permanency hearing, or within 14 days after the discharge, whichever occurs first. The department shall provide a copy of the notice of discharge to all counsel, self-represented parties, and the child's guardian ad litem.

Advisory Note – October 2021

Rule 129 of the Maine Rules of Civil Procedure establishes procedures for review, pursuant to 22 M.R.S. § 4038(8)-(10), of a child's placement in a qualified residential treatment program when the child is in the custody of the Department of Health and Human Services. *See* P.L. 2021, ch. 210 (effective Oct. 18, 2021).