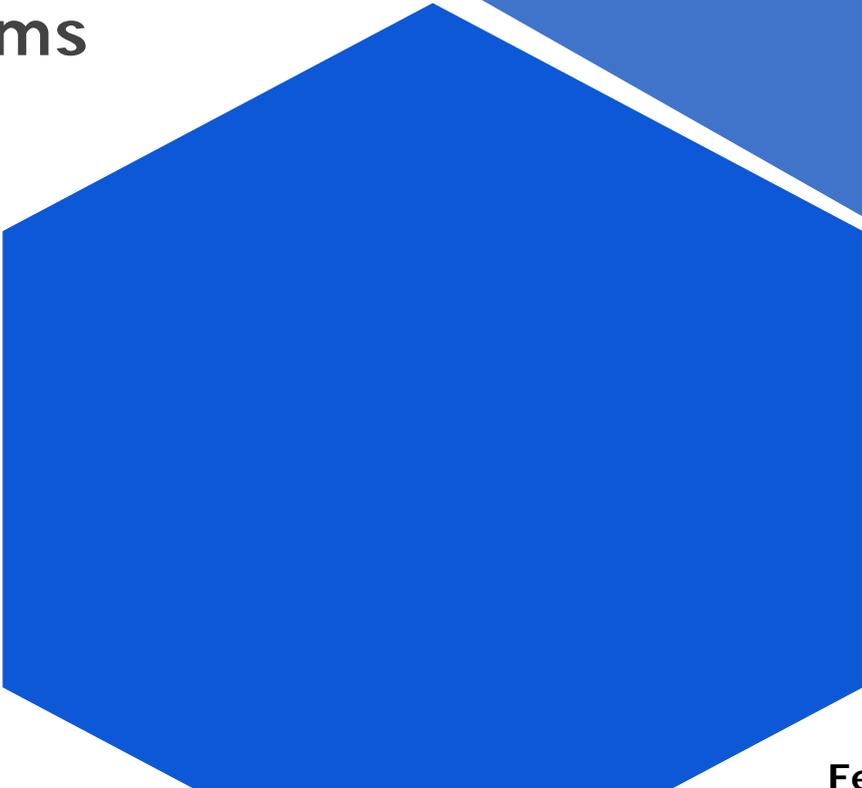




**State Court Administrative Office
Child Welfare Services**



**Guide to
Judicial Oversight
of Qualified
Residential
Treatment
Programs**



February 2021

Qualified Residential Treatment Programs Overview

The federal [Family First Prevention Services Act \(FFPSA\) of 2018](#) includes historic child welfare reform efforts aimed at preventing children from being removed from their homes due to abuse or neglect, and ensuring children are placed in the least restrictive, most family-like placement when foster care is needed. The FFPSA includes four strategies:

- (1) limits funding for congregate care (referred to in Michigan as ‘child caring institutions’ or ‘residential placements’) to programs that are evidence-based, accredited and trauma-informed qualified residential treatment programs (QRTP). QRTP is a new program type established in the FFPSA and is described below.
- (2) expands title IV-E funding to cover certain prevention services that promote family preservation.
- (3) expands reunification services to reduce time in foster care; and
- (4) provides additional support for youth transitioning out of foster care.

This Guide provides information specific to the QRTP provisions of the FFPSA.

Michigan Companion Law

To codify the FFPSA requirements into state law, Michigan enacted Public Act 8 of 2020 which created a new section in the Child Care Organization Act, [MCL 722.123a](#), to govern procedures when a child in foster care is or may be placed into a QRTP.

Public Act 9 of 2020 was also enacted to amend the Juvenile Code, MCL [712A.19\(10\)](#) and [712A.19\(14\)](#), to require the court to approve or disapprove a child’s placement in a QRTP at each dispositional review and permanency planning hearing held for the child.

Federal Funding for Foster Care

Title IV-E of the Social Security Act governs foster care funding.¹ The Act authorizes federal funding to States to pay a portion of foster care costs for certain eligible children. A child must meet specified criteria to be determined IV-E eligible. In addition, to receive IV-E funding, the child must be placed in a IV-E approved placement. Notably, When a foster care case is eligible for title IV-E funding, the state and federal government share in the costs; whereas in non-IV-E cases, the state and county share the placement costs.

The FFPSA prohibits federal IV-E funding for any congregate care placement after the first 14 days unless the placement meets one of the following criteria:²

- The Child Caring Institution (CCI) is a QRTP.
- The CCI specializes in services for pregnant or parenting teens.
- The CCI provides specialized support for victims and those at risk of sex trafficking.
- The youth is at least 18 years old and living in a supported independent living (SIL) setting.
- The child is placed with a parent in a family-based residential treatment facility for substance abuse.³

What is a Qualified Residential Treatment Program?

A QRTP is a new foster care program type established in the FFPSA. To qualify for federal Title IV-E funding beyond 14 days, a child caring institution must comply with all of the following:⁴

- Be licensed and accredited by the Council on Accreditation, Commission on Accreditation of Rehabilitation Facilities, Joint Commission on Accreditation of Healthcare Organizations, or other approved organization by the U.S. Department of Health and Human Services;
- Follow a trauma-informed treatment model designed to address the needs of children with serious emotional or behavioral disorders or disturbances and implement the treatment identified by the qualified individual assessment;
- Employ licensed nursing and other clinical staff who are able to provide services 24 hours, 7 days a week according to the trauma-informed treatment model;
- Facilitate participation of family members in the treatment program

¹ 42 U.S.C. 670-679b.

² 42 U.S.C. 672(k)(2).

³ This placement option is currently funded through another federal fund source.

⁴ 42 USC 672(k)(4), [MCL 722.111\(w\)](#).

if appropriate and aligned with the child's best interests; facilitate and document family outreach (including siblings), including how the family is integrated into the treatment process, as well as post-discharge planning and how sibling connections are maintained;

- Provide for discharge planning and family-based aftercare support for at least 6 months post-discharge; and
- Require all staff to undergo and pass criminal background checks and abuse and neglect clearances.

A QRTP cannot include a detention facility, forestry camp, training school, or any other facility operated primarily for detaining minor children determined to be delinquent.

New Procedures for Placing a Child into a QRTP

[MCL 722.123a](#) governs the procedures when a child in foster care is or may be placed into a QRTP. This includes all of the following:

1. **Qualified Individual Role:** An assessment by a "qualified individual" to determine if placement in a QRTP is appropriate. The assessment must include the following:

- Assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool.
- Determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child, as specified in the child's permanency plan.
- Develop a list of child-specific short-term and long-term mental and behavioral health goals.
- If the qualified individual determines the child should not be placed in a foster family home (i.e., supporting QRTP placement), the assessment must specify in writing all of the following:
 - The reasons why the needs of the child cannot be met by the child's family or in a foster family home (a shortage or lack of foster homes is not an acceptable reason for QRTP placement).

"Qualified Individual" means a trained professional or licensed clinician who is not an employee of the department and who is not connected to, or affiliated with, any placement setting in which children are placed by the department. The individual must maintain objectivity with respect to determining the most effective and appropriate placement for the child.

MCL 722.123a(9)(a).

- Why the proposed placement in a QRTP is the most effective and appropriate level of care in the least restrictive environment; and
- How the QRTP placement is consistent with the short-term and long-term goals for the child as specified in the child's permanency plan.

This assessment must occur within 30 days of a child's placement in a QRTP; otherwise the case cannot be reimbursed with title IV-E funding.

2. Supervising Agency Role: The agency is required to assemble a team of relatives and others involved in the child's life to help the qualified individual with the information needed for the assessment. The team for the child must include all appropriate family members, relatives, and other support adults, as well as professionals who are a resource to the family, such as teachers, medical or mental health providers who have treated the child, or clergy. If the child is age 14 or above, the child may select additional team members. The qualified individual is required to work in conjunction with the child's team while conducting the assessment.

The caseworker must document all of the following in the Case Service Plan:

- Reasonable efforts to identify and include all of the individuals of the child's permanency team, including all contact information for members of the team, and other family members and supportive adults who are not part of the team.
- Evidence that meetings of the team are held at a time and place convenient for family.
- If the permanency goal is reunification, evidence demonstrating that the parent from whom the child was removed provided input on who should be a member of the child's permanency team.
- Evidence that the assessment is determined in conjunction with the child's team.
- Placement preferences of the child's permanency team acknowledging the importance of keeping siblings together, unless there is a court finding that such placement is contrary to the child's best interests.
- If the placement preferences of the child's team and the child are not

the placement setting recommended by the Qualified Individual's (QI) conducting the assessment, the reason why the preferences of the child's team and of the child were not recommended.

The supervising agency will file an ex parte motion ([JC 15](#)) requesting court approval of a child's placement into a qualified residential treatment program.

3. Court Role: Within 60 days of a child's placement in a QRTP, the court must do all of the following:

- a) Review and consider the qualified individual's assessment, determination, and documentation.
- b) Determine whether the needs of the child can be met through placement in a foster family home.
- c) If a foster family home cannot meet the child's needs, determine whether placement into a QRTP:
 - i. Provides the most effective and appropriate level of care for the child in the least restrictive environment; and
 - ii. Is consistent with the goals for the child, as established in the child's permanency plan.
- d) Approve or disapprove of the child's placement in a QRTP.

SCAO Court Form [JC 15](#) (Motion and Authorization/Denial) is being amended to accommodate the judicial findings for initial QRTP placement.

Subsequent Court Reviews

As long as the child remains in a QRTP, at each dispositional review and permanency planning hearing held for the child, the court must approve or disapprove of the child's continued placement in the QRTP.⁵

The supervising agency is required to submit evidence to the court that does the following:

- Demonstrates that ongoing assessment of the strengths and needs of the child continues to support the determination that the child's needs cannot be met through placement in a foster family home.
- Demonstrates that QRTP placement is the most effective and

⁵ MCL [712A.19\(10\)](#) and [712A.19\(14\)](#).

appropriate level of care in the least restrictive environment.

- Demonstrates that QRTP placement is consistent with the short-term and long-term goals for the child, as specified by the permanency plan for the child.
- Documents the specific treatment or service needs that will be met for the child in placement and the length of time the child is expected to need the treatment or services; and
- Documents the reasonable efforts made by the agency 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 after discharge.

SCAO Court Form [JC 19](#) Order After Dispositional Review/Permanency Planning Hearing & [JC 76](#) Order After Posttermination Review/Permanency Planning Hearing are being amended to include a new check box for the court to approve or disapprove a child's QRTP placement at each review hearing.

Limitations on Length of QRTP Stay

State and federal law⁶ places limits on how long children can be in QRTP placements, unless written approval is received from the MDHHS Director, as follows:

- For children 12 years of age and younger, no more than 6 consecutive or non-consecutive months in the QRTP setting.
- For children 13 years of age and older, no more than 12 consecutive months or 18 non-consecutive months in the QRTP setting.

⁶ [MCL 722.123a\(7\)](#); 42 U.S.C. 675a(c)(5).

Resources and Frequently Asked Questions

National Council of Juvenile and Family Court Judges Board of Directors
Resolution: [Judicial Oversight of Children under Court Jurisdiction in Group Facilities](#).

It is recommended that jurists set clear expectations of the agency for family engagement, and individualized, detailed treatment plans for the child. Failure of the agency to do so may equate to a lack of reasonable efforts to achieve permanency. The Court should also ensure that the child and family are engaged in the development of treatment and transition plans, and that they feel that they have the community services and supports to successfully transition home upon exit from a QRTP or foster care family setting. The FFPSA intends for the court to increase judicial oversight to ensure children are not placed in residential treatment programs unnecessarily; and if they must be, to ensure those stays are for short-term treatment purposes only. [Excerpt]

What types of cases do QRTP requirements apply to?

MCL 722.123a requires these procedures to be applied in the case of a child in foster care who is placed in a QRTP.

Do the Procedures Apply Retroactively?

The QI Assessment and initial court approval will not be required for children already placed in a residential setting prior to statewide implementation of QRTP (anticipated April 1, 2021). However, MCL 712A.19 requires the court to approve or disapprove of a child's placement in a QRTP at each dispositional review and permanency planning hearing held for every child, which would include children placed in a residential setting prior to statewide QRTP implementation.

Will there be any residential treatment programs that are not QRTP-compliant?

MDHHS plans to have all residential providers QRTP certified; however, there are a few agencies that may not be certified at the time of statewide QRTP implementation. MDHHS will follow the QRTP process for all referrals for residential placement, regardless of QRTP certification. Some MDHHS private contracted secure facilities may be QRTP compliant, but are not IV-E reimbursable placements.

What happens to funding if a IV-E eligible child is placed in a non-QRTP residential facility once statewide implementation occurs?

The case would not be eligible for IV-E funding, as the placement setting is not reimbursable.

When do the timelines begin for the qualified individual assessment and court approval?

The timing starts from the date the child is placed into a QRTP. The qualified individual's assessment must be completed within 30 days, and the court's approval must be made within 60 days of the child's placement into a QRTP.

Who is responsible for paying for the QRTP assessment?

MDHHS has contracted with an independent entity to conduct the QRTP assessments. MDHHS will pay for the assessment costs.

What if the QI does not approve of the QRTP placement? Can the agency still request QRTP placement approval from the court?

There is nothing in statute that would prevent the supervising agency from filing a motion with the court regardless of whether the qualified individual supports the child's initial placement into a QRTP. The court has the responsibility to determine if QRTP placement is appropriate for the child based on all evidence presented.

Is a Court Hearing Required? How does the agency get court approval?

There is no explicit requirement for the court to hold a hearing to approve a child's initial placement into a QRTP. The proposed amendments to Michigan Court Rules establish an ex parte process.

If the court is making a determination to approve QRTP placement, how do we protect against losing IV-E funding?

The requirement for the court to specifically approve (or disapprove) a QRTP placement promotes the FFPSA goal of reducing the number of children placed in residential facilities through increased judicial oversight. The court's approval or disapproval of the QRTP is **not** considered a court-ordered placement. If the court does not approve a child's placement in a QRTP within 60 days, Title IV-E funding reimbursement for the QRTP placement will end after 2 weeks (the child will remain IV-E eligible but the placement is no longer IV-E reimbursable).

Will the QRTP laws and procedures apply to juvenile justice youth (delinquency cases)?

MDHHS is seeking a legislative amendment to ensure the QRTP requirements apply to juvenile justice youth who are referred under MCL 400.55(h) or committed under 1974 PA 150 to the department for care and placement. Title IV-E funding cannot be claimed for juvenile justice placements that do not follow the QRTP requirements. MDHHS anticipates this statutory change to occur by the April 1, 2021 QRTP implementation date.

When will courts need to begin approving/denying QRTP placements? The law took immediate effect on January 27, 2020.

While the laws are technically in effect, Michigan does not currently have any QRTPs. MDHHS anticipates the QRTP contracts and policies to be in place in April 2021. When the court receives a request to approve a child's placement in a QRTP, the statutory requirements must be followed.