



Dave Heineman
Governor

STATE OF NEBRASKA

STATE FOSTER CARE REVIEW BOARD

Carolyn K. Stitt, Executive Director

521 S. 14th Street, Suite 401
Lincoln, NE 68508-2707
Phone (402) 471-4420
1-800-577-3272
FAX (402) 471-4437

October 22, 2010

Omaha Office

1313 Farnam-on-the-Mall
Omaha, Nebraska 68102-1846
Phone (402) 595-2764
Fax (402) 595-2767

Mr. Kerry Winterer
Chief Executive Officer
Nebraska Department of Health and Human Services
301 Centennial Mall South
Lincoln NE 68509

Senator Mike Flood
Room 2103, State Capitol
Lincoln NE 68509

Senator Lavon Heidemann
Room 1004, State Capitol
Lincoln NE 68509

Senator Tim Gay
Room 1402, State Capitol
Lincoln NE 68509

Dear Mr. Kerry Winterer, Senators Flood, Heidemann, and Gay:

The State Foster Care Review Board (FCRB) is writing to you to express our growing concerns regarding Nebraska's children in foster care. As you know, the FCRB's role is to track, review, report and make recommendations on conditions and outcomes for Nebraska's children in out-of-home care. As of October 10, 2010, this was 4,426 Nebraska children.

In 2008, the Department of Health and Human Services (DHHS) announced an initiative called Out-of-Home Care Reform (Reform). It was indicated that the Reform was designed to improve the manner in which the State of Nebraska purchases services for Child Welfare and Office of Juvenile Services clients. DHHS reported on its plan, process and resulting selection of service providers. DHHS entered into contracts with five lead agencies to provide safety and in-home services to Nebraska's children, families and foster families. The five lead agencies were Boys and Girls of Nebraska, Inc. (Boys and Girls); CEDARS Youth Services (CEDARS); KVC Behavioral Healthcare Nebraska, Inc. (KVC); Nebraska Families Collaborative (NFC) and Visinet, Inc. (Visinet) (Lead Agencies). The service coordination for Nebraska children in out-of-home care began transferring to the lead agencies starting in November 2009 and it was reported to be complete around April 2010.

The Master Operations Manual, as updated July 2010, described DHHS' responsibilities as primarily case management, with the Lead Agency responsible for services and reporting to DHHS. The services provided by the Lead Agencies include out-of-home placements (identification of foster families), transportation, home studies, visitation of children, families and foster families, and other services as outlined in the Manual. Also, according to the contracts, the Lead Agencies receive payment for the agreed to provision of services and the Lead Agencies are responsible for paying all subcontractors, including foster parents.

The implementation of the Reform was besought with problems from the start, as evidenced by CEDARS withdrawing from their contract on April 2, 2010, Visinet declaring bankruptcy and subsequently ceasing operations on April 16, 2010 and now Boys and Girls contract terminated effective October 15, 2010. As a result of the failure of these three Lead Agencies, the Reform has undergone constant change, has not been fully staffed resulting in multiple staff changes, payment delays to foster families and service providers, documentation issues, difficulties accessing services, visitation supervision issues and delayed permanency.

The FCRB, since the beginning of the Reform effort, has been understanding and patient as the Reform was implemented, contractors' personnel were trained and some consistency in operations was achieved and communication issues addressed.

We have communicated directly to DHHS' staff and leadership and to the Lead Agencies issues regarding missing documentation, concerns related to service coordinator staff changes, specific issues related to individual cases that merited immediate attention, and the FCRB assisted with training on plan requirements. The FCRB staff has outlined processes and worked with DHHS and Lead Agencies' staff regarding documentation, processes and reviews, so that our findings would be as accurate as possible and to ensure that Nebraska's children were safe and that children, families and foster families received the court ordered services in order for the children to achieve permanency.

On October 15, 2010, DHHS issued a press release titled *DHHS Announces Next Steps to Strengthen Child Welfare/Juvenile Services Reform*. In this announcement, it stated that \$9.8 million in emergency federal funding and \$6 million dollars of state general funds was received. We applaud the receipt of this much needed additional funding to stabilize the current situation, which we see as a crisis in care, particularly for the children in Central, Western, and Northern Nebraska where Boys and Girls was the Lead Agency until October 15, 2010. DHHS also announced a reduction of staff and transfer of more responsibilities to the remaining service agencies, further accelerating the Reform effort.

The State Foster Care Review Board makes the following observations and recommendations regarding Nebraska's children in out-of-home care:

FCRB recommendation #1: We recommend that focused efforts be made to ensure that the children previously assigned to Boys and Girls have been transitioned to an assigned case manager/service coordinator. Additionally, some assurances that the children previously assigned to Visinet and CEDARS have appropriate oversight.

This is a major concern for children's safety. Pursuant to the statutes, DHHS or the Lead Agency is required to report placement changes within three days and provide a more detailed report monthly regarding the child's permanency objective, court ordered services, placement reports, visitation, etc. This information has consistently been missing from the case files; consequently, we cannot determine if the children are safe in their placements, if appropriate services are being provided and if progress is being made toward permanency.

The FCRB has diligently worked with DHHS and the Lead Agencies to address documentation missing in the official record, with procedures developed in June to further facilitate; however, for 340 reviews conducted in September 2010

- 34.7 percent of the cases did not have home study documentation,
- 30.6 percent did not have immunization records,
- 29.4 percent did not have placement reports,
- 27.6 percent did not have visitation reports, etc.

In early October 2010, placement information was still not current on the N-FOCUS system for a number of children whose lack of placement information had been previously identified and forwarded for correction. This is non-compliance with FCRB statutory and contractual requirements: "The contractor agrees they are subject to and will comply with state law regarding the FCRB."

FCRB recommendation #2: We recommend, in light of the failure of three of the original Lead Agency contracts, that the current system be stabilized, that a thorough review of the Reform effort to date be conducted and that DHHS in conjunction with all stakeholders, including the court system and the Legislature, analyze the failures related to the implementation of the Reform and prepare a phased-in approach to privatization. It is unfortunate that DHHS is accelerating the Reform effort as stated in the October 15, 2010, announcement including planned layoffs of trained and experienced case management staff.

The FCRB has received numerous reports from guardian ad litem, foster parents and other participants of serious disruptions to the system of care for Nebraska's children. Foster parents are being paid less to do more work, like supervise parental visitation. It has also been reported that because of the payment issues (no, reduced, or late payments) by Lead Agencies, that there is difficulty finding appropriate placements for children as current foster parents have stated that they are not taking additional children and new

foster families have not been recruited. Additionally, the same concerns apply to finding other service providers including visitation workers, dentists, doctors, and others.

Payment and funding issues are negatively impacting children's cases.

- In the past few months over 50 foster parents have directly reported to FCRB staff their intention to cease foster parenting, citing payment issues (both problems getting paid and the decreased amount of pay), the logistics of providing transportation and being requested to provide visitation supervision.
- Between April 1 and May 20, 2010, foster parents made at least 80 contacts to the FCRB seeking assistance with getting past-due payments, or getting previous reimbursement rates restored.
- Foster parents report they are receiving less reimbursement than prior to the reform. They also report they no longer receive respite care or clothing reimbursement.
- Therapists and other service providers report leaving the foster care system due to payment issues, or issues in which certain contractors will only utilize particular therapists with whom they presumably have an economic relationship.
- Several relative placements have contacted the FCRB to describe the difficulty caring for children when receiving only \$10 per day reimbursement, particularly grandparents who are on a fixed income.
- Some bio-parents have reported they are not being provided assistance with transportation to visitation with their children or to services.
- Visitation sessions have been cancelled due to a lack of transportation driver.

Capacity. It is difficult to envision how agencies that are struggling to provide limited services for a portion of the children in out-of-home care could quickly build the capacity and take on additional duties as complex as case management.

There is notable documentation of the lack of a statewide service system. Service providers have been lost as a result of the way reform has been implemented. Asking an already stretched service system to build a new case management infrastructure is ill-timed and ill-advised.

Case transfers: Over 2,700 children have been directly affected by having their Lead Agency change at least once. Those changes result in having to work with new staff who lack case knowledge resulting in key documentation not being kept and services not being delivered.

Visinet was to provide services to approximately 1,000 children and CEDARS were contracted to provide services to approximately 300 children in out-of-home care. It was reported that most of these children were transferred back to DHHS personnel for service coordination at the end of those contracts.

Boys and Girls was contracted to provide services for approximately 1,400 children in Western, Central, and Northern Nebraska. Upon termination of this contract the services stopped and service coordination ended.

With the recently announced layoffs of DHHS personnel, in the FCRB's opinion there is little incentive for current staff to take on this added work, or to stay until there has been appropriate transition and training of the expanded services to the remaining Lead Agencies or to the identification and contracting with new service provider(s).

Communication issues: Bio-parents, foster parents, guardians ad litem, subcontractor staff, therapists and other professionals consistently report a lack of communication regarding the cases and a lack of communication regarding the roles of caseworkers, service coordinators, and subcontractors.

Missing evidence: Reviews show evidence and essential information is missing. For the 401 children reviewed in August 2010:

- There were no placement reports for 131 (32.7%) of the children reviewed in August.
- There were no visitation reports in the DHHS files for 105 (26.1%) of the 401 children reviewed in August.
- There were no medical records for 104 (25.9%) of the children reviewed in August.

Role clarification: The contractors are not fulfilling the appropriate roles as outlined in the Operations Manual provided by the state. Evidence of this non-compliance is in the missing placement reports and visitation reports as identified in this letter.

Training issues: Some service coordinators have indicated that they have not been adequately trained and many lack experience on 1) the legal system, 2) the importance of providing critical evidence to judges and prosecutors, and/or 3) being aware of and complying with court orders.

The contractors' lack of training of their staff and the lapses in oversight by DHHS within the last few months of reform does not give confidence that these issues will be resolved in the near future.

FCRB recommendation #3: We request that DHHS delineate how the contractors are to provide services and specify how DHHS will evaluate service provision to avoid negative outcomes for children and families.

DHHS has the ultimate responsibility for children's safety and well-being, and needs to provide vigilant oversight accordingly. DHHS has not demonstrated that it has a structure to provide meaningful oversight for the existing contracts. It has not evaluated its existing contracts for precise, clearly stated expectations. Communication gaps between DHHS and contractors have been identified in the past, and continue to exist today. Managed care funding issues are a continuing problem.

FCRB recommendation #4: We request that the Appropriations Committee and the HHS Committee of the Legislature, along with the Performance Audit Committee review the Reform effort to date to determine if the Reform can meet cost savings expectations, and meet the State's responsibility of being custodian of these children.

Rationale:

As Casey Family Programs found in *An Analysis of the Kansas and Florida Privatization Initiatives, April 2010*, Kansas and Florida each more than doubled their child welfare budgets in the first 10 years of privatization.

In the DHHS news release it was stated that an additional \$6 million dollars will be redirected towards reform contracts. As shown above, the actual costs experienced by other states are greater than that; additionally, DHHS has not explained how the Reform effort will be funded in the future. Finally, there has been no accounting for the other millions of dollars spent on reform to date. Other costs resulting from the poorly implemented Reform to date include:

- missing documentation and evidence needed to make informed decisions,
- service providers leaving the industry,
- losing well-trained, qualified staff and service providers due to the multiple role changes, workloads, and payment issues.

FCRB recommendation #5: We request the State Auditor examine where state and federal dollars have been spent on reform to date, and examine the proposed contracts to extend reform.

Millions of dollars have been spent on reform, and Nebraska still lacks sufficient placements and services for children in out-of-home care.

FCRB recommendation #6: We request that DHHS provide the Legislature and the citizens of Nebraska with a more comprehensive explanation of the risks and rewards regarding their outsourcing proposal for review before such a plan is implemented, including the number of children, bio-families, and foster families affected, and whether out-of-state based contractors will be utilized.

Transparency is important in State government. In order to provide a more comprehensive evaluation, DHHS will need to develop a plan that is more detailed and involves more genuine input from a variety of stakeholders.

As Casey Family Programs found in *An Analysis of the Kansas and Florida Privatization Initiatives, April 2010*:

“Based on the interviews of those involved in the Kansas and Florida initiatives, a broad-based planning process with the active engagement of all relevant stakeholders is recommended. Kansas efforts found that without initial buy-in and involvement, courts, foster families, schools, and other human service providers were concerned that the private providers would not be able to deliver adequate services. Well into the Kansas implementation, lead agencies had to conduct aggressive public relations campaigns to acquire the trust of the community, adding yet another stressor to the private providers.”

The FCRB is preparing a report with the data gathered since the implementation of the Reform. The data is gathered as part of the FCRB review process. This report will be available in December and issued with our annual report. The data is supportive of the concerns described above.

Sincerely,



Alfredo Ramirez
Chairman, State Foster Care Review Board
and on behalf of the Board Members of the State Foster Care Review Board



Carol Stitt
Executive Director State Foster Care Review Board

cc:

The Hon. Dave Heineman
Governor of Nebraska
State Capitol
Lincoln NE 68509

Chief Justice Mike Heavican
State Capitol
Lincoln NE 68509

Todd Reckling, Director, Division of Children and Family Services
Department of Health and Human Services
301 Centennial Mall South
Lincoln NE 68509

State Auditor Mike Foley
State Capitol Room 2303
Lincoln NE 68509

Appropriations Committee members:

Senator John Harms, State Capitol, Room 2015, Lincoln NE 68509
Senator Danielle Conrad, State Capitol, Room 1008, Lincoln NE 68509
Senator Tony Fulton, State Capitol, Room 2107, Lincoln NE 68509
Senator Tom Hansen, State Capitol, Room 1012, Lincoln NE 68509
Senator Heath Mello, State Capitol, Room 1206, Lincoln NE 68509
Senator John Nelson, State Capitol, Room 2028, Lincoln NE 68509
Senator Jeremy Nordquist, State Capitol, Room 1208, Lincoln NE 68509
Senator John Wightman, State Capitol, Room 2010, Lincoln NE 68509

Health and Human Services Committee members:

Senator Dave Pankonin, State Capitol, Room 2004, Lincoln NE 68509
Senator Kathy Campbell, State Capitol, Room 1019, Lincoln NE 68509
Senator Mike Gloor, State Capitol, Room 1523, Lincoln NE 68509
Senator Gwen Howard, State Capitol, Room 1124, Lincoln NE 68509
Senator Arnie Stuthman, State Capitol, Room 1101, Lincoln NE 68509
Senator Norm Wallman, State Capitol, Room 1406, Lincoln NE 68509

The letter also will be posted on the FCRB website, www.fcrb.nebraska.gov.