



'TREMENDOUS PROGRESS': Benefits to Children from Federal Oversight of Michigan Foster Care System

By Charles P. Farrar

In 2006, an advocacy organization known as Children's Rights filed a federal class action lawsuit in the U.S. District Court for the Eastern District of Michigan against the Michigan Department of Health and Human Services, exposing systemic deficiencies in the state's foster care system.

Dwayne B. v. Granholm, Case No. 2:06-CV-13548 (ED Mich). On behalf of all children then in the department's care, the complaint identified a disturbing litany of administrative failures, including a failure to maintain an adequate number of foster homes; the existence of excessively high caseloads and turnover rates for workers; poor monitoring of children's safety; poor planning for transitioning children toward permanent homes; insufficient compensation for foster parents; and the failure by the department to collect available federal funds.

The complaint further documented examples where these failures effectively harmed children, including those related to widespread instances of in-care maltreatment and neglect; failures to provide health care services for children; and unnecessarily long lengths of stay in care.

The result was a settlement agreement entered by the Hon. Nancy G. Edmunds in 2008 as a consent decree. It specifically outlined measurable tasks that the department was required to implement, with the aim of a comprehensive and systemic reform. The department agreed to accept federal oversight until these requirements were demonstrably met.

Generally, the consent decree ordered the department to demonstrate statewide measurable improvements relative to the following items: maltreatment in care; timeliness and permanency of family reunification; timeliness toward the goal of adoption where appropriate; placement stability of children while in care; timeliness and reliability of response to reports of child abuse and neglect; establishment of appropriate standards for staff qualifications, training, caseloads, and supervision; and structural reform of the department itself.

Continued judicial monitoring of these items resulted successively in a 2011 modified settlement agreement; a 2016 implementation, sustainability, and exit plan; a 2019 modified implementation, sustainability, and exit plan; and a 2024 stipulated order amending the

modified implementation, sustainability, and exit plan — each plan superseding the previous one.

MECHANISM AND METRICS OF MONITORING COMPLIANCE

The court-approved plans have tracked the course of the department's successfully addressing the documented deficiencies and a commensurate relaxing of the grip of federal oversight.

The mechanism of this work involves the production of reports prepared by court-appointed monitors known as the Michigan Monitoring Team. Pursuant to the above-named plans, the monitors conduct ongoing verification activities and report on progress and compliance. Four such reports were produced under the original consent decree; six under the 2011 modified settlement agreement; three under the 2016 implementation, sustainability, and exit plan; and seven under the 2019 modified implementation, sustainability, and exit plan.

To give an idea of the rigorous scope of this monitoring, the 2011 settlement agreement identified a total of 238 "Measurable Items," all connected to the items addressed in the Children's Rights complaint.

RECENT REPORTS

Recent reports (including a report submitted in advance of the 2024 stipulated order and a June 30, 2024, updated report) highlight improvements in key areas. Included among them are a reduction in foster care workers' caseloads, a 98% rate of timely initiation of abuse or neglect investigations, and a 94% rate of timely completion of investigations. These outcomes were achieved in part from the establishment of a centralized intake unit for the processing of reports of abuse and neglect. And the number of children in care was reported to be 9,445, down from 19,000 when the complaint was filed. Significantly, the number of children in congregate care facilities had also decreased in that same period from 1,200 to 448. Noteworthy, too, is the substantial increase in financial support to foster parents, including a 20% increase from fiscal year 2023 to 2024.

CURRENT STATE OF FEDERAL OVERSIGHT

The essence of the 2019 plan and the 2024 stipulated order is to organize the current Measurable Items into three categories — commitments to be achieved, commitments to be maintained, and structures and policies — and to usher the progress from one category to the next.

The "commitments to be achieved" category

includes requirements outlined in the consent decree whose outcomes have not yet been achieved. Ongoing monitoring of these commitments is required.

The "commitments to be maintained" category includes requirements that have been recently achieved but compliance with which requires ongoing monitoring.

The "structures and policies" category includes items no longer subject to monitoring but, rather, now incorporated into the department's own ongoing maintenance measures.

Per the 2024 stipulated order, there are 43 Measurable Items (down from the 74 identified in the 2019 plan and, as mentioned above, from the original 238): 22 in the "commitments to be achieved" category (down from 29 in 2019); one in the "commitments to be maintained" category (down from 13 in 2019); and 20 new items in structures and policies (in addition to the 32 already in that category). In other words, 23 Measurable Items remain subject to monitoring. These include such things as preservation of sibling placement, adequate maintenance of updated children's health records, support for transitioning to adulthood, and establishment of manageable caseloads for adoption workers.

Having studied the achievement of the vast majority of the original requirements and the progressive rolling of Measurable Items from one category to the next, Judge Edmunds, upon entering the 2024 stipulated order, praised the department for making "tremendous progress."

RETURN TO INDEPENDENCE

Once the department has demonstrated 18 months of compliance with respect to each of the remaining Measurable Items, federal oversight will altogether terminate. With so many of the reforms solidly in place and unburdened by compliance efforts, the department will then, in the words of Janet Reynolds Snyder, the executive director of the Michigan Federation for Children and Families, have "more resources to work directly with children and families," which, she adds, "is, of course, good for our communities."¹²



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