Children's Rights Settlement - Monitoring Report

(FY2022 Appropriation Act - Public Act 87 of 2021)

January 20, 2021
Concurrent with Public Release

Sec. 588. (1) Concurrently with public release, the department shall transmit all reports from the court-appointed settlement monitor, including, but not limited to, the needs assessment and period outcome reporting, to the state budget office, the senate and house appropriations subcommittees on the department budget, and the senate and house fiscal agencies and policy offices, without revision.
(2) By October 1 of the current fiscal year, the department shall submit to the senate and house appropriations subcommittees on the department budget, the senate and house fiscal agencies, and the policy offices a detailed plan that will terminate and dismiss with prejudice the settlement by September 30 of the current fiscal year.

Progress of the Michigan Department of Human Services

Monitoring Report for *Dwayne B. v. Whitmer*

MODIFIED IMPLEMENTATION, SUSTAINABILITY, AND EXIT PLAN

MISEP 19

JULY TO DECEMBER 2020

ISSUED January 20, 2022

PUBLIC CATALYST

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Introduction

This document serves as the sixteenth report to the Honorable Nancy G. Edmunds of the United States District Court for the Eastern District of Michigan in the matter of *Dwayne B. v. Whitmer*, covering Period 19 (July 1, 2020 to December 31, 2020) under the Modified Implementation, Sustainability and Exit Plan (MISEP). On June 27, 2019, the State of Michigan and the Michigan Department of Health and Human Services (DHHS) and Children's Rights, counsel for the plaintiffs, jointly submitted to the court the MISEP, which establishes a path for the improvement of Michigan's child welfare system. Judge Edmunds entered an order directing implementation of the MISEP following its submission by the parties.

Judge Edmunds had previously approved an Initial Agreement among the parties on October 24, 2008, a subsequent Modified Settlement Agreement on July 18, 2011, and an Implementation, Sustainability and Exit Plan (ISEP) on February 6, 2016. DHHS is a statewide multi-service agency providing cash assistance, food assistance, health services, child protection, prevention, and placement services on behalf of the State of Michigan. Children's Rights is a national advocacy organization with experience in class action reform litigation on behalf of children in child welfare systems.

In sum, the MISEP:

- Provides the plaintiff class relief by committing to specific improvements in DHHS' care for vulnerable children, with respect to their safety, permanency, and well-being;
- Requires the implementation of a comprehensive child welfare data and tracking system, with the goal of improving DHHS' ability to account for and manage its work with vulnerable children;
- Establishes benchmarks and performance standards that the State committed to meet to address risks of harm to children's safety, permanency, and well-being; and
- Provides a clear path for DHHS to exit court supervision after the successful achievement and maintenance of Performance Standards for each commitment agreed to by the parties in the MISEP.

The sections of the MISEP related to monitoring and reporting to the court remain largely unchanged from the parties' prior agreement, as do the sections regarding Enforcement, Dispute Resolution, and Attorneys' Fees.

Pursuant to the MISEP, the court appointed Kevin Ryan and Eileen Crummy of Public Catalyst to continue to serve as the court's monitors, charged with reporting on DHHS' progress

implementing its commitments. The monitors and their team are responsible for assessing the state's performance under the MISEP. The parties have agreed that the monitors shall take into account timeliness, appropriateness, and quality in reporting on DHHS' performance. Specifically, the MISEP provides that:

> "The monitors' reports shall set forth the steps taken by DHHS, the reasonableness of these efforts, and the adequacy of support for the implementation of these steps; the quality of the work done by DHHS in carrying out those steps; and the extent to which that work is producing the intended effects and/or the likelihood that the work will produce the intended effects."

Following the onset of the COVID-19 pandemic in Michigan and upon agreement of the parties, on November 18, 2020, Judge Edmunds entered a "Stipulated Order Regarding Commitment Modifications due to COVID-19 to the 07/01/2020 - 12/31/2020 Reporting Period of the MISEP," which recognized the potential impact of the health crisis on implementation of the MISEP.[1]

This report to the Court reflects the efforts of the DHHS leadership team and the status of Michigan's reform efforts as of December 31, 2020. Defined as MISEP Period 19, this report includes progress for the second half of 2020.

Summary of Progress and Challenges

Michigan DHHS met required performance standards in eight of 32 areas monitored for compliance in MISEP Period 19.[2] Among areas where the agency has achieved high levels of performance are:

- *Caseloads:* DHHS continued to exceed the caseload standards established for child protective service (CPS) and purchase of service (POS) workers. Additionally, DHHS came very close to meeting the standards set for licensing and foster care workers.
- *Generation of Data*: The Department continued to produce accurate and verifiable data and has made significant progress in this area.

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[1] The Stipulated Order states, "The Parties agree that performance on the following MISEP provisions may be impacted by COVID-19: 6.16, 6.21(a), 6.21(b), 6.22(a), 6.22(b), 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.29, 6.36(a), 6.4, and 6.37 (the "COVID-impacted commitments"). The parties anticipate DHHS performance on COVID-impacted commitments may be skewed as a result of the pandemic. The parties agree that for the Relevant Period, DHHS should not be penalized for negatively skewed performance. The parties agree that positively skewed performance should likewise not be used as a basis for exiting eligible provisions from court oversight. Accordingly, the parties agree that DHHS performance on COVID-impacted commitments will not be used by either party to demonstrate sustained compliance or non-compliance under the terms of the MISEP."

[2] There are 15 provisions where performance is described in this report but not assessed for compliance with the respective performance standards as these commitments are COVID-impacted per Judge Edmund's November 18, 2020 stipulated order.

- Additionally, the monitoring team identified commitments eligible for movement based on sustained performance by DHHS. The MISEP allows that for certain commitments, once DHHS has maintained performance at the Designated Performance Standard for two consecutive reporting periods, the commitment will be moved to Section 4 of the MISEP (Structures and Policies). Three commitments meet these criteria: CPS Investigations and Screening, PCU (6.12.b); Data Generation (6.35); and Support for Transitioning to Adulthood, Medicaid Access (6.36.b).[3] The monitors recommend to the court and the parties that these provisions be moved to "Structures and Policies."

The MISEP includes commitments that are important to children's safety and permanency which have still not taken hold. The monitoring team observes, in particular, these challenges:

- *Maltreatment in Care (MIC) Investigations:* The monitoring team reviewed a sample of unsubstantiated MIC investigations from FFY 2020 and found that 32 (24.6 percent) of 130 randomly selected investigations were deficient. This includes 19 investigations the monitoring team determined met the criteria for substantiation and 13 investigations where there was insufficient information gathered to render a finding.
- *Contract Oversight:* In 2020, DHHS' contract evaluations of Child Caring Institutions (CCIs) and private Child Placing Agencies (CPAs) providing placements and services to Plaintiffs continued to be inconsistent, at times ineffective, and in numerous instances did not ensure the safety and well-being of Plaintiffs. The monitoring team reviewed a sample of licensing investigations conducted at CCIs and corresponding Corrective Action Plans (CAPS) intended to address established violations. The monitoring team found that CAP content and follow-up was often delayed, ineffective, deficient, lacked specificity, and did not remediate risk to children. Frequently, repeat violations of a serious nature, such as physical intervention or improper restraints causing injuries, recurred despite the CAPs.
- *Permanency within 12 Months:* Permanency Indicator One measures the percent of children who enter foster care within a 12-month period who are discharged to permanency[4] within 12 months of their entry date. Based on the data files provided by DHHS, the monitoring team calculated that of the 5,972 children who entered foster care between October 1, 2017 and September 30, 2018, 1,636 children (27.4 percent) exited to permanency within 12 months of their entry. DHHS did not meet the MISEP standard

[3] Two commitments, 6.12.b and 6.36.b, met the criteria for movement to Structures and Policies after performance was achieved in Periods 17 and 18. One commitment, 6.35, met the criteria after performance was achieved in Periods 18 and 19.

[4] The parties agreed to utilize the federal Child and Family Services Review Round 3 outcome standard for Permanency Indicator One. The federal definition of permanency includes children's discharges from foster care to reunification with parents or primary caregivers, living with a relative, guardianship, or adoption.

of 40.5 percent for this commitment. To meet the performance standard, DHHS should have achieved permanency for an additional 783 children.

Summary of Commitments

Section	Commitment	Period 19 Performance	Period 19 Achieved	Report Page
5.1	DHHS shall conduct contract evaluations of all CCIs and private CPAs providing placements and services to Plaintiffs to ensure, among other things, the safety and well-being of Plaintiffs and to ensure that the CCI or private CPA is complying with the applicable terms of this Agreement.	--	No	24
5.2	DHHS shall commence all investigations of report of child abuse or neglect within the timeframes required by state law. The designated performance standard is 95%.	97.7%	Yes	45
5.3	95% of CPS caseworkers assigned to investigate allegations of abuse or neglect, including maltreatment in care, shall have a caseload of no more than 12 open investigations.	100.0%	Yes	19
5.4	95% of CPS caseworkers assigned to provide ongoing services shall have a caseload of no more than 17 families.	99.8%	Yes	20
5.5	95% of POS workers shall have a caseload of no more than 90 children.	98.6%	Yes	20
5.6	95% of licensing workers shall have a workload of no more than 30 licensed foster homes or homes pending licensure.	93.6%	No	20
5.7	DHHS shall require CCIs to report to DCWL all uses of seclusion or isolation. If not reported, DCWL shall take appropriate action to address the failure of the provider to report the incident and to assure that the underlying incident has been investigated and resolved.	--	Yes	30
6.1	DHHS shall ensure that of all children in foster care during the applicable federal reporting period, DHHS will maintain an observed rate of victimization per 100,000 days in foster care less than 9.67, utilizing the CFSR Round 3 criteria.	DHHS reported an observed victimization rate of 4.69 per 100,000 days in foster care.	The monitors determined that 32 (24.6 percent) of 130 sampled investigations were deficient. The monitors cannot validate the State's performance without further reviews of maltreatment investigations.	21
6.2	Until Commitment 6.1 is achieved, DHHS, in partnership with an independent entity, will generate, at least annually, a report that analyzes maltreatment in care data to assess risk factors and/or complete root-cause analysis of maltreatment in care. The report will be used to inform DHHS practice. The first report will be issued no later than June 1, 2020.	--	Due in MISEP 20	--

Section	Commitment	Period 19 Performance	Period 19 Achieved	Report Page
6.3	DHHS shall achieve an observed performance of at least the national standard (40.5%) on CFSR Round Three Permanency Indicator One (Of all children entering foster care in a 12-month period, what percent discharged to permanency within 12 months of entering foster care?)	27.4%	No	24
6.4	DHHS will maintain a sufficient number and array of homes capable of serving the needs of the foster care population, including a sufficient number of available licensed placement within the child's home community for adolescents, sibling groups, and children with disabilities. DHHS will develop for each county and statewide an annual recruitment and retention plan, in consultation with the Monitors and experts in the field, and subject to approval by the Monitors. DHHS will implement the plan, with interim timelines, benchmarks, and final targets, to be measured by the Monitors based on DHHS's good-faith efforts to meet the final targets set forth in the plan.	--	N/A – COVID-Impacted	33
6.5	Children in the foster care custody of DHHS shall be placed only in a licensed foster home, a licensed facility, pursuant to an order of the court, or an unlicensed relative.	N/A	N/A	38
6.6.a	Siblings who enter placement at or near the same time shall be placed together unless specified exceptions are met. The designated performance standard is 90%.	73.4%	No	38
6.6.b	If a sibling group is separated at any time, except for the above reasons, the case manager shall make immediate efforts to locate or recruit a family in whose home the siblings can be reunited. These efforts shall be documented and maintained in the case file and shall be reassessed on a quarterly basis. The Monitors will conduct an independent qualitative review to determine compliance with this commitment. The designated performance standard is 90%.	29.8%	No	38
6.7	No child shall be placed in a foster home if that placement will result in: (1) more than three foster children in that foster home, (2) a total of six children, including the foster family's birth and adopted children, or (3) more than three children under the age of three residing in that foster home. The designated performance standard is 90%.	90.0%	Yes	39
6.8	Children shall not remain in emergency or temporary facilities, including but not limited to shelter care, for a period in excess of 30 days, unless specified exceptions apply. No child shall remain in a shelter in excess of 60 days. The designated performance standard is 95%.	62.9%	No	39

Section	Commitment	Period 19 Performance	Period 19 Achieved	Report Page
6.9	Children shall not be placed in an emergency or temporary facility, including but not limited to shelter care, more than one time within a 12-month period, unless specified exceptions apply. Children under 15 years of age experiencing a subsequent emergency or temporary-facility placement within a 12-month period may not remain in an emergency or temporary facility for more than 7 days. Children 15 years of age or older experiencing a subsequent emergency or temporary-facility placement within a 12-month period may not remain in an emergency or temporary facility for more than 30 days.	2.9%	No	40
6.10.a	When placing a child with a relative who has not been previously licensed as a foster parent, DHHS shall visit the relative's home to determine if it is safe prior to placement; check law enforcement and central registry records for all adults residing in the home within 72 hours following placement; and complete a home study within 30 days. The designated performance standard is 95%.	41.5%	No	35
6.10.b	When placing a child with a relative who has not been previously licensed as a foster parent, a home study will be renewed every 12 months for the duration of the child's placement with the relative. The designated performance standard is 95%.	14.1%	No	37
6.11	DHHS shall complete all investigations of reports of child abuse or neglect within the required timeframes. The designated performance standard is 90%.	96.9%	Yes	45
6.12.a	DHHS shall investigate all allegations of abuse or neglect relating to any child in the foster care custody of DHHS. DHHS shall ensure that allegations of maltreatment in care are not inappropriately screened out for investigation. The Monitors will conduct an independent qualitative review to determine compliance with this commitment. The designated performance standard is 95%.	87.9%	No	45
6.12.a	When DHHS transfers a referral to another agency for investigation, DHHS will independently take appropriate action to ensure the safety and well-being of the child. The Monitors will conduct an independent qualitative review to determine compliance with this commitment. The designated performance standard is 95%.	85.5%	No	45
6.12.b	DHHS will maintain a Placement Collaboration Unit (PCU) to review and assess screening decisions on plaintiff-class children who are in out-of-home placements and to ensure safety and well-being is addressed on those transferred complaints. The PCU will review 100% of cases until reconsideration for complaints involving plaintiff class children placed out of home are less than 5%.	N/A	Eligible to move to "Structures and Policies"	47

Section	Commitment	Period 19 Performance	Period 19 Achieved	Report Page
6.13	95% of foster care, adoption, CPS, POS, and licensing supervisors shall be responsible for the supervision of no more than five caseworkers.	88.2%	No	19
6.14	95% of foster care workers shall have a caseload of no more than 15 children.	94.4%	No	19
6.15	95% of adoption caseworkers shall have a caseload of no more than 15 children.	81.5%	No	19
6.16	Supervisors shall meet at least monthly with each assigned worker to review the status and progress of each case on the worker's caseload. Supervisors shall review and approve each service plan. The plan can be approved only after the supervisor has a face-to-face meeting with the worker, which can be the monthly meeting. The designated performance standard is 95%.	86.3%, 94.4%	N/A – COVID-Impacted	41
6.17	DHHS shall complete an Initial Service Plan (ISP), consisting of a written assessment of the child(ren)'s and family's strengths and needs and designed to inform decision-making about services and permanency planning, within 30 days after a child's entry into foster care. The designated performance standard is 95%.	83.0%	No	42
6.18	For every child in foster care, DHHS shall complete an Updated Service Plan (USP) at least quarterly. The designated performance standard is 95%.	88.0%	No	42
6.19	Assessments and service plans shall be of sufficient breadth and quality to usefully inform case planning and shall accord with the requirements of 42 U.S.C. 675(1). To be measured through a QSR. The designated performance standard is 90%.	57.6%	No	31
6.20	DHHS shall ensure that the services identified in the service plan are made available in a timely and appropriate manner to the child and family and shall monitor the provision of services to determine whether they are of appropriate quality and are having the intended effect. To be measured through a QSR. The designated performance standard is 83%.	51.7%	No	31
6.21.a	Each child in foster care shall be visited by a caseworker at least twice per month during the child's first two months of placement in an initial or new placement. The designated performance standard is 95%.	89.3%	N/A – COVID-Impacted	42
6.21.a	Each child in foster care shall be visited by a caseworker at their placement location at least once per month during the child's first two months of placement in an initial or new placement. The designated performance standard is 95%.	91.5%	N/A – COVID-Impacted	42
6.21.a	Each child in foster care shall have at least one visit per month that includes a private meeting between the child and caseworker during the child's first two months of placement in an initial or new placement. The designated performance standard is 95%.	89.0%	N/A – COVID-Impacted	42

Section	Commitment	Period 19 Performance	Period 19 Achieved	Report Page
6.21.b	Each child in foster care shall be visited by a caseworker at least once per month. The designated performance standard is 95%.	97.1%	N/A – COVID-Impacted	42
6.21.b	Each child in foster care shall be visited by a caseworker at their placement location at least once per month. The designated performance standard is 95%.	91.7%	N/A – COVID-Impacted	42
6.21.b	Each child in foster care shall have at least one visit per month that includes a private meeting between the child and caseworker. The designated performance standard is 95%.	88.7%	N/A – COVID-Impacted	42
6.22.a	Caseworkers shall visit parents of children with a goal of reunification at least twice during the first month of placement, unless specified exceptions apply. The designated performance standard is 85%.	85.2%	N/A – COVID-Impacted	43
6.22.a	Caseworkers shall visit parents of children with a goal of reunification at least once in the parent's home during the first month of placement, unless specified exceptions apply. The designated performance standard is 85%.	45.6%	N/A – COVID-Impacted	43
6.22.b	Caseworkers shall visit parents of children with a goal of reunification at least once a month, following the child's first month of placement, unless specified exceptions apply. The designated performance standard is 85%.	74.1%	N/A – COVID-Impacted	43
6.23	DHHS shall ensure that children in foster care with a goal of reunification shall have at least twice-monthly visitation with their parents, unless specified exceptions apply. The designated performance standard is 85%.	62.0%	N/A – COVID-Impacted	44
6.24	DHHS shall ensure that children in foster care who have siblings in custody with whom they are not placed shall have at least monthly visits with their siblings who are placed elsewhere in DHHS foster care custody, unless specified exceptions apply. The designated performance standard is 85%.	69.2%	N/A – COVID-Impacted	44
6.25	At least 85% of children shall have an initial medical and mental health examination within 30 days of the child's entry into foster care.	69.8%	N/A – COVID-Impacted	47
6.25	At least 95% of children shall have an initial medical and mental health examination within 45 days of the child's entry into foster care.	77.9%	N/A – COVID-Impacted	47
6.26	At least 90% of children shall have an initial dental examination within 90 days of the child's entry into care unless the child has had an exam within six months prior to placement or the child is less than four years of age.	56.7%	N/A – COVID-Impacted	47

Section	Commitment	Period 19 Performance	Period 19 Achieved	Report Page
6.27	For children in DHHS custody for three months or less at the time of measurement: DHHS shall ensure that 90% of children in this category receive any necessary immunizations according to the guidelines set forth by the American Academy of Pediatrics within three months of entry into care.	Ranges from 61.2% to 94.0%[5]	N/A – COVID-Impacted	48
6.28	For children in DHHS custody longer than three months at the time of measurement: DHHS shall ensure that 90% of children in this category receive all required immunizations according to the guidelines set forth by the American Academy of Pediatrics.	Ranges from 18.2% to 97.2%[5]	N/A – COVID-Impacted	48
6.29	Following an initial medical, dental, or mental health examination, at least 95% of children shall receive periodic and ongoing medical, dental, and mental health care examinations and screenings, according to the guidelines set forth by the American Academy of Pediatrics.	61.8%, 81.7%, 70.5%	N/A – COVID-Impacted	49
6.30	DHHS shall ensure that: (1) The child's health records are up to date and included in the case file. Health records include the names and addresses of the child's health care providers, a record of the child's immunizations, the child's known medical problems, the child's medications, and any other relevant health information; (2) the case plan addresses the issue of health and dental care needs; (3) foster parents and foster care providers are provided with the child's health care records.	85.7%, 91.8%, 91.8%	No	49
6.31	DHHS shall ensure that at least 95% of children have access to medical coverage within 30 days of entry into foster care by providing the placement provider with a Medicaid card or an alternative verification of the child's Medicaid status and Medicaid number as soon as it is available.	87.7%	No	50
6.32	DHHS shall ensure that at least 95% of children have access to medical coverage within 24 hours or the next business day following subsequent placement by providing the placement provider a Medicaid card or an alternative verification of the child's Medicaid status and Medicaid number as soon as it is available.	78.5%	No	50
6.33	DHHS shall ensure that informed consent is obtained and documented in writing in connection with each psychotropic medication prescribed to each child in DHHS custody. The designated performance standard is 97%.	76.1%	No	51

[5] Performance for this commitment is measured separately for each required immunization, of which there are 11.

Section	Commitment	Period 19 Performance	Period 19 Achieved	Report Page
6.34	DHHS shall ensure that: (1) A child is seen regularly by a physician to monitor the effectiveness of the medication, assess any side effects and/or health implications, consider any changes needed to dosage or medication type and determine whether medication is still necessary and/or whether other treatment options would be more appropriate; (2) DHHS shall regularly follow up with foster parents/caregivers about administering medications appropriately and about the child's experience with the medication(s), including any side effects; (3) DHHS shall follow any additional state protocols that may be in place related to the appropriate use and monitoring of medications.	34.8%	No	51
6.35	DHHS shall generate from its Child Welfare Information System accurate and timely reports and information regarding the requirements and outcome measures set forth in this Agreement.	--	Yes	32
6.36.a	DHHS will continue to implement policies and provide services to support youth transitioning to adulthood, including ensuring youth have been informed of services available through the Youth Adult Voluntary Foster Care (YAVFC) program. Performance for this commitment will be measured through an increase in the rate of foster youth aging out of the system participating in the YAVFC program for a minimum of two periods.	40.7%	N/A – COVID-Impacted	52
6.36.b	DHHS will continue to implement policies and provide services to support youth transitioning to adulthood, including ensuring youth have been informed of the availability of Medicaid coverage. Performance for this commitment will be measured through an increase in the rate of foster youth aging out of the system who have access to Medicaid. The designated performance standard for this commitment is 95%.	N/A	Eligible to move to "Structures and Policies"	52
6.37	DHHS will continue to implement policies and provider services to support the rate of older youth achieving permanency.	51.4%	N/A – COVID-Impacted	52

Methodology

To prepare this report, the monitoring team conducted a comprehensive series of verification activities. These included: meetings with DHHS leadership, private agency leadership, and Plaintiffs' counsel; and extensive reviews of individual children's records and other documentation. The monitoring team also reviewed and analyzed a wide range of aggregate and detail data produced by DHHS, and reviewed policies, memos, and other internal information relevant to DHHS' work during the period. To verify information produced by DHHS, the monitoring team conducted virtual field-based interviews, cross-data validation, and case record reviews. By agreement of the parties, the monitoring team assessed DHHS' performance for seven MISEP commitments utilizing a qualitative case review[6] process. The monitoring team reviewed thousands of distinct reports from DHHS including individual case records, relative foster home studies, Division of Child Welfare Licensing (DCWL) investigations and reports, and CPS referrals and investigations.

Demographics

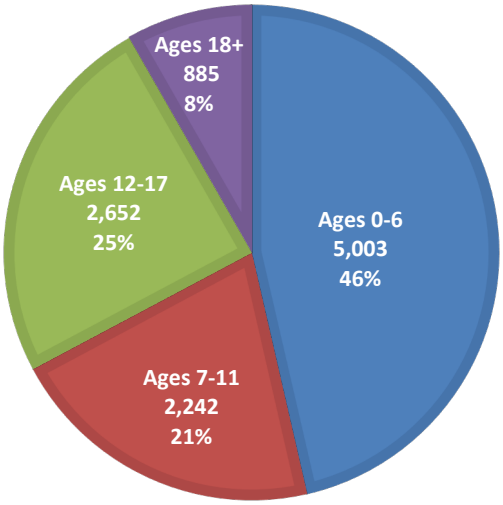
DHHS produced demographic data from July 1, 2020 to December 31, 2020. DHHS data indicate that there were 10,782 children in custody as of December 31, 2020. Of the children and youth in care on December 31, 2020, 494 youth (4.6 percent) were enrolled in the Young Adult Voluntary Foster Care (YAVFC) program. During the reporting period, 1,966 children and youth were placed in foster care[7] and 2,490 children and youth exited care.[8] DHHS served 13,272 children during the period.[9]

Though young children aged zero to six years make up the largest portion (5,003 or 46 percent), Michigan continues to have a large population of older youth in custody. Twenty-five percent (2,652) are 12 to 17 years of age and eight percent (885) are 18 years and over, as detailed in Figure 1.

[6] The sample sizes for the monitoring team's case record reviews were based on a statistically significant sample of cases and a methodology based on a 90 percent confidence level.
[7] The numbers here include six entries in the data that appear to be three children listed twice.
[8] The 2,490 exits include one child who exited care twice.
[9] The monitoring team identified 60 children who appeared twice in the during cohort file (0.5% of 13,272). All children appearing twice in the during cohort were served more than once during the reporting period.

Figure 1. Age of Children in Custody on December 31, 2020

Source: MiSACWIS, *n=10,782*



With regard to gender, the population is equally split—50 percent male and 50 percent female. With regard to race, the population of children was 31 percent Black/African American, 54 percent White, under one percent Native American, under one percent Asian, and under one percent Native Hawaiian or Pacific Islander. Additionally, 14 percent of children were reported being of mixed race. Seven percent of children were identified with Hispanic ethnicity and can be of any race. In contrast, the population of all children in the state of Michigan was 74 percent White, 17 percent African-American, under one percent Native American, three percent Asian, and under one percent Native Hawaiian or Pacific Islander. Additionally, five percent of children in the state of Michigan were of mixed race, and nine percent of children were identified with Hispanic ethnicity and can be of any race.[10]

[10] Data on the race of all children in the state of Michigan was sourced from the U.S. Census Bureau, Population Division, 7/1/2019 Population Estimate.

Table 1. Race of Children in Custody on December 31, 2020 and Race of Children in the State of Michigan on July 1, 2019

Source: MiSACWIS, US Bureau of the Census

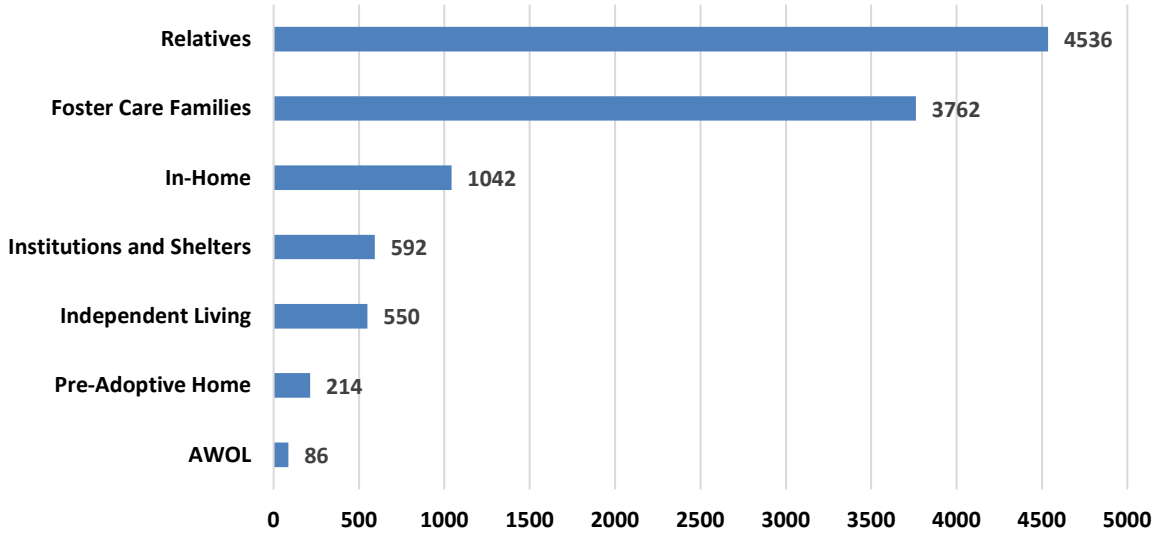
Race	Count (DHHS Custody)	Percent (DHHS Custody)	Count (State of Michigan)	Percent (State of Michigan)
White	5,847	54%	1,580,791	74%
Black/African American	3,297	31%	355,649	17%
Mixed Race	1,559	14%	115,292	5%
Native American	47	0.4%	18,426	0.9%
Unable to Determine	16	0.1%	--	--
Asian	13	0.1%	72,695	3%
Native Hawaiian or Pacific Islander	3	0.0%	1,080	0.1%
Total	**10,782**	**100%**	**2,143,933**	**100%**
Hispanic ethnicity and of any race	798	7%	182,284	9%

Note: Percentages do not add up to 100 due to rounding.

As the following figure demonstrates, 89 percent of children in DHHS' custody live in family settings, including relatives (42 percent), foster families (35 percent), with their own parents (ten percent), and in homes that intend to adopt (two percent). Of children in custody, 592 (five percent) live in institutional settings, including residential treatment and other congregate care facilities. Another 550 children (five percent) reside in independent living placements, which serve youth on the cusp of aging-out of care. The remaining one percent reside in other settings, are AWOL, or were in unidentified placements.

Figure 2. Placement Types of Children in Custody on December 31, 2020

Source: MiSACWIS, *n=10,782*



Of the children in care on December 31, 2020, 33 percent were in care less than one year, while 15 percent were in care for more than three years.

Figure 3. Length of Stay of Children in Custody on December 31, 2020

Source: MiSACWIS, *n=10,782*

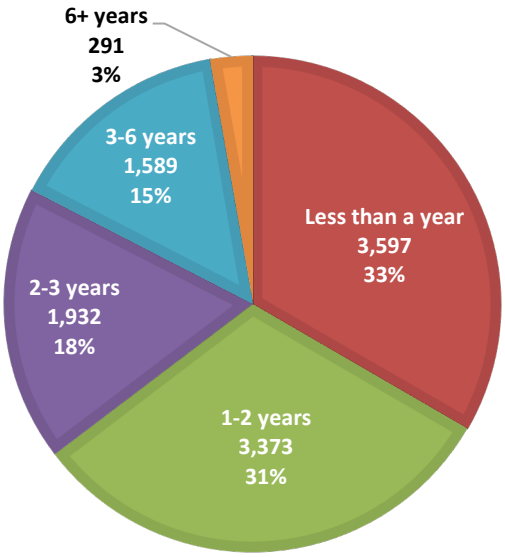


Table 2. Exits from Care by Exit Type, July 1, 2020 to December 31, 2020
Source: MiSACWIS

Exit Type	Frequency	Percent
Reunification	1,097	44%
Adoption	872	35%
Emancipation	275	11%
Guardianship	190	8%
Living with relatives	29	1.0%
Transfer to another agency	12	0.5%
Death of a child	11	0.4%
Runaway	4	0.2%
Total	**2,490**	**100%**

Note: Percentages do not add up to 100 due to rounding.

As the table below demonstrates, of the children in custody on December 31, 2020, the majority (6,638 or 62 percent) had reunification as a federal goal. For the remaining children, 2,545 (24 percent) had a goal of adoption, 986 (nine percent) had a goal of APPLA, 479 (four percent) had a goal of guardianship, and 134 (one percent) had placement with a relative as a federal goal.

Table 3. Federal Goals for Children in Custody as of December 31, 2020[11]
Source: MiSACWIS

Federal Goal	Frequency	Percent
Reunification	6,638	62%
Adoption	2,545	24%
APPLA	986	9%
Guardianship	479	4%
Relative	134	1%
Total	**10,782**	**100%**

Note: Percentages do not add up to 100 due to rounding.

Organizational Capacity

Caseloads and Supervision

The MISEP sets forth caseload standards for staff and supervisors performing critical child welfare functions. The agreement states that caseload compliance will be measured by taking the average of three data reports each reporting period, prepared on the last workday of February,

[11] Children with a federal goal of APPLA and APPLA-E are pooled together for the "APPLA" row.

April, June, August, October, and December. For MISEP 19, the monitors used caseload counts from August 31st, October 30th, and December 30th of 2020 to determine compliance.

Supervisor Caseloads (6.13)

DHHS agreed that full-time foster care, adoption, CPS, purchase of service (POS), and licensing supervisors, both public and private, would be responsible for no more than five caseload carrying staff each. An employee of DHHS or a private child placing agency that is non-caseload carrying will count as 0.5 toward the worker-to-supervisor ratio and administrative and technical support staff who support the supervisor's unit are not counted toward the worker-to-supervisor ratio. In addition, the supervisor methodology requires accounting for the practice among some of the private agencies of assigning both supervisory and direct caseload responsibilities to the same person, which requires pro-rating both supervisory and caseload performance for these hybrid supervisors. DHHS committed that 95 percent of supervisors would meet the MISEP caseload standard. During MISEP 19, DHHS averaged 88.2 percent of supervisors meeting the standard, missing the target.

Foster Care Caseloads (6.14)

DHHS agreed that full-time staff, public and private, solely engaged in foster care work, would be responsible for no more than 15 children each. Staff who perform foster care work as well as other functions are held to a pro-rated standard. The MISEP requires that 95 percent of staff engaged in foster care work meet the caseload standard. DHHS averaged 94.4 percent of staff meeting the standard during MISEP 19, slightly short of the standard.

Adoption Caseloads (6.15)

DHHS agreed that full-time staff, public and private, solely engaged in adoption work would be responsible for no more than 15 children each. Staff who perform adoption work as well as other functions are held to a pro-rated standard. The MISEP requires that 95 percent of staff engaged in adoption work meet the caseload standard. For MISEP 19, DHHS averaged 81.5 percent of staff meeting the standard, missing the target.

Child Protective Services (CPS) Investigations Caseloads (5.3)

DHHS agreed that full-time staff solely engaged in investigations would be responsible for no more than 12 open investigations. Staff who perform investigative work as well as other functions are held to a pro-rated standard. The MISEP requires that 95 percent of staff engaged in CPS investigations work meet the caseload standard. For MISEP 19, DHHS averaged 100.0 percent of staff meeting the standard, exceeding the target.

CPS Ongoing Caseloads (5.4)

DHHS agreed that full-time staff solely engaged in CPS ongoing services, a public-sector function, would be responsible for no more than 17 families each. Staff who perform CPS ongoing work as well as other functions are held to a pro-rated standard. The MISEP requires that 95 percent of staff engaged in CPS ongoing work meet the caseload standard. DHHS averaged 99.8 percent of staff meeting the standard in MISEP 19, exceeding the target.

Purchase of Service Caseloads (5.5)

POS work comprises the support and oversight that DHHS staff provide with respect to foster care and adoption child welfare cases assigned to the private sector. The MISEP established the full-time POS standard at 90 cases. However, there are some DHHS staff who are assigned a mix of POS and other work including licensing, foster care, and adoption. For those staff, the standard of 90 POS cases is pro-rated based on their other responsibilities. DHHS committed that 95 percent of staff engaged in POS work would meet the MISEP standard of 90 cases. For MISEP 19, DHHS averaged 98.6 percent of staff meeting the standard, exceeding the target.

Licensing Caseloads (5.6)

DHHS agreed that full-time staff, public and private, solely engaged in licensing work would be responsible for no more than 30 licensed foster homes or homes pending licensure. Staff who perform licensing work as well as other functions are held to a pro-rated standard. The MISEP requires that 95 percent of staff engaged in licensing work meet the caseload standard. DHHS averaged 93.6 percent of staff meeting the standard in MISEP 19, falling short of the target.

Accountability

Outcomes

Pursuant to the MISEP, DHHS agreed to meet federal outcome standards regarding safety and permanency for children. The MISEP adopts outcome methodologies developed by the federal government, including one safety measure and one permanency measure from Round Three of the federal Child and Family Services Reviews (CFSR). Performance on all measures is calculated for DHHS by the University of Michigan based on Adoption and Foster Care Analysis and Reporting System (AFCARS) and National Child Abuse and Neglect Data System (NCANDS) files produced by DHHS.

Safety – Maltreatment in Foster Care (6.1)

The child safety standard of maltreatment in care (MIC), focuses on keeping children in DHHS custody safe from abuse and neglect. DHHS committed to ensure that of all children in foster care during the applicable federal reporting period, DHHS will maintain an observed rate of victimizations per 100,000 days in foster care less than 9.67.

Data provided by Michigan indicate that for federal fiscal year (FFY) 2020, there were 186 incidents of MIC, involving 181 children in DHHS custody, for an observed rate of 4.69 per 100,000 days in foster care. This is a substantial decline from DHHS' reporting of MIC incidents for FFY 2019. According to data provided by DHHS, there was a decline in maltreatment reports between FFY 2019 and FFY 2020, with 95,746 reports received in FFY 2019 and 72,954 reports received in FFY 2020. There was also a decline in maltreatment in care reports during FFY 2020 once the pandemic began. Between October of 2019 and February of 2020, DHHS received an average of 183 reports per month. However, between March and September of 2020, DHHS received an average of 113 reports per month, reflecting a 38.3 percent decline.

The monitoring team reviewed a sample of 130 unsubstantiated MIC investigations from FFY 2020. The first 100 investigations were selected randomly from the total population of unsubstantiated investigations. The monitoring team used a second random sample of 30 investigations from the population of unsubstantiated investigations with a living arrangement type of "Child Caring Institution" (CCI) to examine both the accuracy of the maltreatment data and the strength of the of the State's CCI safety work.

The monitoring team found that 32 of the 130 (24.6 percent) investigations reviewed were deficient. This includes 19 investigations the monitoring team determined met the criteria for substantiation and 13 investigations where there was insufficient information gathered to render a finding. Examples include:

- A 13-year-old foster child was hospitalized in February of 2020 after ingesting sleeping pills she obtained from an unlocked medication box in her foster home. The foster parents failed to lock the medication despite knowing that the child had previously attempted suicide by overdosing on pills. The child was also on a suicide safety plan that was developed in response to the foster parents taking the child to the hospital in December of 2019 because of a concerning note that they found. The monitoring team concluded that this case should have been substantiated for improper supervision for failure to lock medication under these circumstances.
- An 11-year-old foster child was subjected to repeated inappropriate restraints at a CCI. The child was known to have asthma and staff covered her head with a spit bag during two of the three reported events that were investigated. In addition, Division of Child

Welfare Licensing (DCWL) staff subsequently found that the restraints were either unnecessary given the circumstances or included inappropriate techniques that resulted in injury to the child. The restraints lasted up to 30 minutes and two of the restraints were initiated after one staff took something away from the child (a birthday present from her mother and food) after another staff member had given it to her. The monitoring team concluded that the report should have been substantiated for child maltreatment, as the child was subjected to treatment that involved cruelty or suffering that a reasonable person would recognize as excessive.

- Two foster children who were on a trial home placement, ages one and two, were found by a hotel guest who was a stranger to them as they wandered around a hotel unsupervised. The investigation revealed that the caregiver was unaware of the children's absence from the hotel room for three hours. The children were found on a floor separate from the floor where they were staying. The caregiver indicated that a male friend had rented the hotel room and was supposed to be watching the children, but the caregiver would not name that friend. DHHS never identified nor interviewed the friend. The children were described as being dirty when found and one had a soiled diaper. The monitoring team concluded that this report should have been substantiated for improper supervision.
- A staff person at a CCI used a choke hold on a 14-year-old foster child and removed him from another child's room in an effort to stop a fight. The staff person lifted the child off the ground and the child was forced to stand on the staff person's shoes in order for the child's feet to touch a surface. The child could not breathe and suffered red marks on his neck as a result. The child's neck remained swollen the next day, as observed and reported by school staff. The chief administrator of the facility pledged to take the child for a medical exam, but never did. The facility's food was also spoiled and rotten, as confirmed by a DCWL investigation. The monitoring team concluded that the report should have been substantiated for physical abuse due to the foster child being harmed as a result of the choke hold, for medical neglect due to the chief administrator not taking the child for a medical exam, for improper supervision due to the staff person leaving two children alone following the choke hold in order to call the chief administrator (resulting in a fight between the two children), and physical neglect due to the rotten, spoiled food being provided to the children.

  Of additional concern is that the State's investigation report indicated that an administrator, who has been authorized to operate a CCI for a substantial period of time, had been substantiated for sexual abuse of a four-year-old nephew in 2000. The Michigan Attorney General's Office notified the Monitors in January 2022 that this substantiation for child sexual abuse was subsequently reversed administratively, though that

information is not included in the State investigation reviewed by the Monitors for this report. Multiple residents of the group home have made allegations of a sexual nature against this administrator. This includes a referral from 2018 where it was alleged that the administrator threatened to rape a child, and a referral from 2019 where a resident alleged that the administrator propositioned youth for sexual activity in exchange for transporting them to see their mothers.

- A foster parent left her residence and allowed a 12-year-old child to supervise seven other children, including a 10-year-old foster child who is blind, autistic, nonverbal, and requires total care, as well as siblings who were ages nine and three, and cousins who were ages seven, five, four, and two. The foster parent's 17-year-old brother, who has Down Syndrome, was also in the house as well as the foster parent's husband, who was sleeping. The two-year-old got out of the house twice and had to be returned by the nine-year-old and then a neighbor. He was described as being dirty and without pants. The 12-year-old stated that the nine-year-old was watching the other children and that he was playing video games. Law enforcement reported deplorable conditions at the home, including spoiled food and garbage strewn throughout, rabbit feces outside a rabbit cage, and child access to alcohol and pet food. The home did not have appropriate locks or a functioning door alarm. The monitoring team concluded that this report should have been substantiated for improper supervision and physical neglect. When the monitoring team shared concerns regarding the findings of this investigation with the Department, part of the Department's response was, "It was not determined to be unreasonable for the foster mother to believe that the 12-year-old could watch the children in the home for 30 minutes while she returned from the store."
- A 16-year-old foster child was alleged to have been slammed into a wall and door during a restraint at a CCI. DHHS reached an unsubstantiated finding without interviewing the additional residents who were present, a second staff person who was present, or the nurse who saw the child after the incident. The monitoring team therefore concluded that this was a deficient investigation.
- School personnel reported that a five-year-old foster child came to school with red marks on the child's neck and back. It was alleged that the red marks were caused by the 14-year-old birth child in the home. While the foster child's neck was checked for a red mark during the investigation, the child's back was never checked. The monitoring team therefore concluded that the investigation was deficient.
- It was alleged that a 15-year-old foster child was physically abused at a CCI as a result of being slammed to the ground while her arm was restrained. The child's face hit the ground and she bled from her lip. The incident report from the institution listed three staff, who were not directly involved in the restraint, as present during the restraint. The

monitoring team concluded that the investigation was deficient because none of those staff people were interviewed as part of the investigation.

- It was alleged that two foster children, ages two and three, were improperly supervised. The allegations included that the foster parent and her adult children who also lived in the home were "extremely high" all the time and the foster children were often outside without clothes, would beg neighbors for food, appeared malnourished, were often not cared for by adults, and one of the children almost got hit by a car. The monitoring team concluded that this investigation was deficient due to DHHS' failure to interview collateral contacts, including: the teenage children of the foster mother who also resided in the home, the family's therapist, the children's pediatrician, and the landlord at the address where the incidents were alleged to have occurred.

Permanency Indicator One (6.3)

Permanency Indicator One measures the percent of children who enter foster care within a 12-month period who are discharged to permanency within 12 months of their entry date. Three years of AFCARS data is required to measure performance for this outcome, therefore performance was calculated for children who entered care between October 1, 2017 and September 30, 2018. Based on the data files provided by DHHS, the monitoring team calculated that of the 5,972 children who entered foster care during this period, 1,636 children (27.4 percent) exited to permanency within 12 months of their entry. DHHS did not meet the MISEP standard of 40.5 percent for this commitment. To meet the performance standard, DHHS should have achieved permanency for an additional 783 children within 12 months of their entry date.

Contract Oversight

Contract-Agency Evaluation (5.1)

The MISEP requires DHHS to conduct contract evaluations of all Child Caring Institutions (CCIs) and private Child Placing Agencies (CPAs), including an annual inspection of each CPA, an annual visit to a random sample of CPA foster homes, and an annual unannounced inspection of each CCI. During the required visits, the DCWL is expected to monitor compliance with rule, policy, contract, and MISEP requirements, with the primary focus being the safety and well-being of children.

DHHS reported that DCWL is funded for 19 child welfare field licensing consultants who perform consolidated monitoring activities including annual licensing inspections and investigations of CCIs and CPAs. In addition, eight field analysts conduct visits consisting of interviews with foster parents, foster children, and unlicensed relative caregivers to verify safety in these homes. Two

area managers supervise the licensing consultants and field analysts, and an interim program manager began supervising the area managers in December 2020.

During this period, DCWL initiated a workgroup for revision of the corrective action plan (CAP) follow-up procedures relevant to special investigations in CCIs. The workgroup included field consultants, area managers, disciplinary action unit staff, central office analysts, and the DCWL director.

In July 2020 DHHS concluded that licensing rule "R 400.4159 - Resident Restraints" did not sufficiently protect against dangerous restraints. DHHS therefore filed an emergency rule "2020-208 HS-ER - Prohibition of Prone Restraints and Procedures Involving Other Restraints in Child Caring Institutions." The rules set forth requirements for CCIs to safeguard children in their care. DCWL released Communication Issuances based on the changes. These described the emergency rules, as well as instructions and training resources for CCIs relevant to reporting restraint incidents to DHHS. All licensed CCIs were required to submit signed confirmation that the rules were received as well as documentation of incorporation within their own agency policies. The monitors will evaluate the impact of this work to, in fact, eliminate unnecessary and harmful child restraints in the next report to the Court.

DHHS released additional Communication Issuances during the period. The first, released in November 2020, provided revised "COVID Guidance for Foster Home and Unlicensed Relative Placement Studies Revised." The intent was to ensure procedures were in place to issue and renew licenses, provide guidance for completing the relative home safety screens and home studies, and maintain the continuity of contacts by licensing staff. The second issuance, "COVID-19 Response: Staffing Ratios in CCIs," was released in December 2020 and addressed staffing ratios in CCIs relevant to COVID. It indicated that if a CCI was temporarily unable to adhere to the required staffing ratios due to COVID, then its COVID emergency staffing plan could be implemented.

DHHS reported there were 42 CPA inspections conducted during the period, which included 20 interim and 22 renewal inspections. DHHS determined two agencies were in substantial compliance with applicable statutes, licensing rules, contract regulations, and MISEP requirements, while 40 agencies were not and required CAPs. There were no CPA closures during the period.

DCWL field analysts are expected to conduct annual home visits to assess safety and service provision within licensed foster homes and unlicensed relative homes supervised by agencies with interim and renewal inspections in the period. During each home visit, DCWL assessed safety and well-being standards and conducted interviews with foster children, foster parents, unlicensed relatives, and birth parents. During the reporting period, DCWL field analysts visited

a random sample of licensed foster homes and unlicensed relatives associated with 39 of the 42 contracted CPAs scheduled for a renewal or interim inspection. Three of the agencies did not have any foster or unlicensed relative homes.

DHHS reported that field analysts visited 238 foster and unlicensed relative homes during the period. In person visits were conducted in 129 homes, while 109 virtual home contacts occurred due to COVID restrictions. DHHS issued safety alerts for urgent or critical concerns in four unlicensed relative homes, supervised by four of the 39 agencies. Three of the homes had a beeping smoke detector and one home did not have a lock on a door where a pond was accessible to the children. DCWL provided documentation that all of these issues were resolved. DCWL issued an alert of concern to a fifth agency because a caregiver alleged the medical insurance card for a child in care was not provided, but it was determined that the caregiver in fact had the card.

The MISEP requires that the field analysts visit a certain number of each CPA's foster homes, dependent on the total number of homes supervised by the agency. CPAs with fewer than 50 homes are required to have at least three homes visited, and those agencies with 50 or more homes are required to have five percent of those foster homes visited. DHHS met the commitment regarding visiting the required number of foster homes during the period.[12]

DHHS reported that licensing consultants conducted 42 special investigations involving 30 contracted CPAs during the period. The 42 investigations involved 79 allegations of non-compliance related to rule, policy, contract, and MISEP requirements. Fifteen of the 42 investigations resulted in non-compliance findings that required CAPs, with 25 of the 79 allegations resulting in an established violation.

The monitoring team reviewed all of the 42 special investigations. Some of the incidents that resulted in established violations included: staff unsafely transporting a child who was not properly secured in a car seat; a court-ordered trauma assessment not being completed; a worker bringing a youth who was self-harming to the hospital but then leaving him there against hospital requirements; a worker sharing inappropriate, personal information with a youth; and a background check not being completed on a new household member who subsequently sexually abused the child placed in the home, the worker subsequently not ascertaining the whereabouts of the caregiver and youth after the abuse occurred, and later discovering they had been residing with the perpetrator precipitating the child's removal.

[12] The monitoring team counted virtual home contacts toward this requirement due to the ongoing COVID-19 pandemic and the November 18, 2020 Stipulated Order which allowed for virtual contacts under other commitments. The monitoring team will not count virtual home contacts for this provision in future reporting periods unless the parties formally agree to do so.

DHHS reported that during the period private agencies conducted 408 foster home special evaluations. These are investigations conducted by the supervising agency when an allegation is made regarding a foster home in their network. The monitoring team reviewed 78 of these special evaluations and found 28 of the 78 homes required CAPs due to established violations. Nine of the 78 reported incidents were referred for MIC investigations. Five homes with established violations did not require CAPs due to license revocation recommendations.

Issues precipitating revocation recommendations for the five foster homes included: children being tied to a chair and transported unsafely in a vehicle; a foster mother having previously undisclosed mental health issues and triggering aggressive behavior with a seven-year-old foster child by shaming him, calling him names, and exacerbating harm from his trauma history due to a lack of nurturing; foster parents being substantiated in a MIC investigation for Failure to Protect and Improper Supervision when they did not safeguard four children in their care from the serious physical and sexual aggression of a teen in their home; a foster mother deliberately giving youth the wrong psychotropic medication, and endangering the children in her home by allowing them access to unsecured medications; and a foster parent who moved but did not inform the agency of her new address. All but the last situation were referred for MIC investigations.

The monitoring team found there was significant delay in recording revocation closures in MiSACWIS for two of the homes recommended for revocation. Additionally, as of November 2021, there was still no revocation closing action recorded in MiSACWIS for two of the five homes, and two relative children were placed in one of these homes more than a year after the revocation recommendation.

DHHS reported that DCWL conducted 19 unannounced renewal and 12 unannounced interim inspections of CCIs, totaling 31 inspections for the period. Twenty-four inspections required CAPs, while DHHS records indicate seven of the CCIs were in substantial compliance with appropriate statutes, administrative licensing rules, contract regulations, and MISEP requirements.

DCWL completed 314 special investigations, according to DHHS, involving 549 allegations of non-compliance in 66 contracted CCIs during the period. Of the 314 special investigations, 196 resulted in no violations being established. Violations were found with 111 of the special investigations, requiring CAPs approved by DCWL. An additional seven of the 314 special investigations resulted in findings of non-compliance, but due to pending adverse revocation action, CAPs were not allowed. Violations were established for 212 (39 percent) of the 549 allegations. Three CCIs were recommended for a first provisional license, and thirteen were issued a first provisional license. Three CCIs were recommended for a second provisional license. According to DHHS, due to the severity of violations, DHHS revoked the licenses of three agencies.

DHHS reported that, going forward, it intends for CAPs to be tracked and monitored by central office staff. In addition, DHHS notes that CCIs are required to notify DCWL within 24 hours of an incident involving a restraint and beginning in September 2020, all Michigan contracted CCIs have been required to submit monthly youth placement census reports.

The monitoring team reviewed a random sample of 156 of the 314 CCI special investigations for the period and found that 125 of the 156 DCWL investigations were referred to Centralized Intake (CI) for a potential child maltreatment investigation. Seventy-two of those referrals were assigned for investigation, fifteen staff were terminated as a result of the investigations, and ten of the investigations resulted in a substantiated disposition. The monitoring team found that an additional eleven special investigation incidents met the criteria for a child maltreatment investigation. For seven of the eleven special investigations, the incidents were referred to CI but screened-out rather than assigned for a maltreatment investigation. For one special investigation, some of the reported incidents were referred and investigated for child maltreatment, while other incidents included in the special investigation were not referred to CI. Three other incidents were never referred to CI by the facility or by DCWL staff. Examples of some of the incidents determined by the monitoring team to warrant assignment for a child maltreatment investigation include:

- A CCI staff person admitted that he did not allow a resident out of his room to use the bathroom and gave him paper towels on which to urinate and defecate in his room, which he then had to clean up. The youth stated this happened many times before, and other residents confirmed it had happened to them as well.
- Two CCI staff engaged in inappropriate, lewd conversations with a youth (age 17) about their personal sexual encounters, which were confirmed by investigators who listened to audio tapes of the conversations.
- A youth (age 17) residing at a CCI had cut his wrists and was on a suicide watch requiring 15-minute mood and behavior checks. Two days after the attempted suicide, there were eight times when gaps between the required checks exceeded 15 minutes, with timeframes ranging from 16 minutes to three hours and 35 minute gaps. On the day of the deficient checks, the youth again attempted suicide by tying a tee-shirt around his neck and the door handle of his room.
- Three youth (ages 13, 17, and 17) resided at a CCI facility which was not properly maintained. Issues included: a bed bug infestation with the youth having bite marks all over their bodies; the dryer not working properly creating a fire hazard; the upstairs of the home being very hot and the home manager refusing to supply air conditioning; the manager refusing to supply food to meet the health needs of one youth having intestinal

difficulties and another youth with diabetes; missing bed linen; one youth sleeping on a couch; broken dressers; missing window screens; and chipping paint.

- Staff at a CCI had handcuffed a youth (age 16) to a bed as a restraint measure. DCWL had cited the agency for the use of mechanical restraints three previous times.

In reviewing the investigations, the monitoring team also found that many were deficient and left in place unresolved risks of harm to children in CCIs. Some examples included the following:

- A 17-year-old youth and permanent court ward residing in a CCI had expressed to staff the desire to self-harm but was not placed on an intensive supervision self-harm watch. During the time she was unsupervised in her room, she tied a string around her neck, was found unresponsive, and was transported to a psychiatric facility.
- Multiple personnel at a CCI knew that a staff member had an inappropriate relationship with a resident, aged 16 and a temporary court ward, but failed to intervene or report any concerns about the behavior. It was only when the youth was AWOL and called his foster care worker to report the sexual abuse and threats from the perpetrator to keep quiet, that an investigation was initiated. The facility also failed to implement the devised safety plan by allowing the alleged perpetrator to be alone with other residents and off camera for 21 days. The investigation resulted in a sexual abuse finding for this staff member, but there were no consequences for other staff for the failure to protect.
- Two CCI residents (both 13 and temporary and permanent court wards) were on high risk "Close Observation" due to previous suicidal gestures (cutting, tying items around the neck), statements of wanting to kill themselves, and being AWOL. "Close Observation" included ensuring that the girls were at arm's length of staff, documenting five-minute checks, and intercepting the girls if they were nearing an exit door. Despite the safety plan, both girls walked out of the facility unimpeded while staff were on a different level of the house. They were AWOL for an hour and a half, and one of the girls stated she stood in the road hoping to be hit by a car during that time because she felt no one cared about her.

Due to incidents like those above, as well as those documented in previous periods' investigation reports, the monitoring team conducted a review of MIC investigations (See Section 6.1 – Safety, Maltreatment in Foster Care).

In addition to reviewing the 156 special investigations, the monitoring team also reviewed CAPs and CAP follow-up documentation provided by DHHS for 68 of the 156 investigations, initiated between July 1, 2020 and December 31, 2020, where licensing violations were established. As with previous periods, the monitoring team found that CAP content and follow-up was often delayed, ineffective, deficient, lacked specificity, and did not remediate risk to children.

Frequently, repeat violations of a serious nature, such as physical intervention or improper restraints causing injuries, recurred despite the CAPs. Often the CAP remedies for improper restraint violations were training or re-training of staff, but there was little evidence of interviews with youth in the facilities to determine if in fact behavioral management had improved and youth were experiencing a safer environment as a result of the trainings.

Seclusion in Contract Agencies (5.7)

The MISEP requires DHHS to report all uses of seclusion in CCIs to DCWL for appropriate action. DCWL oversees seclusion according to MCL 722.112, the licensing rules for CCIs R400.4160 - R400.4163, the residential foster care abuse/neglect contract, juvenile justice contract, and policy. The statute and rules define when seclusion may be used, and what type of documentation is required, depending on the length of time children are placed in seclusion. Licensing consultants are expected to monitor seclusion during annual and renewal on-site visits through the review of seclusion logs, MiSACWIS seclusion incident reports, prior inspections and investigations, and any data reports compiled by DCWL. When applicable to the licensure type, seclusion rooms should be observed by the consultants to ensure compliance with statute, select rules, and contract terms.

DHHS reported that during this period there were 481 incidents of seclusion or isolation involving children served by 16 agencies. There were 145 fewer incidents of seclusion or isolation for this period than in Period 18 when DHHS reported 626 incidents of seclusion or isolation.

During this period there was one agency, according to DHHS, that had several established violations for seclusion and isolation reporting. The field consultant determined that technical difficulties were interfering with incident reporting requirements and a CAP was required. The approved CAP included that the MiSACWIS approval process be mastered and all technical issues resolved through the assistance of the MiSACWIS help desk.

DCWL licensing consultants also conduct special investigations when an allegation of non-compliance with a statute, CCI licensing rule, and/or contract requirement, including those related to seclusion, occurs. Willful and substantial violations may result in a disciplinary license and/or contract action. During the MISEP 19 reporting period, DCWL determined two agencies had seclusion rule violations following special investigations. In one agency the violation involved a staff person preventing a resident from leaving the bedroom. A CAP was required that included disciplinary action, policy revamping, video checks for three months, and staff coaching. DCWL found another facility non-compliant when staff placed a youth in seclusion without exhibiting behavior that would warrant the seclusion. A CAP was completed that included managerial training for supervisors and a random review of incident reports. This same agency had another violation involving a separate unwarranted seclusion incident, with the proper approval by the

chief administrator not having been obtained. Additionally, there was a lack of documentation regarding the length of time the resident was in seclusion. The CAP involved retraining of staff regarding seclusion protocol.

Quality Service Reviews

DHHS continues to implement the Quality Service Review (QSR) process to provide a probative review of case practice in a selection of cases, surfacing strengths as well as opportunities for improvement in how children and their families benefit from services. Each review focuses on an identified county or counties and includes in-depth case reviews, as well as focus groups and surveys.

The parties agreed that performance described below for two commitments would be measured through QSR case reviews. The first commitment is Assessments and Service Plans, Content (6.19). The performance standard for this commitment is 90 percent. The second commitment is Provision of Services (6.20). The performance standard for this commitment is 83 percent.

During MISEP 19, DHHS conducted blended CFSR/QSR reviews in Business Service Centers (BSC) 1, 2, 4, and 5. The monitoring team participated in the blended reviews in BSCs 1 and 2 in September 2020. Monitoring team members participated in case reviews, panel discussions, and case scoring.

DHHS chose a randomly selected sample of open cases for review during each QSR. Cases were graded on 21 indicators covering different areas of case practice and the status of the child and family. Information was obtained through in-depth interviews with case participants including the child, parents or legal guardians, current caregiver, caseworker, teacher, therapist, service providers, and others having a significant role in the child's or family's life. A six-point rating scale was used to determine whether performance on a given indicator was acceptable. Any indicator scored at four or higher was determined acceptable, while any indicator scored at three or lower was determined to be unacceptable.

Assessments, Service Plans, and Provision of Services (6.19, 6.20)

DHHS agreed to develop a comprehensive written assessment of a family's strengths and needs, designed to inform decision making about services and permanency planning. The plans must be signed by the child's caseworker, the caseworker's supervisor, the parents, and the child, if age appropriate. If a parent or child is unavailable or declines to sign the service plan, DHHS must identify steps to secure their participation in accepting services.

The written service plan must include:

- A child's assigned permanency goal;

- Steps that DHHS, CPAs when applicable, other service providers, parents, and foster parents will take together to address the issues that led to the child's placement in foster care and that must be resolved to achieve permanency;
- Services that will be provided to children, parents, and foster parents, including who will provide the services and when they will be initiated;
- Actions that caseworkers will take to help children, parents, and foster parents connect to, engage with, and make good use of services; and
- Objectives that are attainable and measurable, with expected timeframes for achievement.

DHHS reviewed 38 children's cases, with 118 applicable items, relevant to this commitment during MISEP 19. Of the 118 applicable items, DHHS reported that 68 (57.6 percent) were rated as having acceptable assessments and service plans, below the performance standard of 90 percent for this commitment.

Furthermore, DHHS agreed that the services identified in service plans will be made available in a timely and appropriate manner and to monitor services to ensure that they have the intended effect. DHHS also agreed to identify appropriate, accessible, and individually compatible services; to assist with transportation; and to identify and resolve barriers that may impede children, parents, and foster parents from making effective use of services. Finally, DHHS committed to amend service plans when services are not provided or do not appear to be effective.

DHHS reviewed 38 children's cases, with 116 applicable items, relevant to this commitment during MISEP 19. Of the 116 applicable items, DHHS reported that 60 (51.7 percent) were rated as acceptable for provision of services, below the 83 percent performance standard for this commitment.

Data Reporting

DHHS produced data to the monitors from MiSACWIS to demonstrate performance on commitments in MISEP 19 and to document baseline populations and samples for Quality Assurance Processes (QAPs).[13] DHHS continued to submit cohort data, which describes all children's entries and exits from foster care during the period, the number of children served during the period, and the number of children in care at the beginning and end of the period.

The monitoring team analyzed the data and information to verify its quality, assessed the methodology used to compute performance for each metric, and attempted to replicate the

[13] For commitments which require qualitative measurement, the monitoring team conducted case record reviews utilizing a standardized survey tool to determine performance. This process is referred to as a QAP.

performance calculations made by DHHS. In these efforts, both DHHS and the monitoring team relied on the written Metrics Plan, updated as of August 2021. The Metrics Plan outlines in detail the descriptions of data to be supplied by DHHS to the monitoring team and the calculation methodologies to assess performance for each commitment for which DHHS produces a data report.

In general, the data and reporting in MISEP 19 proceeded with few complications. For 16 of the 30 commitments, the monitoring team verified DHHS's performance exactly. For 14 of the 30 commitments, the monitoring team verified DHHS's performance within a margin of less than one percent.

The monitors verified DHHS's performance on each of the 30 commitments for which DHHS submitted data from MiSACWIS, as well as for commitments measured by conducting a QAP.

Permanency

Developing Placement Resources for Children

Foster Home Array (6.4)

In the MISEP, DHHS committed to maintain a sufficient number and array of homes capable of serving the needs of the foster care population, including a sufficient number of available licensed placements within the child's home community for adolescents, sibling groups, and children with disabilities. DHHS agreed to develop for each county and statewide an annual recruitment and retention plan, in consultation with the monitors and experts in the field, which is subject to approval by the monitors. DHHS committed to implement the plan, with interim timelines, benchmarks, and final targets, to be measured by the monitors based on DHHS' good faith efforts to meet the final targets set forth in the plan.

DHHS' Adoption and Foster Home Recruitment and Retention plans cover the state fiscal year (SFY), running from October 1st to September 30th each year. This report covers DHHS' recruitment efforts for the SFY 2020 fiscal year which concluded on September 30, 2020, during MISEP 19. In addition, this report covers the first three months of the SFY 2021 recruitment cycle, which extended from October 1, 2020 through December 30, 2020.

For SFY 2020, DHHS agreed to license 1,222 new non-relative foster homes of which 660 homes will accept adolescent placements, 234 homes will accept children with disabilities, and 696 homes will be developed to accept sibling groups. Statewide, DHHS licensed 1,188 unrelated foster homes, reaching 97 percent of the SFY 2020 non-relative licensing goal. During the same period, 1,294 licensed homes were closed for a SFY 2020 net loss of 106 homes. Regarding homes

for adolescents, DHHS licensed 303 homes, only 46 percent of the SFY 2020 licensing goal. During the same period, 392 homes for teens were closed, resulting in a net loss of 89 homes. Regarding homes for children with disabilities, 784 homes were licensed, surpassing the SFY 2020 licensing goal. However, 887 homes for children with disabilities were closed, resulting in a net loss of 103 homes available for placement of children with disabilities. Six hundred and ninety-four homes were licensed for siblings, only two homes shy of the SFY 2020 licensing goal of 696 homes. Simultaneously, 799 homes for sibling groups were closed, for a net loss of 105 sibling homes.

For SFY 2021, DHHS agreed to license 1,268 new non-relative homes of which 601 will accept adolescent placements, 262 homes will accept children with disabilities, and 657 homes will be developed to accept sibling groups. During the first three months of the fiscal year, DHHS licensed 292 non-relative foster homes statewide, 23 percent of the SFY 2021 licensing goal. During this same time period, 241 existing homes were closed, resulting in a net gain of 51 homes. In the first three months of SFY 2021, 56 homes for teens were licensed, nine percent of the full year's licensing goal. Simultaneously, 93 homes for teens were closed, resulting in a net loss of 37 homes. There were 167 homes for children with disabilities licensed in the first three months of SFY 2021, which is 64 percent of the licensing goal for SFY 2021. At the same time, 203 were closed, resulting in a net loss of 36 homes. One hundred and thirty homes accepting sibling groups were licensed, 20 percent of the SFY 2021 licensing goal. Meanwhile, 187 homes for sibling groups were closed, resulting in a net loss of 57 homes.

As outlined above, in SFY 2020 DHHS experienced overall net foster home losses including net losses in homes for siblings, children with disabilities, and adolescents. In the first three months of SFY 2021 DHHS experienced a statewide net gain of 51 nonrelative foster homes while at the same time experiencing net losses in placements for sibling groups, children with disabilities, and adolescents. The monitors continue to recommend that DHHS closely track the specific reasons for foster home closures to understand the factors that lead to these resource losses, and to then implement targeted strategies to support and retain non-relative licensed foster homes for children in DHHS custody.

As discussed in previous monitoring reports, when assessing the adequacy of DHHS' array of foster home placements, the monitors take into consideration as indicators of foster home sufficiency, the agency's performance regarding other MISEP commitments. These commitments include Separation of Siblings (6.6); Maximum Children in a Foster Home (6.7); Emergency or Temporary Facilities, Length of Stay (6.8); and Emergency or Temporary Facilities, Repeated Placement (6.9).

This is the second consecutive period in which DHHS experienced net losses in homes for the special populations and did not meet its commitments relative to Separation of Siblings (6.6); Emergency or Temporary Facilities, Length of Stay (6.8); and Emergency or Temporary Facilities,

Repeated Placement (6.9). In addition, there is substantial work to be done for DHHS to understand and stem net foster home losses experienced in SFY 2020, and to heighten its focus on licensing foster homes for the special populations of siblings and adolescents.

Per the Court's November 18, 2020 Stipulated Order, 6.4 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Relative Foster Parents (6.10.a)

When children are placed in out-of-home care, preference must be given to placement with a relative. DHHS committed to ensure safety assessments, safety planning (when appropriate), and background checks will occur for all non-licensed homes. The MISEP relative safety commitments are particularly important to child safety as 42 percent of children in DHHS custody were living with relatives at the conclusion of MISEP 19. In the MISEP, DHHS committed to ensure that:

- Prior to a child's placement, DHHS will visit the relative's home to determine it is safe;
- Law enforcement and central registry background checks for all adults living in the home will be completed within 72 hours of placement; and
- A home study will be completed within 30 days of placement determining whether the placement is safe and appropriate.

The parties agreed the monitors will conduct an independent qualitative review each period to measure DHHS' performance for this commitment. The designated performance standard for this commitment is 95 percent.

For MISEP 19, the monitoring team reviewed a random sample of 65 unlicensed relative foster homes. The monitoring team determined performance was achieved overall in 27 cases (41.5 percent) and performance was not achieved in 38 cases (58.5 percent). Performance was not achieved for 17 of the 38 cases solely because of insufficient evidence to validate timely completion of background checks. In these instances, the monitoring team only found background check dates on the relative initial safety screen and the home study with a notation of "no" or "non-applicable" to indicate whether a central registry check and law enforcement history background check exist.

Performance for each of the three components individually, was as follows:

- An initial home safety visit prior to placement was completed for 65 homes (100.0 percent).

- Law enforcement and central registry background checks for all adults living in the home within 72 hours of placement for 33 relative placements (50.8 percent).
- A home study was completed within 30 days of placement for 46 relative placements (70.8 percent).

DHHS did not meet the designated performance standard of 95 percent. Reasons why cases did not meet the standard include:

- In nine cases the worker routed the home study (3130A) to their supervisor timely, however, all nine were returned to the worker for "re-work" between one and four times. Therefore, the final approval of the 3130A should have been determined after the additional work was completed and approved by the supervisor.
- In three cases, staff completed the 3130A late, more than thirty days after the child's initial placement.
- In three cases the background checks were completed late, more than 72 hours after initial placement.
- In two cases the background checks were completed too early, more than 30 days prior to placement.
- In two cases a director's approval was required because a caregiver had a Good Moral Character Offense, but no approval was documented.
- Three cases required a Placement Exception Request (PER) approval. When a Placement Exception Request (PER) is required, the DHHS caseworker completes the PER and routes it to the supervisor for review who then routes it to the DHHS county director for review and approval.
    - A PER was required, but not completed, because more than three children placed in a home were under the age of three. Three siblings, ages three and under were placed in the home on August 26, 2020. A 21-month-old granddaughter was already living in the home. The youngest foster child was moved to an unrelated foster home on May 25, 2021. The two other foster children were moved together to an unrelated foster home on June 9, 2021.
    - A PER was required, but not completed, because more than five children were living in the home. As of October 20, 2021, the PER was still "in progress" though the child was placed in the home on November 4, 2020 and remained there as of October 20, 2021.
    - A PER was required, but not completed, because more than five children were living in the home. As of October 20, 2021, the PER was still "in progress" though

the child was placed in the home on October 1, 2020 and remained there as of October 20, 2021.

Relative Foster Parents (6.10.b)

The MISEP requires a relative placement home study, including all clearances, must be completed, and approved annually[14] for unlicensed caregivers to ensure the safety of children placed in relative homes. An approved relative home study is valid for one year. This commitment is measured through an independent qualitative review conducted by the monitors with a designated performance standard of 95 percent.

For this commitment, the monitoring team reviewed a random sample of 64 unlicensed relative homes due for a renewal home study. The monitoring team found that nine homes (14.1 percent) met each of the performance standards in the MISEP, and 55 homes (85.9 percent) did not. Performance was not achieved for 20 of the 55 homes solely because of insufficient evidence to support timely completion of background checks. The monitors requested background check documentation for cases where performance was unable to be verified. DHHS's response in all but one instance was "uploads of documentation is not required by MDHHS policy." DHHS provided documentation for one case which then met the performance standard.

A predominant concern found in the annual reviews was the failure to complete an approved annual home study within 365 days with timely clearances. An annual home study was completed timely for 29 homes (45.3 percent). Another 29 homes (45.3 percent) had an annual home study that was completed late (45.3 percent) and five homes (7.8 percent) did not have an annual home study completed.[15] The following chart details the amount of time past the due date each of the 29 late home studies was completed.

Table 4. Annual Relative Home Studies, Timeliness, MISEP 19

Timeframe Overdue	Number of Homes	Percent
15-25 days	3	5%
1-2 months	5	8%
3-5 months	7	11%
6-8 months	5	8%
8-10 months	2	3%
1+ years	7	11%

[14] Annually is defined as within 365 days of the last relative placement home study.

[15] One additional home (1.6 percent) had an annual study documented, but it did not address the improper storage of weapons in the home.

Additionally, for relative caregivers, central registry checks were completed timely, prior to the approval of the annual home study, in 22 cases (34.4 percent) and criminal history background checks were completed timely, prior to the approval of the annual home study, in 21 cases (32.8 percent). Michigan policy requires that all caregivers and household members aged 12 years and older must have his/her name and address searched on the Michigan Public Sex Offender Registry. The monitoring team was able to find evidence that this background check was completed for 12 (18.8 percent) of the homes. DHHS did not meet the designated performance standard of 95 percent during the period.

Placement Standards

Placement Standard (6.5)

The MISEP requires that all children placed in the foster care custody of DHHS be placed in a licensed foster home, a licensed facility, pursuant to a court order, or with an unlicensed relative.

On September 9, 2021 the parties signed a letter of agreement detailing additional living situations that will be deemed compliant with this commitment.[16] Monitoring and reporting on this commitment for Period 19 will utilize the parties' updated methodology and be included in the Period 20 report to the Court.

Placing Siblings Together (6.6)

The MISEP requires DHHS to place siblings together when they enter foster care at or near the same time. Exceptions can be made if placing the siblings together would be harmful to one or more of the siblings, one of the siblings has exceptional needs that can only be met in a specialized program or facility, or the size of the sibling group makes such placement impractical notwithstanding efforts to place the group together. DHHS provided data to the monitoring team indicating there were 372 sibling groups whose members entered foster care within 30 days of each other during MISEP 19. Of these 372 sibling groups, 273 (73.4 percent) were either placed together or had a timely approval for an allowable exception. The monitoring team reviewed case records for a random sample of the children with allowable exceptions and determined they were valid. DHHS did not meet the designated performance standard of 90 percent for this commitment.

The commitment also requires that when siblings are separated at any time except for any of the aforementioned reasons, the case manager shall make immediate efforts to locate or recruit a family in whose home the siblings can be reunited. Efforts to place siblings together are to be documented and maintained in the case file and reassessed quarterly. The parties agreed that

[16] See Appendix C for a copy of the letter of agreement.

the monitoring team would conduct an independent qualitative review to measure performance for this commitment.

For MISEP 19 the monitoring team reviewed 47 children's case records subject to this provision and found that DHHS met the terms of the commitment in 14 cases (29.8 percent), far below the designated performance standard of 90 percent.

Maximum Children in a Foster Home (6.7)

In the MISEP, DHHS committed that no child shall be placed in a foster home if that placement will result in more than three foster children living in that foster home, or a total of six children, including the foster family's birth and adopted children. In addition, DHHS agreed that no placement will result in more than three children under the age of three residing in a foster home. Exceptions to these limitations may be made by the Director of DCWL when in the best interest of the child(ren) being placed. As of December 30, 2020, there were 4,837 foster homes in Michigan with at least one child in placement. Of these 4,837 homes, 4,355 (90.0 percent) met the terms of this commitment, meeting the designated performance standard of 90 percent.

Emergency or Temporary Facilities, Length of Stay (6.8)

DHHS is required to ensure children shall not remain in emergency or temporary facilities, including shelter care, for a period lasting more than 30 days unless exceptional circumstances exist. DHHS committed that no child shall remain in an emergency or temporary facility for a period lasting more than 60 days with no exceptions. The agreed upon performance standard for this commitment is 95 percent. Of the 70 children placed in emergency or temporary facilities during MISEP 19, 44 (62.9 percent) were placed within the length of stay parameters. DHHS did not meet the performance standard during MISEP 19.

The following chart details the race of the 70 children placed in emergency or temporary facilities during the period. As the table below indicates, Black/African American children were disproportionately placed in shelter care. While Black/African American children made up 31 percent of children in DHHS custody, they comprised 34 percent of the children placed in shelters, and 46 percent of the children who exceeded length of stay parameters in shelters during the period.

Table 5. Race of Children in Emergency or Temporary Facilities, MISEP 19

Race	Count Children placed in shelters	Percent Children placed in shelters	Count Children who exceeded length of stay parameters	Percent Children who exceeded length of stay parameters
White	38	54%	11	42%
Black/African American	24	34%	12	46%
Mixed Race	6	9%	3	12%
Native American	1	1%	0	0%
Unable to Determine	1	1%	0	0%
Asian	0	0%	0	0%
Native Hawaiian or Pacific Islander	0	0%	0	0%
Total	**70**	**100%**	**26**	**100%**
Hispanic origin (of any race)	6	9%	1	4%

Note: Percentages do not add up to 100 due to rounding.

Emergency or Temporary Facilities, Repeated Placement (6.9)

The MISEP requires that no child shall be placed in an emergency or temporary facility more than one time in a 12-month period unless exceptional circumstances exist. Children under 15 years of age experiencing a subsequent emergency or temporary-facility placement within a 12-month period may not remain in an emergency or temporary facility for more than seven days. Children 15 years of age or older experiencing a subsequent emergency or temporary-facility placement within a 12-month period may not remain in an emergency or temporary facility for more than 30 days. During the reporting period, children experienced 34 subsequent stays in shelter care, of which one placement episode (2.9 percent) met the terms of this commitment. DHHS did not meet the agreed upon performance standard of 97 percent. Table 6 details the race of the children who experienced subsequent stays in shelter care during the period. Black/African American children were disproportionately represented, comprising 44 percent of the children who experienced multiple stays in emergency or temporary facilities, but only 31 percent of the children in DHHS custody.

Table 6. Race of Children Experiencing a Subsequent Emergency or Temporary-Facility Placement, MISEP 19

Race	Count	Percent
Black/African American	15	44%
White	15	44%
Mixed Race	3	9%
Native American	1	3%
Asian	0	0%
Native Hawaiian or Pacific Islander	0	0%
Total	**34**	**100%**
Hispanic origin (of any race)	1	3%

Note: Percentages do not add up to 100 due to rounding.

Case Planning and Practice

Supervisory Oversight (6.16)

Supervisors are to meet at least monthly with each assigned caseworker to review the status of progress of each case on the worker's caseload. Supervisors must review and approve each service plan after having a face-to-face meeting with the worker, which can be the monthly supervisory meeting. The designated performance standard for this commitment is 95 percent.

Due to the COVID-19 pandemic, Judge Edmonds issued a Stipulated Order,[17] which permits supervisory conferences conducted via video conferencing technology or phone. The following table includes performance for initial and monthly case consultations due in MISEP 19.

Table 7. Supervisory Oversight Performance, MISEP 19

Requirement	Performance
Initial case consultations between a worker and supervisor that were due in the first 30 days	86.3%
Monthly case consultations due between a worker and supervisor	94.4%

Per the November 18, 2020 Stipulated Order this is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

[17] See Appendix D for a copy of the Stipulated Order.

Timeliness of Service Plans (6.17, 6.18)

The MISEP requires that DHHS complete an initial service plan (ISP) within 30 days of a child's entry into foster care (6.17) and then complete an updated service plan (USP) at least quarterly thereafter (6.18). The designated performance standard for both commitments is 95 percent.

During MISEP 19, DHHS did not achieve the designated performance standard for either commitment. Of the 1,914 ISPs due during the period, 1,589 (83.0 percent) were completed within 30 days of a child's entry into foster care or Young Adult Voluntary Foster Care (YAVFC). Of the 19,738 USPs due during the period, 17,376 (88.0 percent) were completed timely.

Caseworker Visitation

A key element of permanency practice involves face-to-face time between various people involved with a child welfare case. However, due to the COVID-19 pandemic, Judge Edmonds issued a Stipulated Order,[18] which broadens the definition of visits to include visits conducted by video conferencing technologies for purposes of measuring performance during MISEP 19. Additionally, the Judge permitted visits conducted via telephone in certain situations where video conferencing was not available during the period.[19] This modification did not eliminate all face-to-face visitations for children in care. The video or telephonic visitation options were authorized for routine visits, but not for emergency situations where a worker must respond to an immediate child health or safety concern.

Worker-Child Visitation (6.21)

DHHS agreed that caseworkers shall visit children in foster care at least two times per month during the child's first two months of placement in an initial or new placement, and at least once per month thereafter. At least one visit each month shall be held at the child's placement location and shall include a private meeting between the child and the caseworker. DHHS and the monitoring team established in the Metrics Plan assessment criteria for the six components that are included in the 6.21 commitment. The designated performance standard is 95 percent for all components.

DHHS' MISEP 19 performance on the six components of worker-child visitation is included in the following table. Per the November 18, 2020 Stipulated Order, 6.21 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by

[18] See Appendix D for a copy of the Stipulated Order.

[19] Telephonic visits were counted as compliant for commitments 6.22 (parent-child visits), 6.23 (worker-parent visits), and 6.24 (sibling visits) during the period. For commitment 6.21 (worker-child visits), visits were required to occur in-person or via video conferencing technologies.

either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Table 8. Worker-Child Visitation Performance, MISEP 19

Requirement	Performance
Each child shall be visited by a caseworker at least twice per month during the first two months following an initial or new placement	89.3%
Each child shall be visited by a caseworker at their placement location at least once per month during the first two months following an initial or new placement	91.5%
Each child shall have at least one visit per month that includes a private meeting between the child and caseworker during the first two months following an initial or new placement	89.0%
Each child shall be visited by a caseworker at least once per full month the child is in foster care	97.1%
Each child shall be visited by a caseworker at their placement location at least once per full month the child is in foster care	91.7%
Each child shall have at least one visit per full month the child is in foster care that includes a private meeting between the child and caseworker	88.7%

Worker-Parent Visitation (6.22)

Caseworkers must visit parents of children with a reunification goal at least twice during the first month of placement with at least one visit in the parental home. For subsequent months, visits must occur at least once per month. Exceptions to this requirement are made if the parent(s) are not attending visits despite DHHS taking adequate steps to ensure the visit takes place or a parent cannot attend a visit due to exigent circumstances such as hospitalization or incarceration. Exceptions are excluded from the numerator and denominator of this calculation. DHHS and the monitoring team established assessment criteria for the three components of this commitment in the Metrics Plan. The designated performance standard is 85 percent for all components.

DHHS' MISEP 19 performance on the three components of worker-parent visitation is included in the following table. Per the November 18, 2020 Stipulated Order, 6.22 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Table 9. Worker-Parent Visitation Performance, MISEP 19

Requirement	Performance
Caseworkers shall visit parents of children with a goal of reunification at least twice during the first month of placement	85.2%
Caseworkers shall visit parents of children with a goal of reunification in the parent's place of residence at least once during the first month of placement	45.6%
Caseworkers shall visit parents of children with a goal of reunification at least once for each subsequent month of placement	74.1%

Parent-Child Visitation (6.23)

When reunification is a child's permanency goal, parents and children will visit at least twice each month. Exceptions to this requirement are made if a court orders less frequent visits, the parents are not attending visits despite DHHS taking adequate steps to ensure the parents' ability to visit, one or both parents cannot attend the visits due to exigent circumstances such as hospitalization or incarceration, or the child is above the age of 16 and refuses such visits. The designated performance standard is 85 percent.

Of the 49,966 parent-child visits required during MISEP 19, DHHS completed 30,957 (62.0 percent) timely. Per the November 18, 2020 Stipulated Order, 6.23 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Sibling Visitation (6.24)

For children in foster care who have siblings in custody with whom they are not placed, DHHS shall ensure they have at least monthly visits with their siblings. Exceptions to this requirement can be made if the visit may be harmful to one or more of the siblings, the sibling is placed out of state in compliance with the Interstate Compact on Placement of Children, the distance between the child's placements is more than 50 miles and the child is placed with a relative, or one of the siblings is above the age of 16 and refuses to visit. The designated performance standard is 85 percent.

Of the 16,204 sibling visits required during MISEP 19, DHHS completed 11,212 (69.2 percent) timely. Per the November 18, 2020 Stipulated Order, 6.24 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Safety and Well-Being

Responding to Reports of Abuse and Neglect

Commencement of CPS Investigations (5.2)

DHHS committed to commence investigations of reports of child abuse or neglect within the timeframes required by state law. The designated performance standard for this commitment is 95 percent.

DHHS reported that during MISEP 19, there were 33,340 complaints that required the commencement of an investigation. Of those, 32,561 (97.7 percent) were commenced timely, meeting the performance standard for the period.

Completion of CPS Investigations (6.11)

DHHS agreed that all child abuse or neglect investigations would be completed by the worker and approved by the supervisor within 44 days. The parties agreed to a performance standard of 90 percent for this commitment.

During MISEP 19, there were 30,765 investigation reports due to be completed. Of those, 29,813 (96.9 percent) were submitted by caseworkers and approved by supervisors within 44 days. DHHS exceeded the performance standard for this commitment.

CPS Investigations and Screening, Screening (6.12.a)

In the MISEP, DHHS committed to investigate all allegations of abuse or neglect relating to any child in the foster care custody of DHHS and to ensure that allegations of maltreatment in care are not inappropriately screened out and therefore not investigated by CPS. The MISEP requires that this provision be measured by the monitors through a qualitative review. A statistically significant sample of cases and a set of questions established by DHHS and the monitors was utilized in the MISEP 19 review. The review population was comprised of all referrals that involved a plaintiff class child (whether they were in out-of-home or in-home placement) that were screened out for CPS investigation during the period. There were 1,917 such referrals in the MISEP 19 data provided by DHHS.

The monitoring team reviewed 66 screened-out CPS referrals and determined that DHHS made appropriate screening decisions in 58 instances (87.9 percent). The monitors determined that three referrals met the criteria for assignment for investigation and five referrals required the screener to obtain additional information to make an appropriate screening decision.

The following referral is an example of one that the monitoring team concluded should have been investigated for child abuse and neglect:

- The foster care worker for two siblings, ages 11 and 9, reported that seven months ago, prior to the children coming into DHHS custody, the children's aunt pointed an airsoft gun at the 11-year-old because she was upset with him. The aunt shot the child in the stomach three times with the airsoft gun. The child had three small circles on the mid-section of his stomach, which appeared to be red and swollen. The aunt is currently the foster parent for the two children. Centralized Intake determined the referral should be transferred to law enforcement.

The following referral is an example of a referral that the monitoring team concluded needed more information before a screening decision could be made:

- The adult sister and relative foster parent for a 12-year-old told the child's foster care worker both verbally and in writing that she no longer wants to adopt or provide care for the child. She reported that the child does not listen to her and does not want to be there either. The child does not want to be in the home because there is a lot of domestic violence between the foster parent and her partner. The police are called to the home in the middle of the night often. The child does not feel that the foster parent loves him and she does not take care of him. Centralized Intake transferred the referral to active workers and licensing for further review, noting that the child was being moved to another foster home. The screener also noted that the domestic violence allegations were vague with no indication of risk of harm to the child. A call to law enforcement could have clarified whether any recent domestic violence reports had been made on the home.

The MISEP also requires that when DHHS transfers a referral to another agency for investigation, DHHS must independently take appropriate action to ensure the safety and well-being of the child in the Department's custody. The parties agreed that the monitors would conduct an independent qualitative review to determine compliance with this commitment.

The monitoring team reviewed a random sample of 62 referrals received by Centralized Intake (CI) regarding plaintiff class children that were transferred outside the Department during the period under review, stratified by county, to determine performance. The designated performance standard for this commitment is 95 percent.

Of the 62 transferred cases, the monitoring team found 53 cases met the terms of the MISEP and nine cases did not, for a performance calculation of 85.5 percent. DHHS did not meet the designated performance standard of 95 percent for the period.

CPS Investigations and Screening, PCU (6.12.b)

The MISEP also requires DHHS maintain a Placement Collaboration Unit (PCU) to review and assess screening decisions on plaintiff-class children who are in out-of-home placements and to ensure safety and well-being is addressed on those transferred complaints. The PCU is required to review 100 percent of cases until reconsideration of complaints involving plaintiff class children out of home are less than five percent.

DHHS met the performance standard for this commitment, as validated by the monitoring team, in Periods 17 and 18. *Per the MISEP, compliance during these two periods makes the commitment eligible to move to "Structures and Policies."*

Health and Mental Health

Medical and Mental Health Examinations for Children (6.25)

DHHS committed in the MISEP that at least 85 percent of children shall have an initial medical and mental health examination within 30 days of the child's entry into foster care, and that at least 95 percent of children shall have an initial medical and mental health examination within 45 days of the child's entry into foster care.

During MISEP 19, the Department completed 1,348 (69.8 percent) of 1,930 required initial medical and mental health exams within 30 days of a child's entry into care. Additionally, DHHS completed 1,496 (77.9 percent) of 1,920 required initial medical and mental health exams within 45 days of a child's entry into care during MISEP 19. Per the November 18, 2020 Stipulated Order, 6.25 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Dental Care for Children (6.26)

DHHS committed in the MISEP that at least 90 percent of children shall have an initial dental examination within 90 days of the child's entry into care unless the child had an exam within six months prior to placement or the child is less than four years of age.

During MISEP 19, 604 initial dental exams (56.7 percent) of 1,065 required exams were completed timely for children in DHHS custody. Per the November 18, 2020 Stipulated Order, 6.26 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Immunizations (6.27, 6.28)

Under the MISEP, children in DHHS custody must receive all required immunizations according to the guidelines set forth by the American Academy of Pediatrics (AAP). For children in DHHS custody for three or fewer months at the end of the period, DHHS is to ensure that 90 percent receive any necessary immunizations, according to AAP guidelines, within three months of entry into care (6.27). DHHS reported on this commitment through data produced by the Michigan Care Improvement Registry (MCIR). The MCIR is an immunization database that documents immunizations reported to be administered by health care providers in Michigan. Performance for each immunization type was calculated by dividing the number of children who require the immunization by the number of children current with the immunization during MISEP 19. DHHS' performance is charted in the following table.

Table 10. Immunizations for Children in Custody Three Months or Less, MISEP 19

Immunization	Children requiring immunization	Children current with immunization	Performance
DTP/DTaP/DT/Td/Tdap	1,046	950	90.8%
Hepatitis A	1,046	958	91.6%
Hepatitis B	1,046	972	92.9%
Hib	462	413	89.4%
HPV	431	343	79.6%
Meningococcal Conjugate	396	365	92.2%
MMR	1,046	983	94.0%
Pneumococcal Conjugate	462	418	90.5%
Polio	894	816	91.3%
Rotavirus	183	112	61.2%
Varicella	1,046	981	93.8%

For children in DHHS custody for longer than three months as of the end of the period, DHHS is to ensure that 90 percent receive all required immunizations according to AAP guidelines (6.28). DHHS also reported on this commitment through data produced by the MCIR. Performance for each immunization type was calculated by dividing the number of children who require the immunization by the number of children current with the immunization during MISEP 19. DHHS' performance is charted in the table below.

Table 11. Immunizations for Children in Custody Longer Than Three Months, MISEP 19

Immunization	Children requiring immunization	Children current with immunization	Performance
DTP/DTaP/DT/Td/Tdap	8,970	8,455	94.3%
Hepatitis A	8,970	8,491	94.7%
Hepatitis B	8,970	8,715	97.2%
Hib	3,055	2,889	94.6%
HPV	4,130	3,531	85.5%
Meningococcal Conjugate	3,759	3,487	92.8%
MMR	8,970	8,683	96.8%
Pneumococcal Conjugate	3,055	2,880	94.3%
Polio	8,246	7,953	96.4%
Rotavirus	66	12	18.2%
Varicella	8,970	8,677	96.7%

Per the November 18, 2020 Stipulated Order, 6.27 and 6.28 are COVID-impacted commitments and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Ongoing Healthcare for Children (6.29)

DHHS committed in the MISEP that following an initial medical, dental, or mental health examination, at least 95 percent of children shall receive periodic and ongoing medical, dental, and mental health examinations and screenings, according to the guidelines set forth by the AAP. Performance for this commitment was calculated for each medical type: medical well-child visits for children aged three and younger, annual physicals for children older than three, and semi-annual dental exams.

During MISEP 19, DHHS completed 2,819 (61.8 percent) of 4,560 medical well-child visits timely, 4,444 (81.7 percent) of 5,439 annual physicals timely, and 5,808 (70.5 percent) of 8,243 semiannual dental exams timely. Per the November 18, 2020 Stipulated Order, 6.29 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Child Case File, Medical and Psychological (6.30)

The MISEP requires that DHHS will ensure that:

- Children's health records are up to date and included in the case file. Health records include the names and addresses of the child's health care providers, a record of the child's immunizations, the child's known medical problems, the child's medications, and any other relevant health information;

- The case plan addresses the issue of health and dental care needs; and
- Foster parents or foster care providers are provided with the child's health care records.

DHHS' MISEP 19 performance on the three components of the child's medical and psychological case files is charted below. To measure performance, DHHS reviewed 49 foster care cases utilizing CSFR Item 17 criteria described in the chart below. DHHS did not achieve the 95 percent performance standard for any component of the child case file commitment during MISEP 19.

Table 12. Child Case File, Medical and Psychological Performance, MISEP 19

Requirement	Applicable Cases	Cases not Compliant	Cases Compliant	Performance Percentage
To the extent available and accessible, the child's health records are up to date and included in the case file.	49	7	42	85.7%
The case plan addresses the issue of health and dental care needs.	49	4	45	91.8%
To the extent available and accessible, foster parents or foster care providers are provided with the child's health records.	49	4	45	91.8%

Access to Health Insurance (6.31, 6.32)

The MISEP requires DHHS ensure that at least 95 percent of children have access to medical coverage within 30 days of entry into foster care by providing the placement provider with a Medicaid card or an alternative verification of the child's Medicaid status and Medicaid number as soon as it is available (6.31).

Data provided by DHHS indicate that placement providers received a Medicaid card or an alternative verification of the child's Medicaid status and number within 30 days of entry into foster care for 1,692 (87.7 percent) of 1,930 children in MISEP 19. DHHS did not meet the performance standard during MISEP 19.

The MISEP also requires DHHS to ensure that 95 percent of children have access to medical coverage within 24 hours or the next business day following subsequent placement by giving the placement provider a Medicaid card or an alternative verification of the child's Medicaid status and Medicaid number as soon as it is available (6.32).

During MISEP 19, DHHS reported 3,047 (78.5 percent) of 3,884 placement providers received Medicaid cards or alternative verification within 24 hours or the next business day following a

child's subsequent placement. DHHS did not meet the agreed-upon designated performance standard of 95 percent.

Psychotropic Medication, Informed Consent (6.33)

The MISEP requires DHHS to ensure that an informed consent is obtained and documented in writing for each child in DHHS custody who is prescribed psychotropic medication, as per DHHS policy.

During MISEP 19, the Department reported 2,590 children required informed consent documentation, for 6,546 unique prescriptions. Data indicated that valid consents were on file for 76.1 percent of the medications. Therefore, DHHS did not meet the designated performance standard of 97 percent for this commitment.

Psychotropic Medication, Documentation (6.34)

Under the MISEP, DHHS must ensure that:

- A child is seen regularly by a physician to monitor the effectiveness of the medication, assess any side effects and/or health implications, consider any changes needed to dosage or medication type and determine whether medication is still necessary and/or whether other treatment options would be more appropriate;
- DHHS shall regularly follow up with foster parents/caregivers about administering medications appropriately and about the child's experience with the medication(s), including any side effects; and
- DHHS shall follow any additional state protocols that may be in place and related to the appropriate use and monitoring of medications.

Evidence of these actions should be documented in the child's case record. The parties agreed that performance for this commitment would be measured through an independent qualitative review conducted by the monitoring team.

The population for review was comprised of children in DHHS custody who were prescribed a psychotropic medication during the period under review. Consistent with the parameters the parties approved, the monitoring team reviewed a random sample of cases, stratified by county, to determine performance. The designated performance standard for this commitment is 97 percent.

For MISEP 19, the monitoring team randomly selected a sample of 66 cases from a total population of 2,590 children. The monitoring team found 23 cases met the terms of this commitment and 43 cases did not meet the terms of this commitment for a performance

calculation of 34.8 percent. DHHS did not meet the designated performance standard of 97 percent for the period.

Youth Transitioning to Adulthood

Extending Eligibility and Services

Support for Youth Transitioning to Adulthood, YAVFC (6.36.a)

Under the MISEP, DHHS committed to implement policies and provide services to support youth transitioning to adulthood, including ensuring youth have been informed of services available through the Youth Adult Voluntary Foster Care (YAVFC) program. Performance for this commitment is achieved by positive trending in the rate of foster youth aging out of the system participating in the YAVFC program for a minimum of two reporting periods.

Data provided by DHHS indicate that during MISEP 19, there were 1,815 youth eligible for the YAVFC program. Of those youth, 739 (40.7 percent) participated in the program. This shows an improvement of 6.4 percent from the previous reporting period. Per the November 18, 2020 Stipulated Order, 6.36a is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Support for Youth Transitioning to Adulthood, Medicaid (6.36.b)

The MISEP requires DHHS to continue to implement policies and provide services to support youth transitioning to adulthood, including ensuring youth have been informed of the availability of Medicaid coverage. The parties agreed that this commitment would be measured by the rate of foster youth aging out of the system who have access to Medicaid. The designated performance standard for this commitment is 95 percent.

DHHS met the performance standard for this commitment, as validated by the monitoring team, in Periods 17 and 18. *Per the MISEP, compliance during these two periods makes the commitment eligible to move to "Structures and Policies."*

Achieving Permanency

Support for Youth Transitioning to Adulthood, Permanency (6.37)

The MISEP requires DHHS to continue to implement policies and provide services to support the rate of older youth achieving permanency. The parties agreed that this commitment would be measured by examining the outcomes of all older youth who exit foster care during the monitoring period and comparing rates of exits to permanency and rates of exits to

emancipation. For purposes of this commitment, older youth is defined as youth aged 15 or older with a permanency goal of reunification, guardianship, adoption or APPLA. The performance standard for this commitment is positive trending, or any reduction in the rates of older youth exiting without permanency.

During MISEP 19, there were 436 youth who were 15 years and older who exited foster care. Of those, 224 (51.4 percent) discharged with an exit type of reunification, adoption, or guardianship. This shows an improvement of 0.9 percent from the previous reporting period. Per the November 18, 2020 Stipulated Order 6.37 is a COVID-impacted commitment and performance for the period, as described in this report, will not be used by either party to demonstrate sustained compliance or non-compliance with the terms of the MISEP.

Appendix A. Age Range of Children in Care on December 31, 2020 by County

County Name	Ages 0-6		Ages 7-11		Ages 12-17		Ages 18+		Total
	Children	%	Children	%	Children	%	Children	%	
Alcona	5	35.7%	1	7.1%	7	50.0%	1	7.1%	14
Alger	4	44.4%	3	33.3%	2	22.2%	0	0.0%	9
Allegan	76	43.2%	41	23.3%	54	30.7%	5	2.8%	176
Alpena	28	53.8%	6	11.5%	12	23.1%	6	11.5%	52
Antrim	8	53.3%	0	0.0%	4	26.7%	3	20.0%	15
Arenac	14	42.4%	3	9.1%	14	42.4%	2	6.1%	33
Baraga	3	50.0%	0	0.0%	3	50.0%	0	0.0%	6
Barry	10	33.3%	4	13.3%	12	40.0%	4	13.3%	30
Bay	55	41.7%	26	19.7%	37	28.0%	14	10.6%	132
Benzie	5	26.3%	1	5.3%	10	52.6%	3	15.8%	19
Berrien	124	54.4%	48	21.1%	42	18.4%	14	6.1%	228
Branch	40	53.3%	20	26.7%	12	16.0%	3	4.0%	75
Calhoun	119	42.2%	64	22.7%	80	28.4%	19	6.7%	282
Cass	44	39.6%	19	17.1%	37	33.3%	11	9.9%	111
Central Office	9	75.0%	2	16.7%	0	0.0%	1	8.3%	12
Charlevoix	3	42.9%	0	0.0%	3	42.9%	1	14.3%	7
Cheboygan	11	47.8%	6	26.1%	6	26.1%	0	0.0%	23
Chippewa	19	63.3%	5	16.7%	5	16.7%	1	3.3%	30
Clare	30	44.1%	14	20.6%	22	32.4%	2	2.9%	68
Clinton	15	48.4%	7	22.6%	9	29.0%	0	0.0%	31
Crawford	19	37.3%	17	33.3%	14	27.5%	1	2.0%	51
Delta	42	71.2%	9	15.3%	7	11.9%	1	1.7%	59
Dickinson	15	50.0%	12	40.0%	2	6.7%	1	3.3%	30
Eaton	32	39.5%	11	13.6%	24	29.6%	14	17.3%	81
Emmet	9	40.9%	7	31.8%	5	22.7%	1	4.5%	22
Genesee	231	46.7%	95	19.2%	129	26.1%	40	8.1%	495
Gladwin	17	36.2%	9	19.1%	19	40.4%	2	4.3%	47
Gogebic	17	60.7%	3	10.7%	7	25.0%	1	3.6%	28
Grand Traverse	33	50.8%	9	13.8%	13	20.0%	10	15.4%	65
Gratiot	27	55.1%	10	20.4%	12	24.5%	0	0.0%	49
Hillsdale	54	50.9%	31	29.2%	19	17.9%	2	1.9%	106
Houghton	6	60.0%	0	0.0%	3	30.0%	1	10.0%	10
Huron	16	42.1%	8	21.1%	11	28.9%	3	7.9%	38
Ingham	199	48.7%	79	19.3%	98	24.0%	33	8.1%	409
Ionia	22	36.7%	15	25.0%	21	35.0%	2	3.3%	60
Iosco	20	52.6%	4	10.5%	10	26.3%	4	10.5%	38
Iron	17	77.3%	2	9.1%	3	13.6%	0	0.0%	22
Isabella	26	49.1%	11	20.8%	10	18.9%	6	11.3%	53
Jackson	89	45.9%	40	20.6%	49	25.3%	16	8.2%	194
Kalamazoo	219	47.3%	88	19.0%	111	24.0%	45	9.7%	463

County Name	Ages 0-6		Ages 7-11		Ages 12-17		Ages 18+		Total
	Children	%	Children	%	Children	%	Children	%	
Kalkaska	13	37.1%	8	22.9%	12	34.3%	2	5.7%	35
Kent	290	42.6%	122	17.9%	194	28.5%	75	11.0%	681
Lake	7	41.2%	3	17.6%	6	35.3%	1	5.9%	17
Lapeer	20	48.8%	8	19.5%	10	24.4%	3	7.3%	41
Leelanau	1	16.7%	1	16.7%	4	66.7%	0	0.0%	6
Lenawee	89	55.6%	35	21.9%	31	19.4%	5	3.1%	160
Livingston	59	46.8%	32	25.4%	30	23.8%	5	4.0%	126
Luce	6	60.0%	2	20.0%	1	10.0%	1	10.0%	10
Mackinac	8	57.1%	1	7.1%	3	21.4%	2	14.3%	14
Macomb	255	48.0%	106	20.0%	121	22.8%	49	9.2%	531
Manistee	19	47.5%	11	27.5%	9	22.5%	1	2.5%	40
Marquette	25	73.5%	2	5.9%	5	14.7%	2	5.9%	34
Mason	21	67.7%	6	19.4%	3	9.7%	1	3.2%	31
Mecosta	8	42.1%	3	15.8%	3	15.8%	5	26.3%	19
Menominee	5	29.4%	5	29.4%	7	41.2%	0	0.0%	17
Midland	62	51.2%	24	19.8%	31	25.6%	4	3.3%	121
Missaukee	5	23.8%	4	19.0%	10	47.6%	2	9.5%	21
Monroe	56	58.9%	18	18.9%	17	17.9%	4	4.2%	95
Montcalm	64	44.8%	33	23.1%	34	23.8%	12	8.4%	143
Montmorency	12	70.6%	2	11.8%	3	17.6%	0	0.0%	17
Muskegon	167	46.4%	76	21.1%	100	27.8%	17	4.7%	360
Newaygo	43	51.2%	20	23.8%	17	20.2%	4	4.8%	84
Oakland	199	44.7%	87	19.6%	110	24.7%	49	11.0%	445
Oceana	7	38.9%	4	22.2%	7	38.9%	0	0.0%	18
Ogemaw	10	31.3%	6	18.8%	12	37.5%	4	12.5%	32
Ontonagon	0	0.0%	1	50.0%	0	0.0%	1	50.0%	2
Osceola	7	38.9%	3	16.7%	6	33.3%	2	11.1%	18
Oscoda	5	23.8%	5	23.8%	10	47.6%	1	4.8%	21
Otsego	18	46.2%	9	23.1%	12	30.8%	0	0.0%	39
Ottawa	76	41.1%	53	28.6%	33	17.8%	23	12.4%	185
Presque Isle	8	53.3%	2	13.3%	5	33.3%	0	0.0%	15
Roscommon	16	50.0%	8	25.0%	4	12.5%	4	12.5%	32
Saginaw	66	38.6%	34	19.9%	46	26.9%	25	14.6%	171
Sanilac	32	45.7%	19	27.1%	19	27.1%	0	0.0%	70
Schoolcraft	12	85.7%	0	0.0%	2	14.3%	0	0.0%	14
Shiawassee	35	47.9%	16	21.9%	16	21.9%	6	8.2%	73
St. Clair	107	46.3%	43	18.6%	57	24.7%	24	10.4%	231
St. Joseph	75	50.0%	33	22.0%	37	24.7%	5	3.3%	150
Tuscola	15	48.4%	7	22.6%	7	22.6%	2	6.5%	31
Van Buren	49	45.0%	21	19.3%	33	30.3%	6	5.5%	109
Washtenaw	62	45.6%	24	17.6%	28	20.6%	22	16.2%	136
Wayne	1218	45.7%	606	22.7%	600	22.5%	240	9.0%	2664
Wexford	19	38.0%	9	18.0%	19	38.0%	3	6.0%	50
Total	**5003**	**46.4%**	**2242**	**20.8%**	**2652**	**24.6%**	**885**	**8.2%**	**10782**

Appendix B. Length of Stay of Children in Care on December 31, 2020 by County

County Name	Less than a year		1-2 years		2-3 years		3-6 years		6 years plus		Total
	Children	%	Children	%	Children	%	Children	%	Children	%	
Alcona	5	35.7%	5	35.7%	4	28.6%	0	0.0%	0	0.0%	14
Alger	5	55.6%	4	44.4%	0	0.0%	0	0.0%	0	0.0%	9
Allegan	87	49.4%	56	31.8%	24	13.6%	7	4.0%	2	1.1%	176
Alpena	18	34.6%	11	21.2%	11	21.2%	11	21.2%	1	1.9%	52
Antrim	3	20.0%	7	46.7%	2	13.3%	2	13.3%	1	6.7%	15
Arenac	14	42.4%	9	27.3%	5	15.2%	3	9.1%	2	6.1%	33
Baraga	4	66.7%	0	0.0%	1	16.7%	1	16.7%	0	0.0%	6
Barry	7	23.3%	16	53.3%	2	6.7%	4	13.3%	1	3.3%	30
Bay	32	24.2%	41	31.1%	41	31.1%	17	12.9%	1	0.8%	132
Benzie	7	36.8%	4	21.1%	8	42.1%	0	0.0%	0	0.0%	19
Berrien	89	39.0%	84	36.8%	27	11.8%	21	9.2%	7	3.1%	228
Branch	26	34.7%	31	41.3%	14	18.7%	4	5.3%	0	0.0%	75
Calhoun	80	28.4%	94	33.3%	58	20.6%	44	15.6%	6	2.1%	282
Cass	41	36.9%	37	33.3%	11	9.9%	20	18.0%	2	1.8%	111
Central Office	7	58.3%	1	8.3%	2	16.7%	2	16.7%	0	0.0%	12
Charlevoix	2	28.6%	1	14.3%	2	28.6%	2	28.6%	0	0.0%	7
Cheboygan	9	39.1%	11	47.8%	3	13.0%	0	0.0%	0	0.0%	23
Chippewa	12	40.0%	6	20.0%	8	26.7%	4	13.3%	0	0.0%	30
Clare	23	33.8%	11	16.2%	17	25.0%	14	20.6%	3	4.4%	68
Clinton	16	51.6%	13	41.9%	2	6.5%	0	0.0%	0	0.0%	31
Crawford	17	33.3%	14	27.5%	9	17.6%	11	21.6%	0	0.0%	51
Delta	24	40.7%	21	35.6%	10	16.9%	4	6.8%	0	0.0%	59
Dickinson	14	46.7%	11	36.7%	3	10.0%	2	6.7%	0	0.0%	30
Eaton	22	27.2%	40	49.4%	11	13.6%	6	7.4%	2	2.5%	81
Emmet	3	13.6%	7	31.8%	5	22.7%	6	27.3%	1	4.5%	22
Genesee	137	27.7%	175	35.4%	88	17.8%	82	16.6%	13	2.6%	495
Gladwin	19	40.4%	25	53.2%	1	2.1%	1	2.1%	1	2.1%	47
Gogebic	3	10.7%	10	35.7%	4	14.3%	11	39.3%	0	0.0%	28
Grand Traverse	19	29.2%	31	47.7%	9	13.8%	5	7.7%	1	1.5%	65
Gratiot	21	42.9%	15	30.6%	13	26.5%	0	0.0%	0	0.0%	49
Hillsdale	58	54.7%	30	28.3%	10	9.4%	8	7.5%	0	0.0%	106
Houghton	1	10.0%	4	40.0%	2	20.0%	3	30.0%	0	0.0%	10
Huron	15	39.5%	15	39.5%	2	5.3%	6	15.8%	0	0.0%	38
Ingham	138	33.7%	150	36.7%	57	13.9%	53	13.0%	11	2.7%	409
Ionia	22	36.7%	23	38.3%	9	15.0%	6	10.0%	0	0.0%	60
Iosco	16	42.1%	5	13.2%	13	34.2%	2	5.3%	2	5.3%	38
Iron	9	40.9%	10	45.5%	3	13.6%	0	0.0%	0	0.0%	22
Isabella	19	35.8%	15	28.3%	6	11.3%	12	22.6%	1	1.9%	53
Jackson	56	28.9%	76	39.2%	45	23.2%	14	7.2%	3	1.5%	194
Kalamazoo	166	35.9%	148	32.0%	77	16.6%	62	13.4%	10	2.2%	463

County Name	Less than a year		1-2 years		2-3 years		3-6 years		6 years plus		Total
	Children	%	Children	%	Children	%	Children	%	Children	%	
Kalkaska	10	28.6%	11	31.4%	9	25.7%	5	14.3%	0	0.0%	35
Kent	193	28.3%	232	34.1%	154	22.6%	76	11.2%	26	3.8%	681
Lake	4	23.5%	5	29.4%	5	29.4%	1	5.9%	2	11.8%	17
Lapeer	26	63.4%	6	14.6%	6	14.6%	3	7.3%	0	0.0%	41
Leelanau	1	16.7%	0	0.0%	2	33.3%	2	33.3%	1	16.7%	6
Lenawee	58	36.3%	64	40.0%	28	17.5%	9	5.6%	1	0.6%	160
Livingston	57	45.2%	38	30.2%	19	15.1%	10	7.9%	2	1.6%	126
Luce	5	50.0%	5	50.0%	0	0.0%	0	0.0%	0	0.0%	10
Mackinac	2	14.3%	8	57.1%	1	7.1%	0	0.0%	3	21.4%	14
Macomb	144	27.1%	175	33.0%	129	24.3%	70	13.2%	13	2.4%	531
Manistee	10	25.0%	13	32.5%	13	32.5%	3	7.5%	1	2.5%	40
Marquette	18	52.9%	10	29.4%	4	11.8%	1	2.9%	1	2.9%	34
Mason	11	35.5%	9	29.0%	10	32.3%	1	3.2%	0	0.0%	31
Mecosta	11	57.9%	3	15.8%	1	5.3%	1	5.3%	3	15.8%	19
Menominee	4	23.5%	5	29.4%	8	47.1%	0	0.0%	0	0.0%	17
Midland	55	45.5%	34	28.1%	16	13.2%	13	10.7%	3	2.5%	121
Missaukee	8	38.1%	3	14.3%	4	19.0%	4	19.0%	2	9.5%	21
Monroe	35	36.8%	30	31.6%	14	14.7%	15	15.8%	1	1.1%	95
Montcalm	64	44.8%	52	36.4%	15	10.5%	8	5.6%	4	2.8%	143
Montmorency	7	41.2%	5	29.4%	3	17.6%	1	5.9%	1	5.9%	17
Muskegon	129	35.8%	130	36.1%	66	18.3%	29	8.1%	6	1.7%	360
Newaygo	34	40.5%	32	38.1%	8	9.5%	9	10.7%	1	1.2%	84
Oakland	106	23.8%	149	33.5%	81	18.2%	93	20.9%	16	3.6%	445
Oceana	8	44.4%	9	50.0%	0	0.0%	1	5.6%	0	0.0%	18
Ogemaw	8	25.0%	12	37.5%	7	21.9%	5	15.6%	0	0.0%	32
Ontonagon	0	0.0%	1	50.0%	0	0.0%	1	50.0%	0	0.0%	2
Osceola	5	27.8%	6	33.3%	4	22.2%	2	11.1%	1	5.6%	18
Oscoda	12	57.1%	8	38.1%	1	4.8%	0	0.0%	0	0.0%	21
Otsego	10	25.6%	19	48.7%	5	12.8%	5	12.8%	0	0.0%	39
Ottawa	86	46.5%	57	30.8%	26	14.1%	12	6.5%	4	2.2%	185
Presque Isle	9	60.0%	2	13.3%	2	13.3%	2	13.3%	0	0.0%	15
Roscommon	13	40.6%	10	31.3%	3	9.4%	4	12.5%	2	6.3%	32
Saginaw	59	34.5%	61	35.7%	26	15.2%	18	10.5%	7	4.1%	171
Sanilac	32	45.7%	21	30.0%	13	18.6%	4	5.7%	0	0.0%	70
Schoolcraft	6	42.9%	1	7.1%	4	28.6%	3	21.4%	0	0.0%	14
Shiawassee	15	20.5%	23	31.5%	24	32.9%	11	15.1%	0	0.0%	73
St. Clair	77	33.3%	80	34.6%	39	16.9%	29	12.6%	6	2.6%	231
St. Joseph	61	40.7%	44	29.3%	16	10.7%	22	14.7%	7	4.7%	150
Tuscola	15	48.4%	6	19.4%	6	19.4%	3	9.7%	1	3.2%	31
Van Buren	25	22.9%	30	27.5%	29	26.6%	19	17.4%	6	5.5%	109
Washtenaw	47	34.6%	56	41.2%	15	11.0%	11	8.1%	7	5.1%	136
Wayne	828	31.1%	625	23.5%	488	18.3%	632	23.7%	91	3.4%	2664
Wexford	23	46.0%	16	32.0%	9	18.0%	2	4.0%	0	0.0%	50
Total	**3597**	**33.4%**	**3373**	**31.3%**	**1932**	**17.9%**	**1590**	**14.7%**	**290**	**2.7%**	**10782**

Appendix C. Letter of Agreement re: Dwayne B., et al., v. Gretchen Whitmer, et al., 2:06-cv-13548 Placement Standard, MISEP # : 6.5

STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ELIZABETH HERTEL
DIRECTOR

TO: Kevin Ryan and Eileen Crummy, Public Catalyst

FROM: Demetrius Starling,
Executive Director
MDHHS Children's Services Agency

Samantha M. Bartosz
Elizabeth Pitman Gretter
Children's Rights, Inc.
Attorneys for Plaintiffs

RE: *Dwayne B., et al., v. Gretchen Whitmer, et al.*, 2:06-cv-13548
Placement Standard, MISEP #: 6.5

This Letter of Agreement memorializes the parties' agreement, through their attorneys, regarding the following five (5) situations that will be considered compliant when measuring performance in Reporting Period 19 and going forward for section 6.5, Placement Standard (Commitment 43), of the Modified Implementation, Sustainability, and Exit Plan (MISEP).

The following situations that shall be deemed compliant:

1. Youth placed with an unrelated caregiver with the court ordered information within the narrative sections of MiSACWIS.

2. Children who are in Independent Living but placed in either a licensed or unlicensed relative home.

3. Youth who are engaged in college studies and living in a college/university dormitory or residential hall.

4. Youth living in an adoptive home whose placement (living arrangement) status does not coincide with the legal status if the legal status is updated to coincide with placement status before the next reporting period.

5. Youth, 17 years and older, who are transitioning from out of home care to living on their own but are not in an approved placement type (for example: relatives, court ordered, etc.), and who are participating in the Independent Living program.

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www.michigan.gov/mdhhs • 517-241-3740

The parties agree that MDHHS will seek guidance from MMT on the most effective method to report and capture this data for validation.

This agreement shall be utilized for 19th MISEP reporting period (July – December 2020) and all future reporting periods, unless otherwise agreed to by the parties.

The parties further agree this Letter of Understanding will not be filed with the Court unless a dispute arises necessitating the Court's review of this letter.

Dated:

September 10, 2021

Demetrius Starling, Executive Director
MDHHS Children's Services Agency

Dated:

September 9, 2021

Samantha M. Bartosz
Elizabeth Pitman Gretter
Children's Rights, Inc.
Attorneys for Plaintiffs

Appendix D. Stipulated Order Regarding Commitment Modifications Due to COVID-19 to the 07/01/2020 – 12/31/2020 Reporting Period of the MISEP

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

DWAYNE B., by his next friend, John Stempfle: CARMELA B., by her next friend William Ladd; LISA J., by her next friend, Teresa Kibby; and JULIA, SIMON, and COURTNEY G., by their next friend, William Ladd; for themselves and others similarly situated,

Plaintiffs,

v

GRETCHEN WHITMER, in her official capacity as Governor of the State of Michigan, *et al.*,

Defendants.

No. 2:06-cv-13548

HON. NANCY G. EDMUNDS

Class Action

STIPULATED ORDER REGARDING COMMITMENT MODIFICATIONS DUE TO COVID-19 TO THE 07/01/2020 - 12/31/2020 REPORTING PERIOD OF THE MODIFIED SUSTAINABILITY AND EXIT PLAN (MISEP)

/

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STIPULATED ORDER REGARDING COMMITMENT MODIFICATIONS DUE TO COVID-19 TO THE 07/01/2020 - 12/31/2020 REPORTING PERIOD OF THE MODIFIED SUSTAINABILITY AND EXIT PLAN (MISEP)

IT IS HEREBY STIPULATED AND AGREED by the Parties that the unforeseen COVID-19 pandemic has impacted some provisions of the Modified Sustainability and Exit Plan ("MISEP"). Accordingly, the Parties agree to the following modifications of these MISEP commitments solely for the monitoring period covering July 1, 2020 – December 31, 2020 ("the Relevant Period").

A. General Agreement

The Parties agree that performance on the following MISEP provisions may be impacted by COVID-19: 6.4, 6.16, 6.21(a), 6.21(b), 6.22(a), 6.22(b), 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.29, 6.36(a), and 6.37 (the "COVID-impacted commitments").

B. Monitoring of Commitments Impacted by COVID-19

The parties anticipate MDHHS performance on COVID-impacted commitments may be skewed as a result of the pandemic. The parties agree that, for the Relevant Period, MDDHS should not be penalized for negatively skewed performance. The parties agree that positively

skewed performance should likewise not be used as a basis for exiting eligible provisions from court oversight. Accordingly, the parties agree that MDHHS performance on COVID-impacted commitments will not be used by either party to demonstrate sustained compliance or non-compliance under the terms of the MISEP, and stipulate as follows:

1. For COVID-impacted commitments requiring compliance in consecutive reporting periods, should MDHHS be unable to meet compliance in the Relevant Period, such performance will not be considered when determining whether MDHHS has been in compliance for consecutive reporting periods, and shall not interrupt MDHHS's compliance in meeting the consecutive reporting period requirements or be used to trigger non-compliance under the terms of the MISEP.

2. For COVID-impacted commitments requiring compliance in consecutive reporting periods, should MDHHS achieve compliance in the Relevant Period, such performance will not be considered when determining whether MDHHS has been in compliance for consecutive reporting periods or used for purposes of exit under the terms of the MISEP.

3. For COVID-impacted commitments requiring positive trending in consecutive reporting periods, performance in the Relevant Period will not be considered when determining trend patterns for purposes of exit under the terms of the MISEP.

4. DHHS shall be credited with meeting performance standards where they achieve compliance of unmodified non-COVID impacted commitments, during the Relevant Period.

C. Temporary Modification to MISEP commitments 6.16, 6.21, 6.22, 6.23, and 6.24

Consistent with the guidance provided by the United States Department of Health and Human Services on March 18, 2020, the parties stipulate to the following for the face-to-face visitation commitments in MISEP provisions 6.16, 6.21, 6.22(a), 6.23, and 6.24:

1. For purposes of measuring compliance with these provisions for the Relevant Period, the definition of visits shall include the following:

   a. For MISEP commitment 6.21 (worker child visits), visits conducted by video conferencing, FaceTime, Skype, Zoom, or similar videoconferencing technologies.

b. For MISEP commitments 6.16 (worker supervisor meetings), 6.22 (worker parent visits), 6.23 (parent child visits), and 6.24 (sibling visits), visits conducted by (i) video conferencing, FaceTime, Skype, Zoom, or similar videoconferencing technologies or (ii) telephone.

2. This modification does not eliminate all face-to-face visitation with children in care. The video visitation options are available for routine visits, but not for emergencies in which the caseworker must respond in person to an immediate child health or safety concern.

D. Reporting

1. For all commitments in the MISEP, including the COVID-impacted commitments, MDHHS will continue providing data to the monitor as usual, who will continue to validate and publicly report performance consistent with the terms of the MISEP.

The parties respectfully request this Honorable Court enter an order approving this stipulation.

IT IS SO ORDERED.

Dated: November 18, 2020

s/ Nancy G. Edmunds
HON. NANCY G. EDMUNDS
United States District Judge

Stipulated and Agreed to by:

/s/Samantha Bartosz Date: November 17, 2020

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/s/ Neil Giovanatti Date: November 18, 2020

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