

# Progress of the Michigan Department of Human Services

Monitoring Report for *Dwayne B. v. Whitmer*  
MODIFIED IMPLEMENTATION, SUSTAINABILITY, AND EXIT PLAN

ISSUED January 24, 2023

MISEP 21

JULY TO DECEMBER 2021



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## Introduction

This document serves as the eighteenth 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 21 (July 1, 2021 to December 31, 2021) 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 in

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.”

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, 2021. Defined as MISEP Period 21, this report includes progress for the second half of 2021.

## Summary of Progress and Challenges

Michigan DHHS met or exceeded required performance standards in 13 of 55 areas monitored for compliance in MISEP Period 21. Among areas where the agency achieved high levels of performance are:

- *Caseloads*: DHHS exceeded the caseload standards established for child protective service (CPS), purchase of service (POS), and licensing workers.
- The MISEP allows that once DHHS has satisfied the Designated Performance Standard for certain commitments at the end of one reporting period, as validated by the monitors, the commitment is eligible to be moved to Section 5 of the MISEP (To Be Maintained). Three commitments meet these criteria at the conclusion of MISEP 21: Worker-Child Visits, One Visit Per Month in the Placement Location (6.21.b); Child Case File, Medical and Psychological, 1 (6.30); Child Case File, Medical and Psychological, 2 (6.30).
- 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). One commitment met these criteria at the conclusion of MISEP 21: Support for Transitioning to Adulthood, YAVFC (6.36.a).

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 2021 (October 1, 2020 to September 30, 2021) and determined that 34 (37.0 percent) of 92 randomly selected investigations were

deficient. This includes nine investigations the monitoring team determined met the criteria for substantiation and 25 investigations where there was insufficient information gathered to render a finding. DHHS reviewed the monitoring team's findings and agreed that 29 (31.5 percent) of the 92 investigations were deficient. Summaries of these cases have been filed under seal with the Court.

- *Contract Oversight:* In 2021, DHHS' contract evaluations of Child Caring Institutions (CCIs) and private 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 were 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<sup>1</sup> within 12 months of their entry date. Based on the data files provided by DHHS, the monitoring team calculated that of the 5,483 children who entered foster care between October 1, 2018 and September 30, 2019, 1,501 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 720 children.
- *Foster Home Array:* In SFY 2021 DHHS experienced overall net foster home losses including net losses in homes for special populations of children defined as siblings, children with disabilities, and adolescents. These significant home losses compromised the placement array for children and contributed to the separation of siblings and the placement of children in shelters. The monitoring team has discussed with DHHS the need for the agency to develop and implement targeted, systemic strategies to improve the licensure and maintenance of foster homes, including homes for special populations.

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<sup>1</sup> 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.

## Summary of Commitments

Section	Commitment	Performance	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 (MISEP 20) No (MISEP 21)	22
5.2	DHHS shall commence all investigations of a report of child abuse or neglect within the timeframes required by state law. The designated performance standard is 95%.	98.2%	Yes	44
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.	99.5%	Yes	18
5.4	95% of CPS caseworkers assigned to provide ongoing services shall have a caseload of no more than 17 families.	99.4%	Yes	18
5.5	95% of POS workers shall have a caseload of no more than 90 children.	97.8%	Yes	18
5.6	95% of licensing workers shall have a workload of no more than 30 licensed foster homes or homes pending licensure.	96.5%	Yes	18
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	31
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 5.55 per 100,000 days in foster care.	The monitors determined that 34 (37.0 percent) of 92 sampled investigations were deficient. The monitors cannot validate the State's performance without further reviews of maltreatment investigations.	19
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 22	--



Section	Commitment	Performance	Achieved	Report Page
<b>6.3</b>	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	22
<b>6.4</b>	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 placements 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, 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.	--	No	34
<b>6.5</b>	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.	98.8%	No	39
<b>6.6.a</b>	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%.	77.6%	No	39
<b>6.6.b</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%.	50.0%	No	39
<b>6.7</b>	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%.	90.7%	Yes	40
<b>6.8</b>	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%.	55.9%	No	40

Section	Commitment	Performance	Achieved	Report Page
<b>6.9</b>	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.	4.5%	No	40
<b>6.10.a</b>	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%.	70.8%	No	36
<b>6.10.b</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%.	42.4%	No	38
<b>6.11</b>	DHHS shall complete all investigations of reports of child abuse or neglect within the required timeframes. The designated performance standard is 90%.	95.9%	Yes	44
<b>6.12.a</b>	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%.	86.4%	No	44
<b>6.12.a</b>	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%.	88.7%	No	44
<b>6.13</b>	95% of foster care, adoption, CPS, POS, and licensing supervisors shall be responsible for the supervision of no more than five caseworkers.	88.8%	No	17
<b>6.14</b>	95% of foster care workers shall have a caseload of no more than 15 children.	91.8%	No	17
<b>6.15</b>	95% of adoption caseworkers shall have a caseload of no more than 15 children.	74.1%	No	18

Section	Commitment	Performance	Achieved	Report Page
<b>6.16</b>	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%.	87.4%, 93.0%	No	41
<b>6.17</b>	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%.	87.8%	No	41
<b>6.18</b>	For every child in foster care, DHHS shall complete an Updated Service Plan (USP) at least quarterly. The designated performance standard is 95%.	87.8%	No	41
<b>6.19</b>	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 83%.	79.7%	No	32
<b>6.20</b>	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%.	68.5%	No	32
<b>6.21.a</b>	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%.	89.2%	No	41
<b>6.21.a</b>	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%.	94.7%	No	41
<b>6.21.a</b>	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%.	94.2%	No	41
<b>6.21.b</b>	Each child in foster care shall be visited by a caseworker at least once per month. The designated performance standard is 95%.	96.1%	Yes	41
<b>6.21.b</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%.	95.0%	Yes	41
<b>6.21.b</b>	Each child in foster care shall have at least one visit per month that includes a private meeting between the child and the caseworker. The designated performance standard is 95%.	93.6%	No	41

Section	Commitment	Performance	Achieved	Report Page
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%.	59.1%	No	42
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%.	50.0%	No	42
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%.	60.4%	No	42
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%.	57.8%	No	43
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%.	67.6%	No	43
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.	72.9%	No	46
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.	82.1%	No	46
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.	62.8%	No	46
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 82.1% - 94.7% <sup>2</sup>	No	46
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 73.9% - 96.2% <sup>2</sup>	No	46

<sup>2</sup> Performance for this commitment is measured separately for each required immunization, of which there are 11.

Section	Commitment	Performance	Achieved	Report Page
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.	66.5%, 83.0%, 71.0%	No	47
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.	95.0%	Yes	48
6.30	DHHS shall ensure that: (2) the case plan addresses the issue of health and dental care needs.	95.0%	Yes	48
6.30	DHHS shall ensure that: (3) foster parents and foster care providers are provided with the child's health care records.	90.0%	No	48
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.	88.3%	No	49
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.	80.6%	No	49
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%.	72.5%	No	49
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.	36.4%	No	49

Section	Commitment	Performance	Achieved	Report Page
<b>6.36.a</b>	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.	48.8%	Yes	50
<b>6.37</b>	DHHS will continue to implement policies and provider services to support the rate of older youth achieving permanency.	46.2%	No	51

## 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 detailed 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 six MISEP commitments utilizing a qualitative case review<sup>3</sup> 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, 2021 to December 31, 2021. DHHS data indicate that there were 9,810 children in custody as of December 31, 2021. Of the children and youth in care on December 31, 2021, 412 youth (four percent) were enrolled in the Young Adult Voluntary Foster Care (YAVFC) program. During the reporting period, 1,822<sup>4</sup> children and youth were placed in foster care and 2,251 children and youth exited care.<sup>5</sup> DHHS served 12,061 children during the period.<sup>6</sup>

Though young children aged zero to six years make up the largest portion (4,615 or 47 percent), Michigan continues to have a large population of older youth in custody. Twenty-five percent (2,437) are 12 to 17 years of age and eight percent (749) are 18 years and over, as detailed in Figure 1.

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<sup>3</sup> 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.

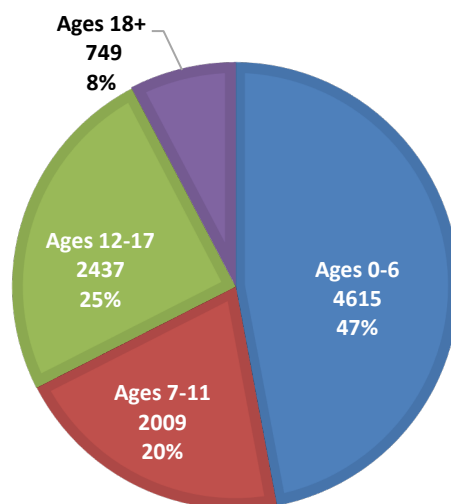
<sup>4</sup> The 1,822 entries include seven child who entered care twice. The children appearing twice in the file had unique removal dates and placement setting IDs.

<sup>5</sup> The 2,251 exits include three children who exited care twice. The children appearing twice in the file had unique removal and discharge dates.

<sup>6</sup> The monitoring team identified 61 children who appeared twice in the during cohort file (0.5% of 12,061). 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, 2021**

Source: MiSACWIS, *n*=9,810



With regard to gender, the population was equally split—50 percent male and 50 percent female. With regard to race, the population of children was 31 percent Black/African American, 53 percent White, under one percent Native American, under one percent Asian, and under one percent Native Hawaiian or Pacific Islander (see Table 1). Additionally, 15 percent of children were reported to be of mixed race. Eight percent of children were identified with Hispanic ethnicity and can be of any race. The data indicated that DHHS was unable to determine the race of less than one percent of children in care on December 31, 2021. In contrast, the population of all children in the state of Michigan was 66 percent White, 15 percent African American, under one percent American Indian or Alaska Native, three percent Asian, and under one percent Native Hawaiian or Pacific Islander. Additionally, twelve 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. Three percent of children in the state of Michigan were of some other race.<sup>7</sup>

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<sup>7</sup> Data on the race of all children in the state of Michigan was sourced from the U.S. Census Bureau, Population Division, 7/1/2021 Population Estimate.



**Table 1. Race of Children in Custody on December 31, 2021 and Race of Children in the State of Michigan on July 1, 2021**

Source: MiSACWIS, US Bureau of the Census

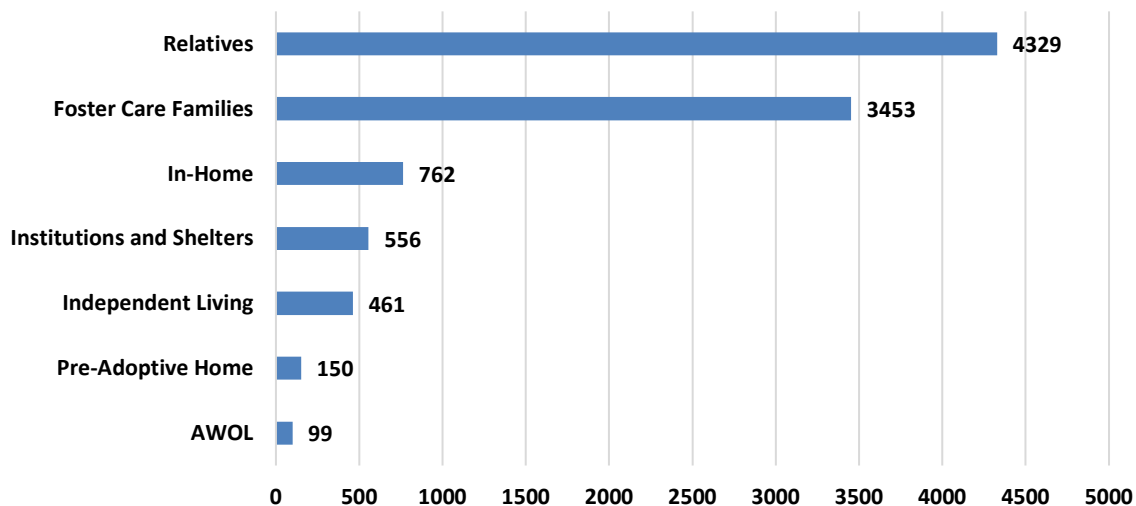
Race	Count (DHHS Custody)	Percent (DHHS Custody)	Percent (State of Michigan)
White	5,210	53%	66%
Black/African American	3,072	31%	15%
Mixed Race	1,447	15%	12%
American Indian or Alaska Native	55	1%	0.6%
Unable to Determine	15	0%	--
Asian	8	0%	3%
Native Hawaiian or Pacific Islander	3	0%	0.0%
Some Other Race	--	--	3%
<b>Total</b>	<b>9,810</b>	<b>100%</b>	<b>100%</b>
Hispanic ethnicity and of any race	739	8%	9%

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

As Figure 2 demonstrates, 89 percent of children in DHHS' custody lived in family settings, including with relatives (44 percent), foster families (35 percent), their own parents ("in-home") (eight percent), and in homes with families who intend to adopt (two percent). Of children in custody, 556 (six percent) lived in institutional settings, including residential treatment and other congregate care facilities. Another 461 children (five percent) resided in independent living placements, which serve youth on the cusp of aging-out of care. The remaining one percent were AWOL. There were no children with unidentified placements or placements in other settings.

**Figure 2. Placement Types of Children in Custody on December 31, 2021**

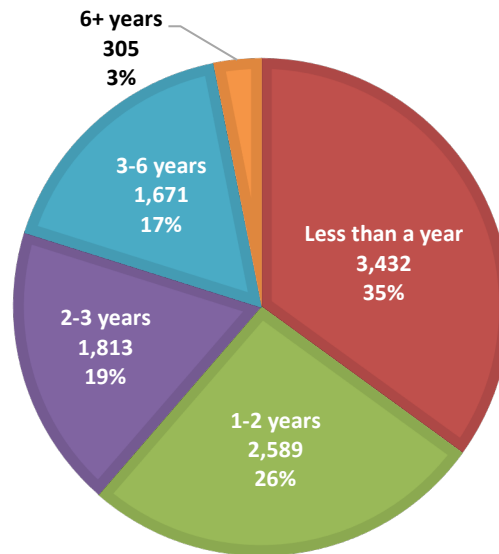
Source: MiSACWIS, *n*=9,810



Of the children in care on December 31, 2021, 35 percent were in care for less than one year, while 20 percent were in care for more than three years.

**Figure 3. Length of Stay of Children in Custody on December 31, 2021**

Source: MiSACWIS, *n*=9,810



**Table 2. Exits from Care by Exit Type, July 1, 2021 to December 31, 2021**

Source: MiSACWIS

Exit Type	Frequency	Percent
Reunification	945	42%
Adoption	765	34%
Emancipation	333	15%
Guardianship	146	6%
Living with relatives	33	1%
Transfer to another agency	11	0.5%
Death of a child	10	0.4%
Runaway	8	0.4%
<b>Total</b>	<b>2,251</b>	<b>100%</b>

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

As Table 3 demonstrates, of the children in custody on December 31, 2021, the majority (5,834 or 59 percent) had reunification as a federal permanency goal. For the remaining children, 2,569 (26 percent) had a goal of adoption, 793 (eight percent) had a goal of Another Planned Permanent Living Arrangement (APPLA), 464 (five percent) had a goal of guardianship, and 150 (two percent) had placement with a relative as a federal goal.

**Table 3. Federal Goals for Children in Custody as of December 31, 2021**

Source: MiSACWIS

<b>Federal Goal</b>	<b>Frequency</b>	<b>Percent</b>
Reunification	5,834	59%
Adoption	2,569	26%
APPLA	793	8%
Guardianship	464	5%
Relative	150	2%
<b>Total</b>	<b>9,810</b>	<b>100%</b>

## 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, April, June, August, October, and December. For MISEP 21, the monitors used caseload counts from August 31<sup>st</sup>, October 29<sup>th</sup>, and December 29<sup>th</sup> of 2021 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 21, DHHS averaged 88.8 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 91.8 percent of staff meeting the standard during MISEP 21, falling 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 21, DHHS averaged 74.1 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 21, DHHS averaged 99.5 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 99.4 percent of staff meeting the standard in MISEP 21, 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 21, DHHS averaged 97.8 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 96.5 percent of staff meeting the standard in MISEP 21, exceeding 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 the 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 of less than 9.67.

For the federal fiscal year (FFY) 2022, the monitors and the Department agreed to undertake a real-time review of MIC investigations, so that the monitoring team could provide current feedback to DHHS regarding its investigative practice. The results of this review will be published by April 2023.

Regarding FFY 2021, data provided by Michigan indicate that DHHS substantiated 195 incidents of MIC, involving 192 children in DHHS custody, for an observed rate of 5.55 per 100,000 days in foster care. The monitoring team cannot validate that the observed rate accurately represents the prevalence of maltreatment in care. The monitors reviewed a random sample of 92 unsubstantiated MIC investigations from FFY 2021 and determined that 34 (37.0 percent) of the 92 investigations reviewed were deficient. This includes nine investigations the monitoring team determined met the criteria for substantiation and 25 investigations where there was insufficient information gathered to render a finding. DHHS reviewed the monitoring team's findings and agreed that 29 (31.5 percent) of the 92 investigations were deficient. Examples of investigations determined to be deficient by the monitoring team include:

- A 15-year-old foster child in residential placement snuck into the bedroom of a 17-year-old foster child and was locked in the youth's room overnight. The safety plan required

heightened staff supervision of the 15-year-old due to self-harm and truancy, and required staff to check on her every 15 minutes; however, her presence in the 17-year-old's room went unnoticed by residential staff for over eight hours. Staff acknowledged that security checks of the youth's rooms were not being completed properly and records of those observations were noted to have been falsified. There was a MIC case disposition conference at which all who were present agreed that the case would be substantiated for improper supervision; however, it was noted that after a management review of this case, there was insufficient evidence to substantiate. The monitoring team concluded that this case should have been substantiated for improper supervision.

- A mandated reporter alleged that the foster parents of a six-year-old hit the children in their home with a stick as punishment. A 14-year-old adopted child in the home had a bruise on her ear from being hit with a stick. It was alleged that when the foster parents left the home, they locked the 14-year-old in the basement because they indicated they did not trust her. There were 13 prior CPS investigations into allegations of abuse or neglect by the foster parents that established a significant pattern of various foster children reporting abuse and then recanting their allegations. Several of them included concerning injuries to children, patterns of reports by schools and therapists, and various children later stating that the reporting source forced them to make the allegations. During these previous investigations, children also sometimes stated that the foster parents had threatened them after they made the report. While the investigation detailed the existence of the previous investigations, the fact that this long-standing pattern was again repeated should have triggered a more thorough investigation. Given the breadth of previous allegations and the similarity and consistency of these allegations to previous allegations, investigators should have interviewed former foster children who were no longer in this home as part of this investigation, interviewed the oldest adopted child outside of the home, and the foster parents should have been interviewed separately.
- A four-year-old foster child tested positive for THC after being taken to the emergency room by his foster parents. The foster parents had noticed a change in the child's demeanor after returning from a three-day visit with his father the day prior; he was exhibiting erratic behavior, lethargy, and a change in appetite. Staff at the child's daycare also attested to the child appearing lethargic. The child's father admitted to using marijuana and did not have his syringe or oils stored properly when the child had recent overnight visits at his residence. Regardless of whether the child accidentally ingested the unsecured drugs, was intentionally given the drugs by his father, or tested positive due to the father vaporizing in the child's presence, the four-year-old child's positive test for THC was indisputable. The monitoring team, therefore, determined that improper supervision by the father should have been substantiated.

- There was a reported incident of a 13-year-old foster child being sexually assaulted by another 13-year-old foster child in the shower at a residential facility. Staff on duty were permitting two residents to shower simultaneously in two separate shower stalls. Staff were posted outside the bathroom, leaving the door ajar approximately five inches and having a line of site to one curtained area. This protocol and their attention to detail on this date were insufficient to detect the assault. A Team Leader was dispensing medication to both residents and discovered them in the shower together, with one youth cowering in the corner. Police were contacted and the 13-year-old who perpetrated the assault was arrested for aggravated sexual assault and placed in juvenile detention.

At the time of the incident, there was an absence of a shower supervision policy at this residential treatment center for at-risk males. In addition, staff should have been aware of both minors' relevant histories in order to supervise the children appropriately. One youth had been sexually victimized and the other had been both sexually victimized and engaged in sexually aggressive behavior. In the MIC investigation, DHHS did not assess whether the facility administration's failure to share the children's history of sexual abuse/acting out with the staff on duty and failure to develop and implement a shower supervision policy was neglectful.

At the time of this child's assault, the facility was well known to DHHS as presenting a heightened risk to the Plaintiffs' safety through the Department's own assessment. Though the Department represented in separate discussions with the monitoring team that the facility was receiving enhanced supervision through DCWL due to child safety concerns, the MIC investigation did not mention the facility's high-risk status nor the incidents that informed that status.

- The foster parent of a six-year-old child, who is on the autism spectrum and described as nearly nonverbal, was contacted by the school after the child began exhibiting elevated behaviors such as biting, hitting, and kicking the teacher. The foster parent arrived at the school, at which point the child had calmed down. It was alleged that the foster parent sat down to speak to the child, then also began using physical force to manage the child. The child became distraught. Observers expressed concern the foster parent may break the child's arm based on how the parent held the child. The foster parent was also reported to be on top of the child on all fours, holding him down to the floor. The foster parent was advised she needed to take the child and leave the school. The foster mother then picked the child up with one arm between his legs by his crotch and the other across his shoulders. The child was reportedly gagging and turning purple and blue and therefore the foster parent was told to put him down. The child was put down and he walked out of the school without further incident. The reporter did not know whether the child had any marks or injuries from the incident but believed that he might. The child was

examined by an Urgent Care doctor following the incident. The investigator did not obtain a copy of the medical report or speak to the doctor who examined the child. Additionally, the Investigator did not go to the school, nor interview the school social worker or teacher who witnessed the incident. For these reasons, the monitoring team concluded the investigation was deficient.

- It was reported that the foster parent of an eight-year-old grabbed him by the back of his shirt/neck and dragged him up the stairs while he was playing outside. The foster parent then bent down and began hitting the child multiple times on the right side of his face with a closed fist. The foster parent lifted the child and threw him into a chair. The foster parent left the child on the porch of the home. The alleged incident was reported by a bystander who did not know the family. She provided CPS with her contact information, but DHHS did not interview the reporter as part of the investigation. Additionally, the foster parent's 11-year-old grandchild who lives in the apartment above the foster home was not interviewed. The monitoring team, therefore, concluded that this investigation was deficient.

#### *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, 2018 and September 30, 2019. Based on the data files provided by DHHS, the monitoring team calculated that of the 5,483 children who entered foster care during this period, 1,501 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 720 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 CCIs and private Child Placing Agencies (CPAs), including an annual inspection of each private CPA, an annual visit to a random sample of private CPA foster homes, and an annual unannounced inspection of each CCI. During the required visits, 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. This section includes contract evaluation information for both MISEP Periods 20 and 21 since the parties agreed that contract evaluation information would not be included in the last MISEP 20 grid-formatted report.



As discussed in previous monitoring reports, following the suffocation death of a restrained child at Lakeside Academy in 2019, and the State's uneven implementation of corrective actions developed thereafter, the monitors began a process in January 2021 of analyzing child safety data on CCIs to identify those facilities that posed the greatest safety risk to youth in care. Specifically, the monitoring team reviewed data and information on Special Investigations, Maltreatment in Care (MIC) investigations, and the use of restraints (both authorized and unauthorized) dating back to January 2018. The data and information highlighted facilities that had demonstrated serious lapses in child safety, representing a substantial risk to children in state custody. The monitors conducted an ongoing assessment in real-time of DHHS's oversight of those facilities by reviewing all DHHS investigations initiated in those facilities. Where the monitors identified concerning patterns or egregious violations of child safety, the monitors engaged the Department in regular meetings to discuss the facilities, relay the monitors' concerns based on documented harm to children and understand any safety measures the Department intended to take, or had taken, such as placement suspensions, licensing modifications or revocations.

During the summer of 2021, the Department developed and began to implement a tool that created a numerical risk score for each facility by weighing those safety factors mentioned above. On a weekly basis, DHHS produced a rank-ordered list of the facilities that were the "highest risk" facilities in the State (Risk Stratification Tool). As this was being implemented, the monitors closely observed and provided feedback on the Department's evaluations of facilities by reviewing Special Investigations, MIC investigations/substantiations, and child restraints for the cohort of CCIs that scored highest on this tool.

In June 2021, as the Department was beginning to refine its child safety risk tool, the Department began to form a pilot initiative undertaken by RCTAU, to provide enhanced oversight of CCIs with an elevated risk level. That initiative evolved over time and as of this report writing focuses on a small set of CCIs with the highest risk scores.

On numerous occasions as the Department developed its tool and introduced new oversight processes, the monitors requested clarification or re-submission of data from the Department due to errors and inconsistencies that were present in the different data sources the Department used. For example, one of the Department's data sources showed a facility as having had its license status changed to a provisional license, but another data source showed no change to the license. In another set of instances, facility restraint data differed among data sources. In other instances, the monitors identified new child admissions approved to high-risk facilities that DHHS had listed as being on a "placement suspension." As DHHS strove to integrate its MIC data, licensing violation information, placement information, and child restraint data, the monitors

continued to identify data inconsistencies throughout the period. The Department leadership consistently expressed commitment to addressing its data and information accuracy challenges.

The Department enacted a number of formal and informal placement suspensions, licensing status changes, and revocations during Periods 20 and 21. Thirteen CCIs closed (five voluntarily, six administratively, and two through revocation). DHHS recommended a first provisional license for two CCIs, placed 11 additional CCIs on a first provisional license, and moved seven others to a second and third provisional license. In some instances, the monitors communicated that DHHS' information revealed a few facilities appeared to pose a serious risk to child safety. Several of these facilities eventually closed, though not before additional allegations of child abuse or neglect surfaced.

DHHS reported that during MISEP Periods 20 and 21, DCWL was funded for 22 child welfare licensing field consultants who are expected to perform monitoring activities including annual licensing inspections and investigations. Additionally, six field analysts conduct visits comprised of interviews with foster families and unlicensed relative caregivers to assess safety and service provision within their homes. Three area managers supervise the field consultants and field analysts.<sup>8</sup>

In December 2021, the final draft language for CCI licensing rule revisions was submitted to the Joint Committee on Administrative Rules (JCAR). JCAR approved the revised rules regarding restraints and seclusion, and they went into effect on May 31, 2022.

DHHS reported that during MISEP 20 there were 38 private CPA inspections that included 17 interim and 21 renewal inspections. DHHS concluded three agencies were in substantial compliance with applicable statutes, licensing rules, contract regulations, and MISEP requirements, while 35 agencies required CAPs. There were no private CPA closings during the period.

During MISEP 21, DHHS reported 39 private CPA inspections occurred that included 22 interim and 17 renewals. DHHS determined two agencies were in substantial compliance with applicable statutes, licensing rules, contract regulations, and MISEP requirements, while 37 agencies required CAPs. As in MISEP 20, there were no private CPA closings during this period.

As indicated above, DCWL field analysts conduct annual home visits to assess safety and service provision within licensed foster homes and unlicensed relative homes supervised by agencies

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<sup>8</sup> During MISEP 20 and 21, DCWL management and staff along with private and public agency personnel continued to participate in weekly Comprehensive Child Welfare Information System (CCWIS) demonstration and testing sessions. The purpose was to provide feedback to the development team tasked with replacing the Michigan Statewide Automated Child Welfare Information System (MiSACWIS). CCWIS will replace licensing processes in both MiSACWIS and the Licensing Bureau Information Tracking System (BITS).

with interim and renewal inspections in the period. According to DHHS, during MISEP 20, DCWL field analysts visited a random sample of licensed foster homes and unlicensed relatives associated with 33 of the 38 private CPAs scheduled for a renewal or interim inspection. Five of the agencies did not have any foster or unlicensed relative homes.

According to the DCWL field analyst reports, 201 foster and unlicensed relative homes were visited during MISEP 20. In-home visits were conducted for 142 homes, while 59 virtual contacts occurred. DCWL issued seven safety alerts for urgent or critical concerns in five unlicensed relative homes and two regular foster homes. Two licensed foster homes and two unlicensed relative homes had missing or beeping smoke detectors; one relative home was missing a door alarm where a pond was accessible to the children, and the home also had boarded windows in the habitable basement; one relative home had a leaking roof and missing smoke detectors; and another relative home needed a carbon monoxide detector. DCWL provided documentation that all of these issues were resolved, except for the leaking roof which was in the process of being repaired.

The MISEP requires that the field analysts visit a certain number of each private CPA's foster homes, dependent on the total number of homes supervised by the agency. Private CPAs with fewer than 50 homes are required to have at least three licensed foster homes visited, and those agencies with 50 or more licensed homes are required to have five percent of those foster homes visited.

During MISEP 21, DCWL field analysts visited a random sample of licensed foster homes and unlicensed relatives associated with 36 of the 39 private CPAs scheduled for a renewal or interim inspection. Three of the agencies did not have any foster or unlicensed relative homes.

According to the DCWL field analyst reports, 217 licensed foster and unlicensed relative homes were visited during MISEP 21. In-home visits were conducted for 208 homes, while nine virtual home contacts occurred. The analysts indicated that the nine virtual visits occurred due to COVID exposure or contraction by household members in those homes. DCWL issued four safety alerts for urgent or critical concerns in three unlicensed relative homes and one licensed foster home. A licensed foster home and relative home did not have adequate smoke detectors, one relative home needed a door alarm since a pool was accessible to children, and one relative home had a baby sleeping in a swing and a crib with numerous items in it. DCWL provided documentation that all these issues were resolved.

Regarding the requirement to visit a certain number of homes, DHHS reported that due to staff turnover, one foster home was visited outside of the MISEP 21 reporting period. Therefore, DHHS did not meet this requirement for the period.

DHHS reported that during MISEP 20, licensing consultants conducted 33 special investigations involving 22 private CPAs. The 33 investigations involved 99 allegations of non-compliance related to rule, policy, contract, and MISEP requirements. Seventeen (51.5 percent) of the 33 investigations resulted in non-compliance findings that required CAPs, with 48 (48.5 percent) of the 99 allegations resulting in established violations. The monitoring team reviewed all 33 of the investigations. Some of the incidents that resulted in established violations included: agency staff found to be sleeping on duty; initial and follow-up medical exams not occurring for youth in placement and medical authorization cards not being provided to the caregiver; an agency allowing a household member who was on the Central Registry for child abuse or neglect to continue to reside in a foster home and later denying their knowledge of this; an adult sharing a bedroom with a child in care; a supervisor and worker proceeding to finalize children's adoptions without having the adoption assistance agreement signed, resulting in the children being ineligible for adoption assistance; a mental health screening not occurring for a child needing one; and caseworker family visits not occurring.

During MISEP 21, DHHS reported that there were 26 special investigations involving 20 private CPAs. The 26 investigations involved 83 allegations of non-compliance related to rule, policy, contract, and MISEP requirements. Twelve (46.2 percent) of the 26 investigations resulted in non-compliance findings that required CAPs, with 44 (53.0 percent) of the 83 allegations resulting in an established violation. The monitoring team reviewed all 26 investigations. Some of the incidents that resulted in established violations included: agencies not providing court-ordered sibling or parent visitations; agency staff not providing a foster family with pertinent mental health history on a child, nor maintaining the required contact when the child was psychiatrically hospitalized; an agency not reporting several youth in care being injured (cut on the neck, red mark on the collarbone, and a bleeding mouth from being slammed against a wall), and not instituting a safety plan; and an agency taking almost two years for an adoption process resulting in a youth having aged out of foster care prior to being adopted.

DHHS reported that during MISEP 20, private agencies conducted 397 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 25 of the 78 homes required CAPs due to established violations. Twelve of the 78 reported incidents were referred for MIC investigations. Six homes with established violations did not require CAPs due to license revocation recommendations.

Issues precipitating revocation recommendations for the six foster homes included: a caregiver striking a child in the face and causing an injury; a caregiver refusing to cooperate with the special evaluation and licensing requirements and pursuing the termination of parental rights for an adoptive child; a caregiver being found guilty of a drug possession felony charge; a small child

testing positive for Suboxone and the caregiver having been dishonest about using it; foster parents' frequent use of alcohol; and verbal and physical abuse of foster children.

Two of the six homes recommended for revocation on June 1, 2021, and June 15, 2021, still appeared as active in MiSACWIS as of October 31, 2022; another two have expired licenses in MiSACWIS but have not been closed; and the home with the caregiver having a felony drug conviction was administratively closed, with revocation of the license not noted in MiSACWIS.

During MISEP 21, DHHS reported that private agencies conducted 297 foster home special evaluations. The monitoring team reviewed 72 of these special evaluations and found 16 of the homes required CAPs due to established violations. Twenty-one of the 72 reported incidents were referred for MIC investigations. Seven homes with established violations did not require CAPs due to license revocation recommendations.

Circumstances that involved the revocation recommendations for the seven homes included: non-compliance with training that was part of a previous CAP requirement; foster parents physically abusing an 11-year-old child in their care causing bruises and scratches to his face, arms, and shoulder and resulting in a fourth degree child abuse charge; a foster parent having a repeat violation for a physical fight with a 15-year-old foster child prior to her running away, with neither the foster parent nor DHHS responding to the police station after the child was located, precipitating the youth spending the night with the police in a "jail lobby"; a foster mother dropping a five-month-old baby causing severe facial injuries, then lying to authorities about the incident, and coercing a seven-year-old foster child in her care to lie and say she hit the baby; a foster mother being incarcerated for attacking her sister with a knife; confirmed sexual abuse of a foster child by the foster father and use of physical discipline in the home; physical and verbal abuse, domestic violence, and alcoholism in the home, with a previous revocation recommendation due to repeated physical abuse. This home remains active in MiSACWIS despite the revocation recommendation and a nine-year-old child victim has since been adopted by these caregivers.

The home where the foster parent was arrested regarding the attempted stabbing incident is also still active in MiSACWIS, as is the home where the foster mother used physical discipline and refused to take the child back into her home. The home where the foster father was placed on Central Registry for sexual abuse has an expired license in MiSACWIS, but no revocation closure is indicated. The foster mother who was substantiated for improper supervision of the baby who was injured also has an expired license in MiSACWIS, but the home is not closed.

An eighth home where a foster and biological child were left in the care of the foster mother's paramour was recommended for revocation because of five recent, concerning special evaluations including a second improper supervision incident for which there was no violation

established nor CPS investigation substantiation. This incident involved a two-year-old child leaving the home and crossing the street unattended and being found by a neighbor. The child was in the care of the foster mother's paramour because she had been arrested for driving under the influence after crashing her car, for which a violation was established. This home remains open in MiSACWIS.

Other concerns noted by the monitoring team in reviewing the special evaluations include the following: inadequate investigations where all pertinent individuals were not interviewed nor the allegation addressed; lack of medical documentation to rule out abuse for a four-year-old with tibia and fibula breaks; pre-adoptive foster parents lying when they stated the children were in therapy when they were not; an eight-year-old child who was expressing suicidal ideation and acting out, who was evaluated at a hospital and assessed as not needing inpatient treatment, but spent two weeks hospitalized awaiting placement; foster parents not adequately supervising a child with sexually aggressive behaviors precipitating him abusing another child, and no violation being established for this incident; foster parents allowing a foster child to keep psychotropic medications in her bedroom and administering them to herself, and the CAP not including that the medications would be secured in the future; and a 15-year-old having men come to the door of her foster home to give her money, and then her leaving in the middle of the night, with no violation being established nor a MIC investigation occurring.

DHHS reported that during MISEP 20, DCWL conducted 18 unannounced renewal and 22 unannounced interim inspections of CCIs, totaling 40 inspections for the period. Thirty inspections (75.0 percent) required CAPs, while DHHS determined ten (25.0 percent) of the CCIs were in substantial compliance with appropriate statutes, administrative licensing rules, contract regulations, and MISEP requirements.

DCWL completed 306 special investigations during MISEP 20, according to DHHS, involving 610 allegations of non-compliance in 60 contracted CCIs. Of the 306 special investigations, reportedly 149 (48.7 percent) resulted in no violations being established. Violations were found in 114 (37.3 percent) of the special investigations, requiring CAPs approved by DCWL. One agency found in violation did not require a CAP because no children were placed at the facility. An additional 42 (13.7 percent) of the 306 special investigations resulted in findings of non-compliance, but due to pending adverse revocation action, CAPs were not accepted or allowed. Violations were established for 349 (57.2 percent) of the 610 allegations.

The monitoring team reviewed 102 of the 306 CCI special investigations for the period. Fifty of the investigations resulted in at least one violation and CAPs were required for 42 of those investigations. Eight of the investigations with violations did not require CAPs due to the recommended revocation of the agency's license. Eighty-seven of the 102 DCWL investigations were referred to Centralized Intake for potential CPS investigations. Sixty-one of those referrals

were assigned for investigation, nine staff were terminated as a result of the investigations, and six of the investigations resulted in a substantiated disposition. The monitoring team found that an additional nine special investigation incidents met the criteria for a CPS investigation. For seven of the nine investigations, the incidents were referred to Centralized Intake but screened out rather than assigned for investigation. The two remaining incidents were never referred to Centralized Intake by the facility or by licensing staff. Examples of some of the incidents determined by the monitoring team to warrant assignment for a CPS investigation included:

- A youth, aged 17 and a permanent court ward, was expressing suicidal ideation and had cut her forearms. She had requested more frequent therapy sessions, but due to a staffing shortage (only one therapist was then employed at the facility) she was told this could not occur. Staff decided she would wear a yellow shirt and shorts as a reminder to them that she needed closer supervision. They also put her mattress on the living room floor for the same reason. The youth felt she was being punished by these measures. Additionally, the medication log was not consistently charted so there was a question as to whether she was regularly taking her prescribed medications. She also was not taken to the dentist for a scheduled appointment for an abscessed tooth. This agency had been recommended for licensure revocation due to the number and nature of previous violations.
- A youth, age unknown, coerced another resident, aged 17 and a dual court ward, into multiple sexual encounters for two months. This youth had a history of grooming and abusing other youth who feared him. The agency Director indicated it was not possible to relocate the offending youth to a different pod in the facility, therefore perpetuating ongoing, unresolved risk. The facility was on a first provisional license at the time of the incident.
- A CCI staff person cursed at a 10-year-old youth, who was a permanent court ward, causing him to feel depressed. The same staff person also grabbed and pulled the arms of other residents for not listening.
- A youth, age unknown, was picked up for a pre-adoption visit and had a yellowish-green bump on his finger that burst during transport, with pus and blood oozing from it. The pre-adoptive family then took him for emergent medical care, and he was treated for a serious infection that was drained and an antibiotic prescribed. CCI staff stated the child had complained of not being able to sleep due to his finger hurting, but they had only applied an ice pack and did not document the incident.
- A CCI staff person grabbed a youth, age unknown, from behind, causing both to fall to the ground. The staff person then wrestled with the youth for approximately one minute.

- A youth, aged 13 and a permanent court ward, was described by staff as being "escorted," but in reviewing video of the incident, the encounter resulted in staff restraining the youth, prone on the ground, pulling on the youth's arms as she tried to get away. Other previous investigations of this agency had resulted in a recommendation for licensure revocation.

DHHS reported that during MISEP 21, DCWL conducted 17 unannounced renewal and 15 unannounced interim inspections of CCIs, totaling 32 inspections for the period. Twenty-two inspections required CAPs, while DHHS records indicate nine of the CCIs were in substantial compliance with appropriate statutes, administrative licensing rules, contract regulations, and MISEP requirements. Findings for one agency inspection, along with multiple special investigation violations, resulted in a license revocation recommendation.

DCWL completed 250 special investigations during MISEP 21, according to DHHS, involving 426 allegations of non-compliance at 50 contracted CCIs. Of the 250 special investigations, 148 (59.2 percent) were reported to result in no established violations. Violations were found in 97 (38.8 percent) of the special investigations, requiring CAPs approved by DCWL. Five (two percent) of the 250 special investigations resulted in findings of non-compliance, but due to pending adverse revocation action, CAPs were not allowed. Violations were established for 166 (39.0 percent) of the 426 allegations.

The monitoring team reviewed 84 of the 250 CCI special investigations for the period. Thirty-nine of the investigations resulted in at least one violation. CAPs were required for 37 of those investigations. Two investigations did not require CAPs due to license revocation recommendations. Sixty-four of the 84 DCWL investigations were referred to Centralized Intake for a potential CPS investigation. Forty-one of those referrals were assigned for investigation, seven staff were terminated as a result of the investigations, and three of the investigations resulted in a substantiated disposition. The monitoring team found that an additional eight special investigation incidents met the criteria for a CPS investigation. All eight incidents were referred to Centralized Intake but screened out rather than assigned for investigation. Examples of some of the incidents determined by the monitoring team to warrant assignment for a CPS investigation included:

- A youth, aged 16 and a temporary court ward, had been AWOL twice, which is concerning because he is cognitively impaired with the mental capacity of a five-year-old child. He also had been without his medications for four days. Without his medication, the youth would hear voices and become suicidal.
- A 14-year-old youth, who was a permanent court ward, got into the bed of another youth, also 14 years old and a permanent court ward, and allegedly touched his penis and raped



him. It was also alleged that another youth (age unknown) was “beaten up” by one of these youth, sustaining bruises and nail marks on his throat, and staff did not write an incident report for this situation.

- A youth, aged 16 (legal status unknown), took unsecured pills from another resident to “get high.” He was taken to the hospital for an assessment. The facility was on a second provisional license at the time of the incident.
- A youth, aged 13 and a non-court ward, was poked over her clothing in her genital area with an electric razor, by another youth, aged 18 and a non-court ward.
- It was alleged that a staff person inappropriately touched a youth (age unknown) by grabbing her breast. He also allegedly asked another youth (age unknown) to “sleep” with him a few weeks prior to this incident and had sexual intercourse with that youth.

Due to incidents like those described above, as well as those documented in previous periods’ investigative reports and the monitors’ concerns about the quality of MIC investigations, the monitoring team conducted a review of MIC investigations (See Section 6.1).

In addition to reviewing the 186 special investigations for both periods, the monitoring team also reviewed CAPs and CAP follow-up documentation provided by DHHS for 79 of the 186 investigations, initiated between January 1, 2021 and December 31, 2021, where licensing violations were established. As with previous periods, the monitoring team found that CAP content and follow-up in 2021 were often delayed, ineffective, deficient, lacked specificity, and did not adequately remediate risk to children in numerous instances. 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 whether in fact behavioral management had improved and youth were experiencing a safer environment as a result of the training. The monitoring team also found that facilities frequently lacked video cameras or had inoperative ones. In numerous facilities that had operative cameras, video footage was deleted before the completion of an investigation, preventing an accurate assessment of what had transpired. There was no indication in 2021 that this gap regarding video camera usage or documentation had been identified or remediated in any of the CAPs, and the issue continued to loom as a systemic risk to child safety as of fall 2022.

#### *Seclusion in Contract Agencies (5.7)*

The MISEP requires that all uses of seclusion or isolation in CCIs be reported to DCWL for necessary action. If not reported, DCWL is required to take appropriate action to address the failure to report the incident and to ensure that it has been investigated and resolved. DCWL is required to monitor the occurrence of seclusion or isolation incidents in CCIs.

DHHS reported that during the MISEP 21 period, licensing consultants monitored incidents of seclusion during renewal and interim on-site visits. DHHS reported that seclusion rooms were observed to assess compliance with statute, rules, and contract regulations. During inspections, the following documents relevant to seclusions were reviewed: MiSACWIS seclusion incident reports, seclusion logs, prior inspections and investigations, and data reports compiled by DCWL analysts. During this period, DHHS issued no violations of seclusion rules based on annual inspections and special investigations.

## 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 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 21, DHHS conducted blended CFSR/QSR reviews in Business Service Centers (BSC) 1, 2, and 5. DHHS chose a randomly selected sample of open cases for review during each CFSR/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 with 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 23 children's cases, with 74 applicable items, relevant to this commitment during MISEP 21. Of the 74 applicable items, DHHS reported that 59 (79.7 percent) were rated as having acceptable assessments and service plans, below the performance standard of 83 percent for this commitment.<sup>9</sup>

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; assist with transportation; and identify and resolve barriers that may impede children, parents, and foster parents from making effective use of services. Finally, DHHS committed to amending service plans when services are not provided or do not appear to be effective.

DHHS reviewed 23 children's cases, with 73 applicable items, relevant to this commitment during MISEP 21. Of the 73 applicable items, DHHS reported that 50 (68.5 percent) were rated as acceptable for provision of services, below the 83 percent performance standard for this commitment.

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<sup>9</sup> On September 6, 2022 a Stipulated Order was issued which amends that the Designated Performance Standard for 6.19 from 90 percent to 83 percent and the Floor Performance Standard from 85 percent to 80 percent. These amended performance standards are retroactive to June 27, 2019, the day the MISEP was filed. See Appendix C for a copy of the Stipulated Order.

## 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 1<sup>st</sup> to September 30<sup>th</sup> each year. This report covers DHHS' recruitment efforts for the SFY 2021 fiscal year which concluded on September 30, 2021, during MISEP 21. In addition, this report covers the first three months of the SFY 2022 recruitment cycle, which extended from October 1, 2021 through December 30, 2021.

For SFY 2021, DHHS agreed to license 1,268 new non-relative foster homes of which 601 homes would accept adolescent placements, 262 homes would accept children with disabilities, and 657 homes would accept sibling groups. Statewide, DHHS licensed 1,125 unrelated foster homes, reaching 89 percent of the SFY 2021 non-relative licensing goal. During the same period, 1,210 licensed homes were closed for a SFY 2021 net loss of 85 homes. Regarding homes for adolescents, DHHS licensed 307 homes, only 51 percent of the SFY 2021 licensing goal. During the same period, 404 homes for teens were closed, resulting in a net loss of 97 homes. Regarding homes for children with disabilities, 774 homes were licensed, surpassing the SFY 2021 licensing goal. However, 840 homes for children with disabilities were closed, resulting in a net loss of 66 homes available for placement of children with disabilities. Six hundred seven homes were licensed for siblings, 90 percent of the SFY 2021 licensing goal of 657 homes. Simultaneously, 752 homes for sibling groups were closed, for a net loss of 145 sibling homes.

For SFY 2022, DHHS agreed to license 965 new non-relative homes of which 602 will accept adolescent placements, 171 homes will accept children with disabilities, and 549 homes will accept sibling groups. During the first three months of the fiscal year, DHHS licensed 173 non-relative foster homes statewide, 18 percent of the SFY 2022 licensing goal. During this same time, 315 existing homes were closed, resulting in a net loss of 142 homes. In the first three months of SFY 2022, 66 homes for teens were licensed, 11 percent of the full year's licensing goal.

Simultaneously, 113 homes for teens were closed, resulting in a net loss of 47 homes. There were 107 homes for children with disabilities licensed in the first three months of SFY 2021, which is 49 percent of the licensing goal for SFY 2022. At the same time, 218 were closed, resulting in a net loss of 111 homes. One hundred homes accepting sibling groups were licensed, 18 percent of the SFY 2022 licensing goal. Meanwhile, 210 homes for sibling groups were closed, resulting in a net loss of 110 homes.

As outlined above, in SFY 2021 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 2022, DHHS experienced a statewide net loss 142 of non-relative 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 then implement targeted strategies to support and retain non-relative licensed foster homes.

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).

The monitors find that DHHS did not in 2021 make good faith efforts to maintain a sufficient number and array of foster homes capable of meeting the needs of the foster care population, including a sufficient array of licensed homes to meet the needs of children in the special populations. This is the third consecutive period in which DHHS experienced net foster home losses for children in 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 2021, DHHS still had substantial work to do to understand and stem net foster home losses and to heighten its focus on licensing foster homes for the special populations of siblings and adolescents. These significant home losses compromised the placement array for children and contributed to the separation of siblings and the placement of children in shelters.

The monitoring team has discussed with DHHS the need for the agency to develop and implement targeted, systemic strategies to improve the licensure and maintenance of foster homes, including the special populations to demonstrate good faith efforts moving forward. DHHS has reported that certain targeted strategies have been implemented for the development of sibling

and adolescent homes and for the support of families who commit to fostering those children. The monitoring team will evaluate and discuss DHHS' efforts in future monitoring periods.

#### *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 44.1 percent of children in DHHS custody were living with relatives at the conclusion of MISEP 21. In the MISEP, DHHS committed to ensure that:

- Prior to a child's placement, DHHS will visit the relative's home to determine if 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 21, the monitoring team reviewed a random sample of 65 unlicensed relative foster homes. The monitoring team determined the performance requirements were achieved overall in 46 cases (70.8 percent) but were not achieved in 19 cases (29.2 percent). For six of the 19 cases, there was insufficient evidence to validate the 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.

For each of the individual safety requirements, performance was as follows:

- An initial home safety visit prior to placement was completed for 65 homes (100.0 percent).
- Law enforcement background checks were completed for caregivers within 72 hours of placement for 57 homes (87.7 percent) and central registry background checks for caregivers were completed timely for 54 homes (83.1 percent).
- Thirty homes had additional adult household members. Law enforcement background checks were completed timely for 25 homes (83.3 percent) and central registry background checks were completed for 26 homes (86.6 percent).

- Michigan policy requires that all caregivers and adult household members 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 52 (80.0 percent) of the homes.
- A home study was completed within 30 days of placement for 59 relative placements (90.8 percent).

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

- In six cases, staff completed the relative home study 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 four cases the background checks were completed too early, more than 30 days prior to placement.
- In two cases where director approval was required because the caregivers had substantiated CPS histories, director approval was not documented.
- One home did not meet the performance requirements due to improper weapon storage.
- Three cases required a Placement Exception Request (PER) approval, which was not completed. When a PER is required, the DHHS caseworker must complete the PER and route it to the supervisor for review, who is then expected to route it to the DHHS county director for review and approval.
  - A PER was required because more than five children were placed in a home. In MISACWIS the PER reads "in progress" as of 10/31/2022. The children were in the home from 08/12/2021 to 12/21/2021.
  - A PER was required because more than five children were living in the home. In MISACWIS the PER reads "in progress" as of 10/31/2022. The child was in the home from 10/19/2021 to 11/30/2021.
  - A PER was required because more than three foster children and five children were living in the home. In MISACWIS the PER reads "in progress" as of 10/31/2022. The children were placed on 10/15/2021 and remain living in the home.

### *Relative Foster Parents (6.10.b)*

The MISEP requires that a relative placement home study, including all clearances, must be completed, and approved annually<sup>10</sup> 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 66 unlicensed relative homes due for a renewal home study. The monitoring team found that 28 homes (42.4 percent) met each of the performance standards in the MISEP, and 38 homes (57.6 percent) did not. The performance requirements were not met for 15 (39.9 percent) of the 38 homes solely because of insufficient evidence to support the timely completion of background checks.

A failure found among nearly one-quarter of the annual reviews was the absence of an approved annual home study within 365 days with timely clearances. An annual home study was completed timely for 50 homes (75.8 percent). Another 14 homes had an annual home study that was completed late (21.2 percent) and two homes (3.0 percent) did not have an annual home study completed. The following chart details the amount of time past the due date each of the 14 late home studies was completed.

**Table 4. Annual Relative Home Studies, Timeliness, MISEP 21**

<b>Timeframe Overdue</b>	<b>Number of Homes</b>	<b>Percent</b>
15-25 days	1	2%
1-2 months	5	8%
3-5 months	6	11%
6-8 months	1	2%
8-10 months	0	0%
1+ years	1	2%

Additionally, for relative caregivers, central registry checks were completed timely, prior to the approval of the annual home study, in 34 cases (51.5 percent) and law enforcement background checks were completed timely in 42 cases (63.6 percent). Twenty-six homes had additional adult household members. Law enforcement and central registry checks were completed timely for 10 (38.5 percent) of these homes. Michigan policy requires that all caregivers and adult household members 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

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<sup>10</sup> Annually is defined as within 365 days of the last relative placement home study.



completed for relevant individuals in 31 homes (47.0 percent). DHHS did not meet the designated performance standard of 95 percent during the period.

Other factors contributing to performance lapses are:

- In three cases the home had improper weapon storage.
- In one case director approval was required because the caregiver had Good Moral Character convictions. Director approval was not documented.
- A PER was required for more than three foster children in the home. In MISACWIS the PER reads “in progress” as of 10/31/2022. The children were in the home from 10/05/2020 to 06/22/2022.

## 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.<sup>11</sup> According to the data submitted by DHHS for MISEP 21, there were 9,627 children<sup>12</sup> subject to this commitment. Of those children, 9,509 (98.8 percent) were placed in allowable settings. DHHS slightly missed the standard of 100 percent for this commitment.

### *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 379 sibling groups whose members entered foster care within 30 days of each other during MISEP 21. Of these 379 sibling groups, 294 (77.6 percent) were either placed together or had a timely approval for an allowable exception. 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

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<sup>11</sup> On September 9, 2021 the parties signed a letter of agreement detailing additional living situations that will be deemed compliant for this commitment.

<sup>12</sup> This commitment excludes children in temporary placement settings including AWOL, jail, detention, and hospitals.

documented and maintained in the case file and reassessed quarterly. The parties agreed that the monitoring team would conduct an independent qualitative review to measure performance for this commitment.

For MISEP 21, the monitoring team reviewed 30 children's case records subject to this provision and found that DHHS met the terms of the commitment in 15 cases (50.0 percent), 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, 2021, there were 4,611 foster homes in Michigan with at least one child in placement. Of these 4,611 homes, 4,181 (90.7 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 59 children placed in emergency or temporary facilities during MISEP 21, 33 (55.9 percent) were placed within the length of stay parameters. DHHS did not meet the performance standard during MISEP 21.

#### *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 22 subsequent stays in shelter care, of which one placement episode (4.5 percent) met the terms of this commitment. DHHS did not meet the agreed-upon performance standard of 97 percent.

## 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.

On October 18, 2021, the parties signed a letter of agreement allowing video conferences to be compliant for purposes of "face-to-face" meetings required under 6.16 of the MISEP.<sup>13</sup> The following table includes the performance for initial and monthly case consultations due in MISEP 21. DHHS did not meet the designated performance standard of 95 percent for this commitment.

**Table 5. Supervisory Oversight Performance, MISEP 21**

Requirement	Performance
Initial case consultations between a worker and supervisor that were due in the first 30 days	87.4%
Monthly case consultations due between a worker and supervisor	93.0%

### *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 21, DHHS did not achieve the designated performance standard for either commitment. Of the 1,777 ISPs due during the period, 1,560 (87.8 percent) were completed within 30 days of a child's entry into foster care or Young Adult Voluntary Foster Care (YAVFC). Of the 17,984 USPs due during the period, 15,794 (87.8 percent) were completed timely.

## Caseworker Visitation

### *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

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<sup>13</sup> See Appendix D for a copy of the letter of agreement.

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 21 performance on the six components of worker-child visitation is included in the following table. As the table below indicates, DHHS met the designated performance standard for two of the six components and came close to the designated performance for the balance. *Per the MISEP, compliance during this period makes the fifth component of this commitment, requiring each child to be visited by a caseworker at their placement location at least once per full month the child is in foster care, eligible to move to "To Be Maintained."*

**Table 6. Worker-Child Visitation Performance, MISEP 21**

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	89.2%
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	94.7%
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	94.2%
Each child shall be visited by a caseworker at least once per full month the child is in foster care	96.1%
Each child shall be visited by a caseworker at their placement location at least once per full month the child is in foster care	95.0%
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	93.6%

#### *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 if 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 21 performance on the three components of worker-parent visitation is included below. As the table indicates, DHHS did not achieve the designated performance standard of 85 percent for any component of the worker-parent visitation commitment during MISEP 21.

**Table 7. Worker-Parent Visitation Performance, MISEP 21**

Requirement	Performance
Caseworkers shall visit parents of children with a goal of reunification at least twice during the first month of placement	59.1%
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	50.0%
Caseworkers shall visit parents of children with a goal of reunification at least once for each subsequent month of placement	60.4%

*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 38,708 parent-child visits required during MISEP 21, DHHS completed 22,377 (57.8 percent) timely. DHHS did not meet the designated performance standard during the period.

*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 14,160 sibling visits required during MISEP 21, DHHS completed 9,579 (67.6 percent) timely. DHHS did not meet the designated performance standard during the period.

## 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 21, 32,923 complaints required the commencement of an investigation. Of those, 32,338 (98.2 percent) commenced timely, exceeding 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 21, there were 30,382 investigation reports due to be completed. Of those, 29,144 (95.9 percent) were submitted by caseworkers and approved by supervisors within 44 days, meeting 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 were utilized in the MISEP 21 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 1,766 such referrals in the MISEP 21 data provided by DHHS.

The monitoring team reviewed 66 screened-out CPS referrals and determined that DHHS made appropriate screening decisions in 57 instances (86.4 percent). The monitors determined that eight referrals met the criteria for assignment for investigation and one referral required the screener to obtain additional information to make an appropriate screening decision.

Examples of referrals that the monitoring team concluded should have been investigated for child abuse and neglect include:

- A 12-year-old foster child was placed with his maternal aunt as a relative caregiver. Also in the home was the aunt's six-year-old son. It was alleged that the children were outside riding their bikes at 1:00 am in a thunderstorm. The relative caregiver had been heard cursing and yelling at the children. She had been served a 30-day eviction notice for her home. It was believed she has some form of mental health issues that were not being addressed. Centralized Intake determined the referral should be transferred to regulatory services and the active workers.
- A two-year-old foster child was placed with his grandmother in a licensed foster home. Law enforcement was called to his mother's home as there was a report of a woman being on the front porch, screaming while holding a knife and a baby with no clothes on. When law enforcement arrived, the mother was on the front porch holding the two-year-old. The child was clothed, and the mother was not holding a knife. The mother has mental health issues and was not on any medication. She was reportedly dysregulated, not making sense, and may have been under the influence of drugs. She refused to go to the hospital. The child was not harmed, and the grandmother came to retrieve him. The child was not approved to be left unsupervised with his mother due to her mental health and substance abuse issues, but it appeared the grandmother had done so. Centralized Intake determined the referral should be transferred to regulatory services and the active workers.
- A three-year-old and two-year-old were placed with their grandmother through foster care. It was alleged that the grandmother allowed the children to have an overnight, unsupervised visit with their father. The children were removed from their parents' care due to domestic violence, substance abuse, and homelessness and were only allowed supervised visits with their father, per a court order. Six months prior, the grandmother had been investigated for allowing the children to sleep unsupervised in a hotel room with their mother. Centralized Intake determined the referral should be transferred to the active workers.

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 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 55 cases met the terms of the MISEP and nine cases did not, for a performance calculation of 88.7 percent. In the monitor's assessment, DHHS did not meet the designated performance standard of 95 percent for the period.

## 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 21, DHHS completed 1,307 (72.9 percent) of 1,793 required initial medical and mental health exams within 30 days of a child's entry into care. Additionally, DHHS completed 1,469 (82.1 percent) of 1,789 required initial medical and mental health exams within 45 days of a child's entry into care. DHHS did not meet the performance standard for this commitment.

### *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 21, 585 (62.8 percent) of 931 required initial dental exams were completed timely for children in DHHS custody. DHHS did not meet the performance standard of 90 percent for this commitment.

### *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 healthcare 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 21. DHHS met the 90 percent standard for six of the eleven required immunizations, as charted below.

**Table 8. Immunizations for Children in Custody Three Months or Less, MISEP 21**

Immunization	Children requiring immunization	Children current with immunization	Performance
DTP/DTaP/DT/Td/Tdap	962	862	89.6%
Hepatitis A	962	890	92.5%
Hepatitis B	962	896	93.1%
Hib	461	390	84.6%
HPV	330	271	82.1%
Meningococcal Conjugate	289	260	90.0%
MMR	962	911	94.7%
Pneumococcal Conjugate	461	399	86.6%
Polio	936	855	91.3%
Rotavirus	166	143	86.1%
Varicella	962	910	94.6%

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 21. DHHS met the 90 percent standard for nine of the eleven required immunizations, as charted below.

**Table 9. Immunizations for Children in Custody Longer Than Three Months, MISEP 21**

Immunization	Children requiring immunization	Children current with immunization	Performance
DTP/DTaP/DT/Td/Tdap	8,079	7,517	93.0%
Hepatitis A	8,079	7,568	93.7%
Hepatitis B	8,079	7,768	96.2%
Hib	2,758	2,548	92.4%
HPV	3,701	3,121	84.3%
Meningococcal Conjugate	3,379	3,098	91.7%
MMR	8,079	7,745	95.9%
Pneumococcal Conjugate	2,758	2,527	91.6%
Polio	7,397	7,047	95.3%
Rotavirus	46	34	73.9%
Varicella	8,079	7,732	95.7%

#### *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 21, DHHS completed 2,727 (66.5 percent) of 4,099 medical well-child visits timely, 4,000 (83.0 percent) of 4,817 annual physicals timely, and 5,304 (71.0 percent) of 7,475 semiannual dental exams timely. DHHS did not meet the performance standard of 95 percent for any component of this commitment.

*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 21 performance on each of the three components of the child’s medical and psychological case files is charted below. To measure performance, DHHS reviewed 40 foster care cases utilizing CSFR Item 17 criteria described in the chart below. DHHS achieved the 95 percent performance standard for two of the three components of the child case file commitment during MISEP 21. *Per the MISEP, compliance during this period makes the first two components of this commitment eligible to move to “To Be Maintained.”*

**Table 10. Child Case File, Medical and Psychological Performance, MISEP 21**

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.	40	2	38	95.0%
The case plan addresses the issue of health and dental care needs.	40	2	38	95.0%
To the extent available and accessible, foster parents or foster care providers are provided with the child’s health records.	40	4	36	90.0%

### *Access to Health Insurance (6.31, 6.32)*

The MISEP requires that 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 1,583 (88.3 percent) of 1,793 children in MISEP 21. DHHS did not meet the performance standard during the period.

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 21, 2,881 (80.6 percent) of 3,573 placement providers received Medicaid cards within 24 hours or the next business day following a child's subsequent placement. DHHS also reported that for 3,570 (99.9 percent) of 3,573 subsequent placements, either the provider received a Medicaid card within 24 hours or the next business day following a child's subsequent placement, or the child had Medicaid coverage within 24 hours of the date of placement.

### *Psychotropic Medication, Informed Consent (6.33)*

The MISEP requires DHHS to ensure that 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 21, the Department reported 2,379 children required informed consent documentation, for 5,883 unique prescriptions. Data indicated that valid consents were on file for 72.5 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 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 21, the monitoring team randomly selected a sample of 66 cases from a total population of 2,379 children. The monitoring team found 24 cases met the terms of this commitment and 42 cases did not meet the terms of this commitment for a performance calculation of 36.4 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 21, there were 1,474 youth eligible for the YAVFC program. Of those youth, 719 (48.8 percent) participated in the program. This shows an

improvement of 1.7 percent from the MISEP 20 performance and 7.7 percent from the baseline performance in MISEP 17, as charted below.<sup>14</sup>

**Table 11. Youth Transitioning to Adulthood, YAVFC Enrollment Performance**

Period	Performance
MISEP 17	41.1%
MISEP 20	47.1%
MISEP 21	48.8%

*Per the MISEP, positive trending during these MISEPs 20 and 21 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 21, 446 youth who were 15 years and older exited foster care. Of those, 206 (46.2 percent) were discharged with an exit type of reunification, adoption, or guardianship. This represents a 5.7 percent decrease in performance from the previous reporting period.

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<sup>14</sup> Performance was revised slightly upward for Periods 17 and 20 due to a data error identified in MISEP 21.

### Appendix A. Age Range of Children in Care on December 31, 2021 by County

County Name	Ages 0-6		Ages 7-11		Ages 12-17		Ages 18+		Total
	Children	%	Children	%	Children	%	Children	%	
Alcona	7	41.2%	1	5.9%	9	52.9%	0	0.0%	17
Alger	4	44.4%	2	22.2%	3	33.3%	0	0.0%	9
Allegan	67	46.2%	31	21.4%	41	28.3%	6	4.1%	145
Alpena	29	54.7%	5	9.4%	13	24.5%	6	11.3%	53
Antrim	5	45.5%	1	9.1%	4	36.4%	1	9.1%	11
Arenac	7	28.0%	6	24.0%	11	44.0%	1	4.0%	25
Baraga	3	100.0	0	0.0%	0	0.0%	0	0.0%	3
Barry	18	47.4%	5	13.2%	14	36.8%	1	2.6%	38
Bay	42	35.0%	24	20.0%	38	31.7%	16	13.3%	120
Benzie	8	36.4%	4	18.2%	7	31.8%	3	13.6%	22
Berrien	87	48.6%	41	22.9%	41	22.9%	10	5.6%	179
Branch	28	50.0%	14	25.0%	12	21.4%	2	3.6%	56
Calhoun	92	40.9%	60	26.7%	61	27.1%	12	5.3%	225
Cass	32	37.2%	18	20.9%	28	32.6%	8	9.3%	86
Central Office	8	72.7%	2	18.2%	0	0.0%	1	9.1%	11
Charlevoix	6	50.0%	2	16.7%	2	16.7%	2	16.7%	12
Cheboygan	10	38.5%	11	42.3%	5	19.2%	0	0.0%	26
Chippewa	22	52.4%	9	21.4%	9	21.4%	2	4.8%	42
Clare	28	59.6%	5	10.6%	11	23.4%	3	6.4%	47
Clinton	8	26.7%	8	26.7%	10	33.3%	4	13.3%	30
Crawford	17	34.7%	11	22.4%	21	42.9%	0	0.0%	49
Delta	23	46.0%	13	26.0%	13	26.0%	1	2.0%	50
Dickinson	14	60.9%	2	8.7%	5	21.7%	2	8.7%	23
Eaton	29	42.6%	11	16.2%	18	26.5%	10	14.7%	68
Emmet	3	23.1%	4	30.8%	6	46.2%	0	0.0%	13
Genesee	239	47.8%	95	19.0%	131	26.2%	35	7.0%	500
Gladwin	16	42.1%	8	21.1%	14	36.8%	0	0.0%	38
Gogebic	19	63.3%	5	16.7%	5	16.7%	1	3.3%	30
Grand Traverse	33	54.1%	10	16.4%	11	18.0%	7	11.5%	61
Gratiot	20	52.6%	5	13.2%	12	31.6%	1	2.6%	38
Hillsdale	65	58.6%	25	22.5%	20	18.0%	1	0.9%	111
Houghton	9	90.0%	1	10.0%	0	0.0%	0	0.0%	10
Huron	17	39.5%	10	23.3%	15	34.9%	1	2.3%	43
Ingham	208	52.0%	74	18.5%	94	23.5%	24	6.0%	400
Ionia	25	51.0%	10	20.4%	11	22.4%	3	6.1%	49
Iosco	21	60.0%	5	14.3%	5	14.3%	4	11.4%	35
Iron	6	66.7%	3	33.3%	0	0.0%	0	0.0%	9
Isabella	30	58.8%	9	17.6%	9	17.6%	3	5.9%	51
Jackson	80	46.8%	26	15.2%	50	29.2%	15	8.8%	171
Kalamazoo	183	46.4%	76	19.3%	108	27.4%	27	6.9%	394

County Name	Ages 0-6		Ages 7-11		Ages 12-17		Ages 18+		Total
	Children	%	Children	%	Children	%	Children	%	
Kalkaska	11	39.3%	7	25.0%	9	32.1%	1	3.6%	28
Kent	222	41.5%	82	15.3%	167	31.2%	64	12.0%	535
Lake	16	57.1%	4	14.3%	5	17.9%	3	10.7%	28
Lapeer	19	41.3%	9	19.6%	13	28.3%	5	10.9%	46
Leelanau	2	28.6%	0	0.0%	5	71.4%	0	0.0%	7
Lenawee	75	56.0%	26	19.4%	30	22.4%	3	2.2%	134
Livingston	39	40.6%	24	25.0%	27	28.1%	6	6.3%	96
Luce	3	50.0%	1	16.7%	2	33.3%	0	0.0%	6
Mackinac	8	61.5%	2	15.4%	2	15.4%	1	7.7%	13
Macomb	256	47.9%	104	19.5%	121	22.7%	53	9.9%	534
Manistee	23	59.0%	7	17.9%	7	17.9%	2	5.1%	39
Marquette	34	68.0%	12	24.0%	3	6.0%	1	2.0%	50
Mason	12	70.6%	4	23.5%	0	0.0%	1	5.9%	17
Mecosta	15	48.4%	6	19.4%	7	22.6%	3	9.7%	31
Menominee	16	48.5%	11	33.3%	6	18.2%	0	0.0%	33
Midland	41	45.6%	23	25.6%	19	21.1%	7	7.8%	90
Missaukee	3	27.3%	1	9.1%	5	45.5%	2	18.2%	11
Monroe	52	57.1%	18	19.8%	16	17.6%	5	5.5%	91
Montcalm	59	53.2%	20	18.0%	27	24.3%	5	4.5%	111
Montmorency	14	73.7%	3	15.8%	1	5.3%	1	5.3%	19
Muskegon	190	49.1%	81	20.9%	91	23.5%	25	6.5%	387
Newaygo	29	43.3%	14	20.9%	22	32.8%	2	3.0%	67
Oakland	226	51.7%	78	17.8%	97	22.2%	36	8.2%	437
Oceana	7	46.7%	5	33.3%	3	20.0%	0	0.0%	15
Ogemaw	3	16.7%	5	27.8%	7	38.9%	3	16.7%	18
Ontonagon	0	0.0%	0	0.0%	1	100.0%	0	0.0%	1
Osceola	2	13.3%	6	40.0%	7	46.7%	0	0.0%	15
Oscoda	14	43.8%	8	25.0%	8	25.0%	2	6.3%	32
Otsego	20	46.5%	9	20.9%	12	27.9%	2	4.7%	43
Ottawa	60	37.3%	52	32.3%	36	22.4%	13	8.1%	161
Presque Isle	6	40.0%	2	13.3%	7	46.7%	0	0.0%	15
Roscommon	6	33.3%	4	22.2%	7	38.9%	1	5.6%	18
Saginaw	69	44.2%	31	19.9%	39	25.0%	17	10.9%	156
Sanilac	23	37.1%	18	29.0%	19	30.6%	2	3.2%	62
Schoolcraft	6	40.0%	6	40.0%	3	20.0%	0	0.0%	15
Shiawassee	31	47.0%	16	24.2%	13	19.7%	6	9.1%	66
St. Clair	103	48.4%	48	22.5%	47	22.1%	15	7.0%	213
St. Joseph	52	41.3%	30	23.8%	37	29.4%	7	5.6%	126
Tuscola	13	52.0%	4	16.0%	5	20.0%	3	12.0%	25
Van Buren	41	50.0%	13	15.9%	20	24.4%	8	9.8%	82
Washtenaw	60	53.1%	13	11.5%	27	23.9%	13	11.5%	113
Wayne	1,151	46.2%	547	21.9%	579	23.2%	216	8.7%	2,493
Wexford	15	48.4%	3	9.7%	11	35.5%	2	6.5%	31
Total	4,615	47.0%	2,009	20.5%	2,437	24.8%	749	7.6%	9,810

**Appendix B. Length of Stay of Children in Care on December 31, 2021 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	8	47.1%	3	17.6%	5	29.4%	1	5.9%	0	0.0%	17
Alger	2	22.2%	4	44.4%	3	33.3%	0	0.0%	0	0.0%	9
Allegan	47	32.4%	62	42.8%	23	15.9%	11	7.6%	2	1.4%	145
Alpena	16	30.2%	16	30.2%	10	18.9%	11	20.8%	0	0.0%	53
Antrim	3	27.3%	2	18.2%	4	36.4%	2	18.2%	0	0.0%	11
Arenac	12	48.0%	7	28.0%	1	4.0%	5	20.0%	0	0.0%	25
Baraga	1	33.3%	1	33.3%	0	0.0%	1	33.3%	0	0.0%	3
Barry	23	60.5%	9	23.7%	4	10.5%	1	2.6%	1	2.6%	38
Bay	51	42.5%	27	22.5%	12	10.0%	25	20.8%	5	4.2%	120
Benzie	10	45.5%	6	27.3%	2	9.1%	4	18.2%	0	0.0%	22
Berrien	64	35.8%	56	31.3%	40	22.3%	13	7.3%	6	3.4%	179
Branch	30	53.6%	10	17.9%	11	19.6%	5	8.9%	0	0.0%	56
Calhoun	77	34.2%	56	24.9%	36	16.0%	49	21.8%	7	3.1%	225
Cass	22	25.6%	28	32.6%	21	24.4%	7	8.1%	8	9.3%	86
Central Office	0	0.0%	8	72.7%	1	9.1%	1	9.1%	1	9.1%	11
Charlevoix	8	66.7%	1	8.3%	0	0.0%	3	25.0%	0	0.0%	12
Cheboygan	9	34.6%	7	26.9%	8	30.8%	2	7.7%	0	0.0%	26
Chippewa	26	61.9%	8	19.0%	5	11.9%	3	7.1%	0	0.0%	42
Clare	11	23.4%	12	25.5%	11	23.4%	11	23.4%	2	4.3%	47
Clinton	11	36.7%	10	33.3%	8	26.7%	1	3.3%	0	0.0%	30
Crawford	16	32.7%	8	16.3%	11	22.4%	14	28.6%	0	0.0%	49
Delta	23	46.0%	14	28.0%	9	18.0%	4	8.0%	0	0.0%	50
Dickinson	10	43.5%	7	30.4%	3	13.0%	3	13.0%	0	0.0%	23
Eaton	30	44.1%	14	20.6%	16	23.5%	7	10.3%	1	1.5%	68
Emmet	5	38.5%	2	15.4%	3	23.1%	2	15.4%	1	7.7%	13
Genesee	169	33.8%	103	20.6%	116	23.2%	90	18.0%	22	4.4%	500
Gladwin	16	42.1%	13	34.2%	7	18.4%	2	5.3%	0	0.0%	38
Gogebic	22	73.3%	2	6.7%	2	6.7%	4	13.3%	0	0.0%	30
Grand Traverse	34	55.7%	9	14.8%	14	23.0%	4	6.6%	0	0.0%	61
Gratiot	4	10.5%	22	57.9%	5	13.2%	7	18.4%	0	0.0%	38
Hillsdale	41	36.9%	49	44.1%	16	14.4%	5	4.5%	0	0.0%	111
Houghton	8	80.0%	0	0.0%	2	20.0%	0	0.0%	0	0.0%	10
Huron	21	48.8%	10	23.3%	8	18.6%	3	7.0%	1	2.3%	43
Ingham	161	40.3%	95	23.8%	75	18.8%	61	15.3%	8	2.0%	400
Ionia	26	53.1%	7	14.3%	10	20.4%	6	12.2%	0	0.0%	49
Iosco	16	45.7%	9	25.7%	4	11.4%	6	17.1%	0	0.0%	35
Iron	0	0.0%	6	66.7%	3	33.3%	0	0.0%	0	0.0%	9
Isabella	19	37.3%	11	21.6%	10	19.6%	9	17.6%	2	3.9%	51
Jackson	69	40.4%	42	24.6%	37	21.6%	19	11.1%	4	2.3%	171
Kalamazoo	144	36.5%	121	30.7%	67	17.0%	57	14.5%	5	1.3%	394



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	11	39.3%	6	21.4%	6	21.4%	4	14.3%	1	3.6%	28
Kent	198	37.0%	123	23.0%	109	20.4%	86	16.1%	19	3.6%	535
Lake	15	53.6%	3	10.7%	3	10.7%	5	17.9%	2	7.1%	28
Lapeer	19	41.3%	15	32.6%	7	15.2%	5	10.9%	0	0.0%	46
Leelanau	2	28.6%	1	14.3%	0	0.0%	3	42.9%	1	14.3%	7
Lenawee	47	35.1%	36	26.9%	40	29.9%	10	7.5%	1	0.7%	134
Livingston	20	20.8%	44	45.8%	16	16.7%	15	15.6%	1	1.0%	96
Luce	1	16.7%	2	33.3%	3	50.0%	0	0.0%	0	0.0%	6
Mackinac	8	61.5%	2	15.4%	0	0.0%	2	15.4%	1	7.7%	13
Macomb	176	33.0%	120	22.5%	119	22.3%	109	20.4%	10	1.9%	534
Manistee	17	43.6%	7	17.9%	4	10.3%	10	25.6%	1	2.6%	39
Marquette	33	66.0%	13	26.0%	4	8.0%	0	0.0%	0	0.0%	50
Mason	9	52.9%	4	23.5%	3	17.6%	1	5.9%	0	0.0%	17
Mecosta	13	41.9%	9	29.0%	6	19.4%	3	9.7%	0	0.0%	31
Menominee	19	57.6%	6	18.2%	7	21.2%	1	3.0%	0	0.0%	33
Midland	19	21.1%	42	46.7%	17	18.9%	10	11.1%	2	2.2%	90
Missaukee	5	45.5%	4	36.4%	0	0.0%	1	9.1%	1	9.1%	11
Monroe	37	40.7%	25	27.5%	15	16.5%	11	12.1%	3	3.3%	91
Montcalm	37	33.3%	50	45.0%	16	14.4%	6	5.4%	2	1.8%	111
Montmorency	8	42.1%	4	21.1%	4	21.1%	2	10.5%	1	5.3%	19
Muskegon	143	37.0%	108	27.9%	86	22.2%	43	11.1%	7	1.8%	387
Newaygo	21	31.3%	24	35.8%	13	19.4%	8	11.9%	1	1.5%	67
Oakland	143	32.7%	87	19.9%	99	22.7%	91	20.8%	17	3.9%	437
Oceana	10	66.7%	2	13.3%	2	13.3%	1	6.7%	0	0.0%	15
Ogemaw	4	22.2%	3	16.7%	5	27.8%	4	22.2%	2	11.1%	18
Ontonagon	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
Osceola	7	46.7%	3	20.0%	1	6.7%	3	20.0%	1	6.7%	15
Oscoda	20	62.5%	8	25.0%	4	12.5%	0	0.0%	0	0.0%	32
Otsego	15	34.9%	9	20.9%	12	27.9%	7	16.3%	0	0.0%	43
Ottawa	62	38.5%	56	34.8%	27	16.8%	15	9.3%	1	0.6%	161
Presque Isle	6	40.0%	9	60.0%	0	0.0%	0	0.0%	0	0.0%	15
Roscommon	5	27.8%	7	38.9%	4	22.2%	1	5.6%	1	5.6%	18
Saginaw	74	47.4%	35	22.4%	21	13.5%	22	14.1%	4	2.6%	156
Sanilac	14	22.6%	22	35.5%	13	21.0%	13	21.0%	0	0.0%	62
Schoolcraft	8	53.3%	3	20.0%	0	0.0%	4	26.7%	0	0.0%	15
Shiawassee	21	31.8%	12	18.2%	14	21.2%	19	28.8%	0	0.0%	66
St. Clair	74	34.7%	61	28.6%	42	19.7%	23	10.8%	13	6.1%	213
St. Joseph	35	27.8%	49	38.9%	17	13.5%	19	15.1%	6	4.8%	126
Tuscola	10	40.0%	5	20.0%	4	16.0%	5	20.0%	1	4.0%	25
Van Buren	23	28.0%	10	12.2%	17	20.7%	25	30.5%	7	8.5%	82
Washtenaw	47	41.6%	26	23.0%	25	22.1%	9	8.0%	6	5.3%	113
Wayne	723	29.0%	642	25.8%	400	16.0%	612	24.5%	116	4.7%	2,493
Wexford	7	22.6%	15	48.4%	5	16.1%	4	12.9%	0	0.0%	31
Total	3,432	35.0%	2,589	26.4%	1,813	18.5%	1,671	17.0%	305	3.1%	9,810

**Appendix C. Stipulated Order Regarding 6.19 of the Modified Sustainability and Exit Plan**

Case 2:06-cv-13548-NGE-DAS ECF No. 333, PageID.9408 Filed 09/07/22 Page 1 of 3

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.

Case No.: 2:06-cv-13548

HON. NANCY G. EDMUNDS

Class Action

**STIPULATED ORDER  
REGARDING PROVISION 6.19  
OF THE MODIFIED  
SUSTAINABILITY AND EXIT  
PLAN (MISEP)**

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**STIPULATED ORDER REGARDING PROVISION 6.19 OF THE  
MODIFIED SUSTAINABILITY AND EXIT PLAN (MISEP)**

WHEREAS provision 6.19 (Commitment 69) of the Modified  
Implementation, Sustainability, and Exhibit Plan (MISEP, ECF No.  
294) addresses documentation required for foster care case assessments  
and service plans involving children in the Plaintiff Class; and

WHEREAS on or around March 23, 2018—which was after the  
February 2, 2016 filing date of the Implementation, Sustainability, and

Exit Plan (ISEP, ECF No. 260) but before the June 27, 2019 filing date of the MISEP—the parties agreed to a Designated Performance Standard of 83% and a Floor Performance Standard of 80% for Commitment 69 (previously Commitment 70 in the ISEP); and

WHEREAS the parties agree that they intended the previously agreed upon Designated Performance Standard of 83% and Floor Performance Standard of 80% for Commitment 69 to continue in the MISEP but that the MISEP incorrectly assigned the Designated Performance Standard of 90% and the Floor Performance Standard of 85% to Commitment 69 (MISEP 6.19); and

WHEREAS the parties submit this stipulation to rectify this unintentional error and thus agree to modify provision 6.19 (Commitment 69) of the MISEP as set forth below.

IT IS HEREBY STIPULATED AND AGREED by and between the parties that the Designated Performance Standard shall be 83% and the Floor Performance Standard shall be 80% for MISEP 6.19 (Commitment 69). These amended performance standards are retroactive to June 27, 2019, the date the MISEP was filed with this Court.

IT IS SO ORDERED.

Dated: September 7, 2022

s/ Nancy G. Edmunds  
Hon. Nancy G. Edmunds  
United States District Judge

Stipulated and Agreed to by:

/s/ Samantha M. Bartosz  
Samantha M. Bartosz (P486946)  
Children's Rights  
88 Pine Street, Suite 800  
New York, NY 10005  
Phone: (212) 683-2210  
sbartosz@childrensrights.org  
*Attorneys for Plaintiffs*

Date: September 6, 2022

/s/ Cassandra Drysdale-Crown  
Cassandra Drysdale-Crown (P64108)  
Neil Giovanatti (P82305)  
Health, Education & Family  
Services Division  
525 West Ottawa Street  
P.O. Box 30758  
Lansing, MI 48909  
Phone: (517) 335-7603  
*Attorneys for Defendants*

Date: September 6, 2022

**Appendix D. Letter of Agreement re: Dwayne B., et al., v. Gretchen Whitmer, et al., 2:06-cv-13548 Video Conferencing, MISEP # : 6.16**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
LANSING

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  
Video Conferencing, MISEP #: 6.16 (Commitment 66)

This Letter of Agreement memorializes the parties' agreement, through their attorneys, regarding the "face-to-face" meetings, required under section 6.16 (Commitment 66) of the Modified Implementation, Sustainability, and Exit Plan (MISEP), that shall be deemed compliant with this commitment.

The parties recognize the COVID-19 pandemic has impacted supervisory practice, with video conferencing technologies becoming more ubiquitous. Accordingly, the parties agree to deem video conferences compliant for purposes of "face-to-face" meetings required under 6.16 of the MISEP under the following terms:

1. For purposes of this memorandum, a "video conference" is defined as a two-way audio and video communication through a platform such as FaceTime, Microsoft Teams, Skype, Zoom, or similar videoconferencing technologies.
2. For 6.16, Supervisory Oversight (Commitment 66):
  - a. The "face-to-face" meeting between the assigned worker and the worker's supervisor that must occur prior to the supervisor's approval of each service plan may occur via video conference.
  - b. If such meeting occurs via video conference, the worker and/or supervisor shall note in MiSACWIS or other electronic case management database system that the supervisor-worker's face-to-face meeting occurred by video conference.
3. As needed, the parties agree that MDHHS may seek guidance from MMT on the most effective method to report and capture this data for validation.

This agreement shall be utilized for 21th MISEP reporting period (July – December 2021) 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.

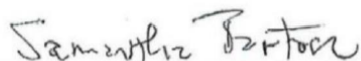


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Demetrius Starling, Executive Director  
MDHHS Children's Services Agency

Dated:

October 18, 2021



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

Dated:

October 5, 2021

## Appendix E. MISEP Performance, Summary of Commitments

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
Met the performance standard in all eligible periods							
5.2	<b>CPS Investigations, Commencement:</b> 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%.	95%	Yes, 96.8%	Yes, 97.9%	Yes, 97.7%	Yes, 98.3%	Yes, 98.2%
5.5	<b>Caseload, POS Workers:</b> 95% of POS workers shall have a caseload of no more than 90 children.	95%	Yes, 95.6%	Yes, 97.8%	Yes, 98.6%	Yes, 99.4%	Yes, 97.8%
5.7	<b>Seclusion/Isolation:</b> 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.	N/A	Yes	Yes	Yes	Yes	Yes
6.2	<b>MIC Data Report:</b> 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.	N/A	N/A	Yes	N/A	Yes	N/A
6.7	<b>Maximum Children in a Foster Home:</b> 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%	Yes, 90.1% Eligible to be moved to "To be Maintained."	Yes, 91.9%	Yes, 90.0%	Yes, 92.5%	Yes, 90.7%

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.12.b	<b>CPS Investigations, Screening:</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%.	95%	Yes, 98.5% Eligible to be moved to "To be Maintained."	Yes, 95.4% Eligible to be moved to "Structures and Policies."	N/A	N/A	N/A
6.21.b	<b>Visits, Worker-Child:</b> Each child in foster care shall be visited by a caseworker at least once per month. The designated performance standard is 95%.	95%	Yes, 97.6%	N/A – COVID-Impacted, 97.9% (Jan-Feb) 97.1% (March – June)	N/A – COVID-Impacted, 97.1%	Yes, 97.1% Eligible to be moved to "To be Maintained."	Yes, 96.1%
6.36.a	<b>Support for Transitioning to Adulthood, YAVFC:</b> 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.	Positive trending	41.1% <sup>15</sup> Baseline	N/A – COVID-Impacted, 40.3% <sup>15</sup>	N/A – COVID-Impacted, 46.7% <sup>15</sup>	Yes, 47.1% <sup>15</sup> Eligible to be moved to "To be Maintained."	Yes, 48.8% Eligible to be moved to "Structures and Policies."
6.36.b	<b>Support for Transitioning to Adulthood, YAVFC:</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%.	95%	Yes, 98.6% Eligible to be moved to "To be Maintained."	Yes, 99.6% Eligible to be moved to "Structures and Policies."	N/A	N/A	N/A

<sup>15</sup> Performance was revised slightly upward for Periods 17 through 20 due to a data error identified in MISEP 21.



Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
Met the performance standard in at least one eligible period							
5.3	<b>Caseload, CPS Investigation Workers:</b> 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.	95%	No, 94.4%	Yes, 99.8%	Yes, 100%	Yes, 99.7%	Yes, 99.5%
5.4	<b>Caseload, CPS Ongoing Workers:</b> 95% of CPS caseworkers assigned to provide ongoing services shall have a caseload of no more than 17 families.	95%	No, 93.4%	Yes, 99.8%	Yes, 99.8%	Yes, 99.5%	Yes, 99.4%
5.6	<b>Caseload, Licensing Workers:</b> 95% of licensing workers shall have a workload of no more than 30 licensed foster homes or homes pending licensure.	95%	No, 94.1%	Yes, 95.0%	No, 93.6%	Yes, 95.8%	Yes, 96.5%
6.4	<b>Foster Home Array:</b> 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	Yes	N/A – COVID-Impacted	N/A – COVID-Impacted	Will be included in the MISEP 21 Report	No
6.14	<b>Caseload, Foster Care Workers:</b> 95% of foster care workers shall have a caseload of no more than 15 children.	95%	No, 90.3%	Yes, 95.0% Eligible to be moved to "To be Maintained."	No, 94.4%	No, 93.1%	No, 91.8%
6.11	<b>CPS Investigations, Completion:</b> DHHS shall complete all investigations of reports of child abuse or neglect within the required timeframes. The designated performance standard is 90%.	90%	No, 83.4%	Yes, 95.1% Eligible to be moved to "To be Maintained."	Yes, 96.9%	Yes, 97.1%	Yes, 95.9%

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.12.a	<b>CPS Investigations, Screening:</b> 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%.	95%	No, 92.4%	No, 90.9%	No, 87.9%	Yes, 95.5% Eligible to be moved to "To be Maintained."	No, 86.4%
6.16	<b>Supervisory Oversight:</b> 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%. Eligible to be moved to "To be maintained".	95%	Yes, 95.0% Eligible to be moved to "To be Maintained."	N/A – COVID-Impacted, 93.3% (Initial, Jan-Feb), 97.3% (Initial, March-June), 92.1% (Monthly, Jan-Feb), 95.4% (Monthly, March-June)	N/A – COVID-Impacted, 86.3% (Initial), 94.4% (Monthly)	No, 90.6% (Initial), 93.6% (Monthly)	No, 87.4% (Initial), 93.0% (Monthly)
6.21.a	<b>Visits, Worker-Child:</b> 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%.	95%	Yes, 95.2%	N/A – COVID-Impacted, 82.5% (Jan-Feb)	N/A – COVID-Impacted, 91.5%	No, 93.7%	No, 94.7%
6.21.a	<b>Visits, Worker-Child:</b> 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%.	95%	Yes, 95.3%	N/A – COVID-Impacted, 82.7% (Jan-Feb)	N/A – COVID-Impacted, 89.0%	No, 92.6%	No, 94.2%
6.21.b	<b>Visits, Worker-Child:</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%.	95%	Yes, 95.5%	N/A – COVID-Impacted, 96.4% (Jan-Feb)	N/A – COVID-Impacted, 91.7%	No, 92.9%	Yes, 95.0% Eligible to be moved to "To be Maintained."

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.21.b	<b>Visits, Worker-Child:</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%.	95%	Yes, 96.5%	N/A – COVID-Impacted, 95.4% (Jan-Feb)	N/A – COVID-Impacted, 88.7%	No, 91.0%	No, 93.6%
6.22.a	<b>Visits, Worker-Parent:</b> 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%	No, 73.6%	N/A – COVID-Impacted, 71.7% (Jan-Feb), 83.2% (March-June)	N/A – COVID-Impacted, 85.2%	Yes, 85.2% Eligible to be moved to "To be Maintained."	No, 59.1%
6.30	<b>Child Case File, Medical and Psychological:</b> 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.	95%	No, 75.0%	No, 90.6%	No, 85.7%	No, 94.3%	Yes, 95.0% Eligible to be moved to "To be Maintained."
6.30	<b>Child Case File, Medical and Psychological:</b> DHHS shall ensure that: ; (2) the case plan addresses the issue of health and dental care needs.	95%	No, 62.5%	No, 93.8%	No, 91.8%	No, 91.4%	Yes, 95.0% Eligible to be moved to "To be Maintained."
6.35	<b>Generation of Data:</b> 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.	N/A	No	Yes Eligible to be moved to "To be Maintained."	Yes Eligible to be moved to "Structures and Policies."	N/A	N/A
6.37	<b>Support for Transitioning to Adulthood, Permanency:</b> DHHS will continue to implement policies and provider services to support the rate of older youth achieving permanency.	Positive trending	55.1% Baseline	N/A – COVID-Impacted, 50.5%	N/A – COVID-Impacted, 51.4%	Yes, 51.9% Eligible to be moved to "To be Maintained."	No, 46.2%
Within 10 percent of the performance standard in at least one period							
6.5	<b>Placement Standard:</b> 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.	100%	No, 95.6%	No, 95.4%	No, 98.7%	No, 98.6%	No, 98.8%

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.12.a	<b>CPS Investigations, Screening:</b> 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%.	95%	No, 78.7%	No, 82.3%	No, 85.5%	No, 87.1%	No, 88.7%
6.13	<b>Caseload, Supervisors:</b> 95% of foster care, adoption, CPS, POS, and licensing supervisors shall be responsible for the supervision of no more than five caseworkers.	95%	No, 84.3%	No, 86.9%	No, 88.2%	No, 88.9%	No, 88.8%
6.17	<b>Assessments and Service Plans, Timeliness of Initial Plan:</b> 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%.	95%	No, 82.5%	No, 86.9%	No, 83.0%	No, 86.2%	No, 87.8%
6.18	<b>Assessments and Service Plans, Timeliness of Updated Plan:</b> For every child in foster care, DHHS shall complete an Updated Service Plan (USP) at least quarterly. The designated performance standard is 95%.	95%	No, 86.6%	No, 90.0%	No, 88%	No, 89.5%	No, 87.8%
6.19	<b>Assessment and Service Plans, Content:</b> 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%.	83% <sup>16</sup>	No, 66.7%	No, 73.5%	No, 57.6%	No, 73.2%	No, 79.7%

<sup>16</sup> On September 6, 2022 a Stipulated Order was issued which amends that the Designated Performance Standard for 6.19 from 90 percent to 83 percent and the Floor Performance Standard from 85 percent to 80 percent. These amended performance standards are retroactive to June 27, 2019, the day the MISEP was filed.

	Commitment	Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.21.a	<b>Visits, Worker-Child:</b> 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%.	95%	No, 91.4%	N/A – COVID-Impacted, 90.4% (Jan-Feb), 89.5% (March-June)	N/A – COVID-Impacted, 89.3%	No, 90.7%	No, 89.2%
6.25	<b>Medical and Mental Health Examinations:</b> 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.	85%	No, 83.9%	N/A – COVID-Impacted, 69.8%	N/A – COVID-Impacted, 69.8%	N/A – COVID-Impacted, 78.0%	No, 72.9%
6.25	<b>Medical and Mental Health Examinations:</b> 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.	95%	No, 89.3%	N/A – COVID-Impacted, 76.6%	N/A – COVID-Impacted, 77.9%	N/A – COVID-Impacted, 85.6%	No, 82.1%
6.27	<b>Immunizations, in Custody 3 Months or Less:</b> 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.	90%	N/A	N/A – COVID-Impacted and subject to separate March 12, 2021 order	N/A – COVID-Impacted, ranges from 61.2% to 94%	N/A – COVID-Impacted, ranges from 17.9% to 95.8%	No, Ranges from 82.1% - 94.7% <sup>17</sup>
6.28	<b>Immunizations, in Custody Longer Than 3 Months:</b> 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.	90%	N/A	N/A – COVID-Impacted and subject to separate March 12, 2021 order	N/A – COVID-Impacted, ranges from 18.2% to 97.2%	N/A – COVID-Impacted, ranges from 84.6% to 96.1%	No, Ranges from 73.9% - 96.2% <sup>2</sup>
6.30	<b>Child Case File, Medical and Psychological:</b> DHHS shall ensure that: (3) foster parents and foster care providers are provided with the child's health care records.	95%	No, 59.4%	No, 93.8%	No, 91.8%	No, 88.6%	No, 90.0%

<sup>17</sup> Performance for this commitment is measured separately for each required immunization, of which there are 11.

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.31	<b>Medical Care and Coverage, at Entry:</b> 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.	95%	No, 88.9%	No, 89.5%	No, 87.7%	No, 90.5%	No, 88.3%
Performance is consistently more than 10 percentage points below the standard							
6.3	<b>Permanency Indicator 1:</b> 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?)	≥ 40.5%	No, 26.6%	No, 27.3%	No, 27.4%	No, 28.6%	No, 27.4%
6.6.a	<b>Separation of Siblings:</b> 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%.	90%	No, 68.1%	No, 72.4%	No, 73.4%	No, 71.2%	No, 77.6%
6.15	<b>Caseload, Adoption Workers:</b> 95% of adoption caseworkers shall have a caseload of no more than 15 children.	95%	No, 66.7%	No, 78.2%	No, 81.5%	No, 76.2%	No, 74.1%
6.20	<b>Provision of Services:</b> 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%.	83%	No, 69.3%	No, 71.6%	No, 51.7%	No, 70.0%	No, 68.5%
6.22.b	<b>Visits, Worker-Parent:</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%.	85%	No, 69.4%	N/A – COVID-Impacted, 69.6% (Jan-Feb), 71.7% (March-June)	N/A – COVID-Impacted, 74.1%	No, 73.6%	No, 60.4%

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.24	<b>Visits, Between Siblings:</b> 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%.	85%	No, 72.9%	N/A – COVID-Impacted, 69.5% (Jan-Feb), 56.8% (March-June)	N/A – COVID-Impacted, 69.2%	No, 73.7%	No, 67.6%
6.26	<b>Dental Examinations:</b> 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.	90%	No, 77.3%	N/A – COVID-Impacted, 36.4%	N/A – COVID-Impacted, 56.7%	N/A – COVID-Impacted, 66.4%	No, 62.8%
6.32	<b>Medical Care and Coverage, Subsequent Placement:</b> 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.	95%	No, 82.8%	No, 82.1%	No, 78.5%	No, 79.3%	No, 80.6%
<b>Performance is consistently more than 20 percentage points below the standard</b>							
6.6.b	<b>Separation of Siblings:</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%.	90%	No, 61.2%	No, 36.8%	No, 29.8%	No, 38.1%	No, 50.0%

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.8	<b>Emergency or Temporary Facilities, Length of Stay:</b> 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%.	95%	No, 67.9%	No, 64.2%	No, 62.9%	No, 68.7%	No, 55.9%
6.10.a	<b>Relative Foster Parents:</b> 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%.	95%	No, 53.0%	No, 73.8%	No, 41.5%	No, 43.1%	No, 70.8%
6.22.a	<b>Visits, Worker-Parent:</b> 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%.	85%	No, 47.9%	N/A – COVID-Impacted, 53.4%	N/A – COVID-Impacted, 45.6%	No, 52.4%	No, 50.0%
6.23	<b>Visits, Parent-Child:</b> 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%.	85%	No, 62.5%	N/A – COVID-Impacted, 64.7% (Jan-Feb), 59.4% (March-June)	N/A – COVID-Impacted, 62.0%	No, 59.1%	No, 57.8%
6.29	<b>Examinations and Screenings:</b> 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.	95%	No, 69.7%, 87.7%, 92.1%	N/A – COVID-Impacted, 58.3%, 75.6%, 38.6%	N/A – COVID-Impacted, 61.8%, 81.7%, 70.5%	N/A – COVID-Impacted, 68.7%, 85.0%, 74.5%	No, 66.5%, 83.0%, 71.0%



Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.33	<b>Psychotropic Medication, Informed Consent:</b> 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%.	97%	No, 75.9%	No, 74.4%	No, 76.1%	No, 71.8%	No, 72.5%
Performance is consistently more than 50 percentage points below the standard							
6.9	<b>Emergency or Temporary Facilities, Repeated Placement:</b> 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.	95%	No, 6.3%	No, 12.5%	No, 2.9%	No, 18.2%	No, 4.5%
6.10.b	<b>Relative Foster Parents:</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%.	95%	No, 9.7%	No, 36.5%	No, 14.1%	No, 37.9%	No, 42.4%

Commitment		Standard	MISEP 17	MISEP 18	MISEP 19	MISEP 20	MISEP 21
6.34	<b>Psychotropic Medication, Documentation:</b> 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.	95%	No, 33.8%	No, 26.9%	No, 34.8%	No, 27.3%	No, 36.4%
Performance has never been achieved, no performance standard							
5.1	<b>Contract-Agency Evaluation:</b> 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.	N/A	No	No	No	No	No
Not applicable or unable to verify in all periods							
6.1	<b>Safety – Maltreatment in Foster Care:</b> 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.	≤ 9.67	Unable to verify	N/A	Unable to verify	N/A	Unable to verify