



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF CHILDREN'S OMBUDSMAN
LANSING

SUZANNA SHKRELI
DIRECTOR

Report of Findings and Recommendations

Under state law a record of the Office of Children's Ombudsman's is confidential, is not subject to court subpoena, and is not discoverable in a legal proceeding. Additionally, a record of the Office of Children's Ombudsman's is exempt from disclosure under the Freedom of Information Act.

Date: November 22, 2021

Case No.: 2021-0362

Summary:

On May 12, 2021, the Office of Children's Ombudsman (OCO) opened an investigation into the involvement of Spaulding for Children, Samaritas, and Wayne County Department of Health and Human Services (DHHS) - North Central District with [REDACTED] and [REDACTED]
[REDACTED]

The OCO reviewed confidential records and information in the Michigan Automated Child Welfare Information System (MiSACWIS), which includes but is not limited to service reports, medical records, social work contacts, and MDHHS forms pertaining to relative foster care placement. The OCO also spoke with personnel from the involved agencies.

The objective of this review was to identify areas for improvement in the child welfare system, specifically why the department and its contracted entities did not fully consider known relatives for placement of [REDACTED] and [REDACTED]. This report is not intended to place blame, but to highlight areas of concern regarding the handling of this case and advocate for changes in the child welfare system on behalf of similarly situated children.

Purpose and Scope:

The purpose of this investigation was to ensure that the involved agencies complied with law and policy governing relative foster care placement of [REDACTED] and [REDACTED] and to determine whether the children's maternal grandmother was timely assessed for placement of her grandchildren. The OCO investigator reviewed case file documentation, interviewed personnel from each of the agencies involved in the case, and attempted to remedy

identified policy violations. At the close of the OCO's investigation, [REDACTED] and [REDACTED] were placed with their maternal grandmother.

Family History:

[REDACTED] and [REDACTED] are the parents of [REDACTED] and [REDACTED]. On February 25, 2021, a court authorized a petition concerning [REDACTED] and [REDACTED] after a Children's Protective Services (CPS) investigation determined that four-month-old [REDACTED] had sustained multiple rib fractures. Medical officials reported that the explanation provided by the parents was inconsistent with the nature of the injuries. [REDACTED] and [REDACTED] were removed from parental custody on February 25, 2021, and subsequently placed in two separate licensed foster homes through two different child placing agencies, Spaulding for Children and Samaritas. Meanwhile, a criminal investigation into what happened to [REDACTED] was ongoing.

On February 19, 2021, [REDACTED] and [REDACTED] maternal grandmother requested emergency placement of the children from the Wayne County DHHS CPS worker, but this request was denied. According to the investigating detective, medical officials concluded that [REDACTED] injuries were seven to ten days old. Case file documentation and statements by the CPS worker showed that the maternal grandmother had cared for the children periodically for three months prior to the discovery of [REDACTED] injuries, and therefore had not been ruled out as a perpetrator of child abuse. However, on March 26, 2021, Wayne County DHHS concluded its investigation and substantiated [REDACTED] parents for child abuse and neglect. CPS did not substantiate the children's maternal grandmother. The criminal investigation remained ongoing.

Despite being found not responsible for the injuries to [REDACTED] [REDACTED] and [REDACTED] maternal grandmother was not assessed for placement. To better understand this, the OCO conducted interviews with all parties involved. These interviews confirmed that [REDACTED] and [REDACTED] maternal grandmother notified CPS, early in the case, that she wanted placement of both grandchildren. This was further confirmed through multiple emails the OCO obtained.

Additionally, where a relative is seeking placement in a case such as this, specific forms, namely the DHS-987, DHS-990, and potentially a DHS-3130-A are required to be uploaded to MiSACWIS. However, these forms were not found in MiSACWIS. During the course of the OCO's investigation, the OCO obtained evidence to support that maternal grandmother made it known to all agencies involved that she wished to be assessed for relative placement. Despite this, there was no home study conducted, and no DHS-3130-A form provided. The OCO found during its investigation, that the maternal grandmother was not assessed because CPS verbally informed the foster care agencies not to place the children with the maternal grandmother.

After several months of contact with the foster care agency and 34 days after the CPS investigation was closed, Spaulding for Children began an assessment of the maternal grandmother's home on April 29, 2021. Spaulding for Children employees told the OCO that the agency delayed assessing the maternal grandmother for placement because they believed CPS was still investigating the maternal grandmother's possible involvement in [REDACTED] injuries. Spaulding for Children approved her home for placement on June 10, 2021.

[REDACTED] and [REDACTED] foster care agencies notified the children's foster parents of the agencies' intent to re-place the children. There is no record of [REDACTED] foster parent appealing her planned re-placement to the Foster Care Review Board (FCRB). [REDACTED] was placed with her maternal grandmother on June 30, 2021. [REDACTED] foster parent appealed her planned re-placement to the FCRB, which issued a decision disagreeing with the proposed re-placement on July 13, 2021. Because [REDACTED] foster care agency and the FCRB disagreed, the court was required to resolve the dispute. On July 28, 2021, the court found that it was in [REDACTED] best interest to be placed with her maternal grandmother. [REDACTED] was placed in the maternal grandmother's home on August 6, 2021.



Tiffany Jackson
Investigator

Finding(s):

<u>Primary Agency of Focus:</u>	None
<p>The OCO finds that MCL 722.954a(5) requires a child's foster care supervising agency to "give special consideration and preference to a child's relative or relatives who are willing to care for the child, are fit to do so, and would meet the child's developmental, emotional, and physical needs." This preference applies only during the first 90 days following a child's removal from parental custody. <i>In re COH</i>, 495 Mich 184 (2014).</p> <p>The OCO also finds that because of the limited time period in which the "relative preference" applies, agency adherence to policy deadlines is crucial to implementing the statutory preference for relative placement.</p>	

<u>Primary Agency of Focus:</u>	Spaulding for Children
<u>Secondary Agency of Focus:</u>	Wayne County DHHS - North Central
<p>The OCO uncovered evidence showing that multiple individuals involved with placement decisions and assessments did not know that after 90 days of placement into a foster care family, if a replacement decision is made (even into a relative home), the unrelated foster family has the ability to appeal any replacement decision to the Foster Care Review Board.</p> <p>Spaulding for Children was required to assess the relatives but was not aware that after 90 days of placement with the original foster family, the original foster family then has the ability to request a review from the Foster Care Review Board.</p>	

<u>Primary Agency of Focus:</u>	Wayne County DHHS - North Central
<p>The OCO finds during the February 12, 2021, CPS investigation, the CPS worker did not complete and send the DHS-990 to [REDACTED] and [REDACTED] maternal grandmother, who expressed interest in placement.</p> <p>FOM 722-03B requires CPS and foster care workers to use forms DHS-987, DHS-990, and DHS-991 to identify, notify, and receive responses from relatives.</p>	

<u>Primary Agency of Focus:</u>	Spaulding for Children
<u>Secondary Agency(ies):</u>	Samaritas, Wayne County DHHS - North Central
<p>The OCO finds that Spaulding for Children did not comply with provisions of FOM 722-03B pertaining to timely completion of the DHS-5770 Relative Placement Safety Screen and DHS-3130-A Relative Placement Home Study when evaluating [REDACTED] and [REDACTED] placement with their maternal grandmother.</p>	

Because Wayne County DHHS - North Central District did not send the maternal grandmother a DHS-990 form, she was unable to provide a more timely written request for placement of the children. However, she provided Spaulding for Children her own written request for placement on April 21, 2021.

FOM 722-03B, Relative Engagement and Placement, p. 5 requires an agency to complete a DHS-5770 "within five business days of the relative's written request for placement consideration." Spaulding for Children completed a DHS-5770 on the children's maternal grandmother on May 25, 2021, 34 days later.

FOM 722-03B, Relative Engagement and Placement, p. 15 requires an agency to complete a DHS-3130-A "within 30 calendar days of the written request." Spaulding for Children completed its home study on the maternal grandmother on June 30, 2021, 70 days after the written request.

Recommendations:

<u>Primary Agency of Focus:</u>	Michigan Legislature
The OCO recommends the Michigan Legislature amend MCL 722.954a to require a court to determine within 90 days of a child's removal from parental custody whether the supervising agency made diligent and timely efforts to identify, locate, notify, and consult with relatives interested in placement of or contact with a relative child.	

<u>Primary Agency of Focus:</u>	MDHHS Children's Services Agency
<u>Secondary Agency(ies):</u>	Wayne County DHHS – North Central District, Spaulding for Children, Samaritas
The OCO recommends that MDHHS Children's Services Agency amend FOM 722-03B to emphasize that adherence to deadlines and documentation requirements are crucial to fully implementing the preference for relative foster care placement in effect during the 90 days following removal of a child from parental custody.	

<u>Primary Agency of Focus:</u>	MDHHS Children's Services Agency
The OCO recommends that MDHHS Children's Services Agency develop an internal review, oversight, or quality assurance mechanism regarding contracted entities' compliance with law and policy on relative placement processes. Timely adherence to law and policy	

regarding relative placement is in the best interest of the child, and to that end, achieving greater compliance is necessary.

Furthermore, the OCO strongly recommends that MDHHS finds meaningful ways, including provisional licensing, to hold these contracted agencies accountable when relatives are routinely ignored when seeking placement of children.



Suzanna Shkreli
Children's Ombudsman



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

ELIZABETH HERTEL
DIRECTOR

April 25, 2022

Suzanna Shkreli
Office of Children's Ombudsman
George W. Romney Building, Fl. 5
111 S. Capitol Avenue
Lansing, MI 48933

Dear Ms. Shkreli:

The following is the updated Michigan Department of Health and Human Services (MDHHS) response to the findings and recommendations from the Office of Children's Ombudsman (OCO) Report of Findings and Recommendations regarding [REDACTED] and [REDACTED] [REDACTED]

This report contains confidential information from a Children's Protective Services file. The Michigan Child Protection Law [MCL 722.627, section 7(3)] prohibits the release of this information to any individual/entity not authorized under Section 7(2) of the law. Pursuant to Section 13(3), release of this confidential information to an unauthorized individual/entity may subject you to criminal and/or civil penalties.

Finding(s):

<u>Primary Agency of Focus:</u>	None
<p>The OCO finds that MCL 722.954a(5) requires a child's foster care supervising agency to "give special consideration and preference to a child's relative or relatives who are willing to care for the child, are fit to do so, and would meet the child's developmental, emotional, and physical needs." This preference applies only during the first 90 days following a child's removal from parental custody. <i>In re COH</i>, 495 Mich 184 (2014).</p> <p>The OCO also finds that because of the limited time period in which the "relative preference" applies, agency adherence to policy deadlines is crucial to implementing the statutory preference for relative placement.</p>	

<u>Primary Agency of Focus:</u>	Spaulding for Children
<u>Secondary Agency of Focus:</u>	Wayne County DHHS - North Central
<p>The OCO uncovered evidence showing that multiple individuals involved with placement decisions and assessments did not know that after 90 days of placement into a foster care family, if a replacement decision is made (even into a relative home), the unrelated foster family has the ability to appeal any replacement decision to the Foster Care Review Board.</p> <p>Spaulding for Children was required to assess the relatives but was not aware that after 90 days of placement with the original foster family, the original foster family then has the ability to request a review from the Foster Care Review Board.</p>	

<u>Primary Agency of Focus:</u>	Wayne County DHHS - North Central
<p>The OCO finds during the February 12, 2021, CPS investigation, the CPS worker did not complete and send the DHS-990 to [REDACTED] and [REDACTED] maternal grandmother, who expressed interest in placement.</p> <p>FOM 722-03B requires CPS and foster care workers to use forms DHS-987, DHS-990, and DHS-991 to identify, notify, and receive responses from relatives.</p>	

<u>Primary Agency of Focus:</u>	Spaulding for Children
<u>Secondary Agency(ies):</u>	Samaritas, Wayne County DHHS - North Central
<p>The OCO finds that Samaritas and Spaulding for Children did not comply with provisions of FOM 722-03B pertaining to timely completion of the DHS-5770 Relative Placement Safety Screen and DHS-3130-A Relative Placement Home Study when evaluating [REDACTED] and [REDACTED] placement with their maternal grandmother.</p> <p>Because Wayne County DHHS - North Central District did not send the maternal</p>	

grandmother a DHS-990 form, she was unable to provide a more timely written request for placement of the children. However, she provided Spaulding for Children her own written request for placement on April 21, 2021.

FOM 722-03B, Relative Engagement and Placement, p. 5 requires an agency to complete a DHS-5770 "within five business days of the relative's written request for placement consideration." Spaulding for Children completed a DHS-5770 on the children's maternal grandmother on May 25, 2021, 34 days later.

FOM 722-03B, Relative Engagement and Placement, p. 15 requires an agency to complete a DHS-3130-A "within 30 calendar days of the written request." Spaulding for Children completed its home study on the maternal grandmother on June 30, 2021, 70 days after the written request.

Recommendations:

<u>Primary Agency of Focus:</u>	Michigan Legislature
The OCO recommends the Michigan Legislature amend MCL 722.954a to require a court to determine within 90 days of a child's removal from parental custody whether the supervising agency made diligent and timely efforts to identify, locate, notify, and consult with relatives interested in placement of or contact with a relative child.	
<u>MDHHS Response to Recommendation:</u> MDHHS agrees with and supports this requirement. Additionally, MDHHS policy requires ongoing searches for relatives interested in possible placement of their relative child beyond the 90-day timeframe.	

<u>Primary Agency of Focus:</u>	MDHHS Children's Services Agency
<u>Secondary Agency(ies):</u>	Wayne County DHHS – North Central District, Spaulding for Children, Samaritas
The OCO recommends that MDHHS Children's Services Agency amend FOM 722-03B to emphasize that adherence to deadlines and documentation requirements are crucial to fully implementing the preference for relative foster care placement in effect during the 90 days following removal of a child from parental custody.	
<u>MDHHS Response to Recommendation:</u> MDHHS will update FOM 722-03B, Relative Engagement and Placement Policy, to include a note under "Diligent Search and Notification Process" that emphasizes adherence to deadlines documentation requirements are crucial to fully implementing the preference for relative foster care placement in effect during the 90 days following removal of child from parental custody.	

<u>Primary Agency of Focus:</u>	MDHHS Children's Services Agency
<p>The OCO recommends that MDHHS Children's Services Agency develop an internal review, oversight, or quality assurance mechanism regarding contracted entities' compliance with law and policy on relative placement processes. Timely adherence to law and policy regarding relative placement is in the best interest of the child, and to that end, achieving greater compliance is necessary.</p> <p>Furthermore, the OCO strongly recommends that MDHHS finds meaningful ways, including provisional licensing, to hold these contracted agencies accountable when relatives are routinely disregarded when seeking placement of children.</p> <p><u>MDHHS Response to Recommendation:</u> The Children's Services Agency (CSA) recognizes the importance of implementing internal review, oversight, and quality assurance mechanisms for contracted agencies compliance with law and policy in all areas including relative placement processes. Currently, the Division of Child Welfare Licensing (DCWL) audits for compliance with Rule 400.12404 Placement and 400.12404 Change of Placement, specific to relative placement. The rules require that agencies consistently consider relatives for placement and replacement. They also audit for compliance with policy FOM 722 03B, Relative Placement and Engagement. Policy is more specific about timeframes and the specific requirement needed to fully engage relatives.</p> <p>Provisional license recommendations are outlined in Act 116 as only being used for willful and substantial non-compliance with the act or rules. The Division of Child Welfare Licensing cannot make a license recommendation based on policy or contract violations.</p> <p>Additionally, CSA is beginning a new quality improvement process called Sustaining Performance Improvement (SPI). SPI will improve outcomes for children and families by bringing CSA and agency leaders together regularly to review key data trends, identify and problem solve challenges before they magnify, and strengthen partnerships through improved communication, transparency, and collaboration.</p>	

Thank you for the opportunity to respond to this Report of Findings and Recommendations. If you have questions or concerns, please feel free to contact me.

Sincerely,



Demetrius Starling
Executive Director
Children's Services Agency