

# **OPEGA Recommendation for Project Direction**

**Prepared for the Government Oversight Committee  
October 15, 2019**

## **DHHS Office of Child and Family Services Out of Home Placements**

### **Background**

The Office of Child and Family Services' Out of Home Placements project was voted onto OPEGA's work plan by the Government Oversight Committee (GOC) on March 22, 2019. OPEGA began preliminary research in April of 2019. OPEGA's preliminary research for this project included:

- reviewing issues discussed by the GOC at the March 22, 2019 meeting;
- seeking input from GOC members and members and staff of the Health and Human Services Committee on concerns, or questions, regarding out of home placements;
- interviewing the current director, management, and operational staff located in the Office Child and Family Services (OCFS) within the Department of Health and Human Services (DHHS);
- interviewing representatives of agencies regarding their roles related to out of home placements, including:
  - agencies representing kinship, foster, and treatment foster families; and
  - staff located in crisis stabilization programs, psychiatric hospitals, and emergency departments.
- determining availability of and limitations to data collected by OCFS related to out of home placements;
- reviewing relevant statutes, legislative history, rules, and relevant departmental guidance documents;
- reviewing OCFS child welfare and behavioral health initiatives;
- reviewing child welfare and behavioral health reports developed by Public Consulting Group;
- reviewing concerns related to this review captured in the OPEGA Special Project: Frontline Perspectives of CPS Workers; and
- reviewing reports submitted by OCFS to the U.S. Department of Health and Human Services Administration for Children and Families, and other reports related to the performance of Maine's out of home placement system.

### **Summary of Preliminary Research**

The summary that follows contains OPEGA's observations and understanding, based on various methods of collecting information during the preliminary research phase of this project.

## Overview of Out of Home Placements

The Office of Child and Family Services (OCFS) within the Maine Department of Health and Human Services (DHHS or the Department) is responsible for child welfare activities that support child safety, well-being, and permanent homes for children. The Child and Family Protection Act in Title 22 Chapter 1071 is the principle statute that governs child protection activities of DHHS. It authorizes the Department to protect and assist abused and neglected children, children in circumstances that present a substantial risk of abuse and neglect, and their families. Statute directs the Department to establish rules regarding child protection. OCFS's child welfare activities related to out of home placements are regulated on a federal level by the Social Security Act and the Indian Child Welfare Act.

Maine statute provides a child will be removed from the custody of the child's parents only where failure to do so would jeopardize the health or welfare of the child. It requires that reasonable efforts<sup>1</sup> be made to rehabilitate and reunify families as a means to protect the welfare of children, while preventing needless delay for permanent plans for children when rehabilitation and reunification is not possible. State statute requires the Department to give placement preference to an adult relative over a nonrelated caregiver, provided they meet all relevant standards, subject to exceptions, and to make reasonable efforts to place a child with siblings, unless contrary to the safety or wellbeing of the child or siblings. The Department is required to use due diligence to identify relatives when a child has been removed and to conduct a background check.

An out of home placement is needed any time a child is removed from their home by the Department. Removal of a child from home into Department care happens by means of a court order. When a preliminary protection order is issued, the Department is given legal custody of the child. Until December 2018, a process known as a "safety plan" may have been used to place a child with a non-custodial family member prior to the issuance of court order. Out of home placements are also sought when a child's current out of home placement is disrupted and an alternative is needed, or the child needs a different level of care.

There are two major categories of out of home placements: resource family placements and non-family placements, as well as temporary settings:

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<sup>1</sup> 2018 Public Law, Chapter 470 made the following change to 22 MRSA §4003, sub-§3: **3. Rehabilitation and reunification.** ~~Give family rehabilitation and reunification priority~~ Require that reasonable efforts be made to rehabilitate and reunify families as a means for protecting the welfare of children, but prevent needless delay for permanent plans for children when rehabilitation and reunification is not possible;

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|-----------------------|--|
| Resource families     | <ul style="list-style-type: none"> <li>•<i>family foster care</i>: parental care provided within a family setting in a private dwelling on a regular 24-hour a day basis by a qualified foster parent(s).</li> <li>•<i>kinship placements</i>: family foster care provided to children who are related by blood, marriage, or adoption to the caretakers -or- fictive kin, which are caretakers that are unrelated but have an emotionally significant relationship with the child.</li> <li>•<i>treatment foster care</i>: family foster care using the foster home setting/parents as primary agents in improving the behavioral and emotional function of foster children.</li> </ul> |
| Non-family placements | <ul style="list-style-type: none"> <li>•<i>residential treatment centers</i>: Residential child care facility staff provide care and supervision of children, mental health treatment, and education to children with emotional, intellectual, or behavioral handicaps.</li> </ul>   |
| Temporary settings    | <ul style="list-style-type: none"> <li>•<i>short-term crisis settings</i>: these include emergency departments, psychiatric hospitals, and crisis stabilization units.</li> <li>•<i>hotels</i>: used as a temporary placement for children awaiting placements.</li> </ul>   |

### Levels of care

At the time of placement, an initial determination is made by OCFS regarding the level of care needed for the child. The goal of the Levels of Care process is to ensure that all children are regularly assessed in a standardized way that matches the child’s needs to the appropriate level of care and services in the least restrictive placement. The initial level of care determination is completed by the caseworker and supervisor at the time of placement. Subsequent to this, the Levels of Care Assessor completes a comprehensive review of the child’s needs within 90 days of entry into care based on information gathered from a variety of sources, which include the child’s caregivers, school, other providers and the OCFS caseworker. Based on this analysis, the child is assigned a level of care that corresponds to the type of placement necessary to meet their identified service needs. There are six levels of care, including an exceptional medical level of care. Re-assessments of children’s needs by OCFS are completed periodically.

### How children are placed

The first preference is for the child to be placed in a kinship home. If a potential kinship relative is identified, a kinship assessment will begin to determine the safety and appropriateness of the placement. If no appropriate and safe kinship home is available, the next option is a licensed family foster placement.

A community care worker in the resource unit of the DHHS district works on matching the child to a family foster home based on that worker's knowledge of the available foster homes in the district. If a placement cannot be found within the DHHS district, a placement will be looked for in other DHHS districts. The program administrator (PA) will contact the other district PAs to coordinate and ensure any currently open placements are not being lined up for another child. If a child is in need of the higher level of care of treatment foster care, the worker contacts treatment foster care agencies to find and coordinate a placement.

Various circumstances are taken into consideration when selecting the resource placement, including whether other children are in the home and their needs, the needs of the child being placed, the skillset of the resource family, and whether the child is a member of a federally recognized tribe. If a child is determined to need a residential treatment level of care, the worker begins the intensive temporary residential treatment process to receive approval from MaineCare for placement. Children in crisis may enter crisis stabilization or psychiatric hospitalization for a short-term stay before being placed in a long-term resource family or non-family residential setting.

At times, a placement has not yet been found or the process for placement has not been completed, before the end of the day that the child was placed in Department custody. In this case, the child will be placed in a temporary foster home or in a hotel with CPS worker supervision. If a child is in an emergency department awaiting placement, CPS staff will supervise the child. If a child is a member or eligible for membership in a federally recognized tribe, the worker must follow Indian Children Welfare Policy requirements.

## **Oversight**

Multiple levels of OCFS personnel, from CPS workers to Central Office staff, are involved in monitoring cases in which children have been placed out of the home. Children must receive monthly face-to-face visits by caseworker. OCFS Central Office reviews weekly reports of children in crisis settings, residential placements, and awaiting placement. Additionally, monthly reports of where children are placed and lengths of stay in placements are monitored by the Central Office.

## **GOC decision to consider review of out of home placements**

Following the release of the Frontline Workers in the State Child Protective System review and testimony received during the public comment period related to foster parenting, GOC members expressed concerns generally related to out of home placements, temporary placements, and supports to foster parents. When considering potential next steps for the GOC regarding the child protection system, OPEGA referenced DHHS contracts with Public Consulting Group Inc. (PCG). At this time, OPEGA understood the focus of those PCG studies to largely be policies, procedures, and practices internal to OCFS operations — areas that may not have directly addressed GOC concerns about out of home placements.

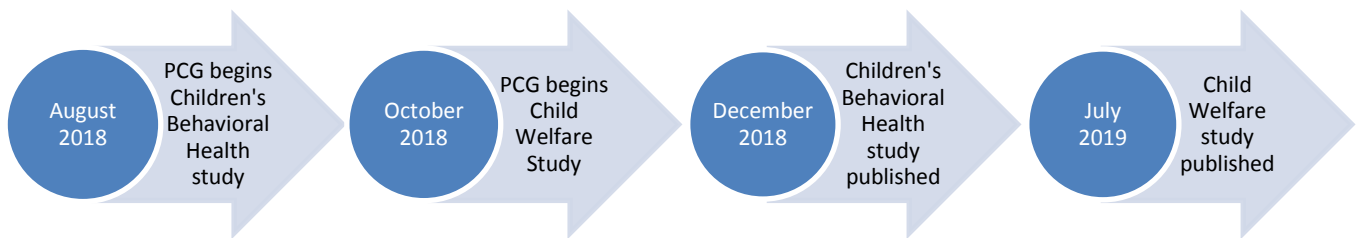
As a result, at the March 2019 GOC meeting, OPEGA was directed to begin preliminary research for a review of out of home placements, with a focus on the following areas:

- the availability and types of out of home placement options;
- the extent to which hoteling occurs;
- the recruitment, retention, training, and licensing of foster parents;
- responsibilities of foster parents; and
- the extent to which OCFS provides various supports to foster parents.

## OCFS Current Efforts

### OCFS strategic initiatives

In July 2019, OCFS began developing a map of major initiatives and strategies, either planned or ongoing, along with a strategic framework to guide priorities for improving the child welfare system. The initiatives were largely a result of the recommendations from PCG, with whom OCFS contracted in 2018 to provide a comprehensive study of the child welfare system and the children's behavioral health system. The initiatives, which were presented to the GOC in September 2019, impact many areas within OCFS, including the intake and assessment process, improving permanency practices, engaging with and training resource parents, developing policies and training for staff, adjusting caseload sizes, and aligning to best practices and federal quality standards. With staff and stakeholder input, OCFS has prioritized the initiatives that they have determined to have the greatest potential impact on outcomes for children. OCFS is currently in the process of developing a work plan to implement the prioritized strategic initiatives.



Some of the recent or planned changes and strategies that were reported to the GOC and to OPEGA since the out of home placements project was added to the list of reviews include:

- implementing the resource parent outreach team, to improve support to foster families;
- LD 1526 was signed into law in June 2019 and removed the statutory requirement of a Fire Marshal inspection in the licensing process of foster homes;
- renewal of a foster care recruitment contract to provide a statewide recruitment program to meet the placement needs of children currently in foster care, expected to enter foster care, and those needing a legal permanent family;
- sixty-two additional OCFS staff positions were included in the biennial budget, and hiring of these new staff began September, 2019;
- contracted staff through ARP agencies are assisting in staffing children in state custody at emergency departments;
- a replacement system for MACWIS is being reviewed for approval by the federal Administration for Children and Families;
- the OCFS data dashboard went live in September, 2019, providing current metrics related to out of home placements, including: numbers of children in state custody, rates of victimization while in state custody, permanency within 12 months, and success in permanency; and
- beginning the planning stages for the Families First Prevention Services Act, consisting of funding to support the prevention of child abuse and neglect, including funding for kinship programs and new requirements related to children in State custody placed in residential treatment facilities.

## **OPEGA's Recommendation**

During the course of preliminary research, OPEGA identified potential areas appropriate for further review. Somewhat concurrently, these areas have been largely identified and described in the PCG studies or otherwise noted by OCFS and are being either actively addressed, in planning to be addressed, or likely to be significantly impacted by larger Departmental initiatives focusing on family supports and the prevention of child abuse and neglect.

Conducting a full review at this time would mean examination and evaluation of practices and policies that are in the midst of change and could be substantially different by the time a report would be presented to the GOC. Thus, the value of a review at this time is limited. The changes to the system that have been initiated, or will soon be, will not have been in place long enough to conduct a meaningful review of their effectiveness.

As a result, OPEGA recommends delaying a further, detailed review for one year. This is the same strategy that was employed by the GOC in the review of Childcare Licensing, an office that also experienced a great deal of change at the time that review was being considered.

In addition to the results of any oversight or monitoring of OCFS' progress conducted by the Judiciary and Health and Human Services Committees and the GOC, OPEGA would propose periodically collecting data from OCFS related to out of home placements and system performance. Using this information, OPEGA will then reevaluate and seek to identify risks which will inform the development of possible scope questions and a project recommendation at that time. A year from now, OPEGA's proposed scope questions could potentially assess the extent to which specific initiatives have been implemented and how well they are addressing identified concerns about the placement of children under the care of the Department.