

CHILD WELFARE OVERSIGHT AND ADVISORY COMMITTEE

Minutes of the 1st Meeting of the 2022 Interim

September 14, 2022

Call to Order and Roll Call

The Child Welfare Oversight and Advisory Committee meeting was held on Wednesday, September 14, 2022, at 1:00 PM, in Room 131 of the Capitol Annex. Representative David Meade, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative David Meade, Co-Chair; Senators Karen Berg, and Brandon J. Storm; Representatives Kim Banta, Lynn Bechler, Josie Raymond, and Nancy Tate.

Guests: Dr. Jerry Milner, Director of Family Integrity and Justice Work, Public Knowledge; Melissa Currie, MD, FAAP, Kosair Charities Professor, Endowed Chair for Pediatric Forensic Medicine, Medical Director, Chief, Norton Children's Pediatric Protection Specialists; Steve Shannon, Executive Director, Kentucky Association of Regional Programs; Elisha Mahoney, Executive Staff Advisor, Office of Legal Services, Justice and Public Safety Cabinet; Eboni Thompson, Manager of Family Juvenile Services, Kentucky Administrative Office of the Courts; Cletus Poat, Chair, Citizen Foster Care Review Board, Kentucky Court of Justice; and Jonathan Scott, Executive Advisor and Leslie Hoffman, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services.

LRC Staff: Ben Payne, Logan Bush, Becky Lancaster, and Eric Rodenberg.

Approval of Minutes

A motion to approve the minutes of the July 21, 2022, meeting was made by Senator Raque Adams, seconded by Representative Raymond, and approved by voice vote.

Proactive Prevention Strategies in Child Welfare

Dr. Jerry Milner, Director of Family Integrity and Justice Work, Public Knowledge, discussed the objective nature of the term "neglect," the need for more funding of prevention services, and supports for the initial occurrence of maltreatment. He discussed how prevention can address lifelong trauma, inequity, poverty, homelessness, and the pipeline from foster care to prison. He presented several recommendations and areas to

address to move Kentucky toward being a more prevention focused state. He gave examples of community driven supports and programs that work well in other states.

In response to questions and comments from Senator Berg, Dr. Milner stated that a large portion of children that come into the foster care system, come from families where similar historical trauma exists. He stated that more resources need to be placed with community services for maltreatment prevention.

In response to questions and comments from Representative Raymond, Dr. Milner stated that data in regards to families that come in and out of poverty may be artificial, but many families struggle and have hardships, even if their income is not below the poverty line. He stated the importance of having a safe place in the community for families to admit their vulnerabilities and receive assistance and supports from without fear of losing their children to foster care. He stated that prevention needs to begin with community engagement.

Discussion of Administrative Regulation

Jonathan Scott, Executive Advisor, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS), discussed DMS' progress related to the implementation of administrative regulation, 907 KAR 003:160 Current - Specialized children's services clinics. He discussed typical rate processes, research completed, plans for a new reimbursement methodology to have a true and actual cost, and the timeline for filing of a new regulation with a specialized fee schedule. He discussed DMS' timeline provided to the members, requirements for the managed care organizations (MCOs) to follow DMS cost surveys, and additional services and therapies to treat ongoing mental health issues.

In response to questions and comments from Senator Raque Adams, Mr. Scott stated that it has been difficult for DMS to determine how to determine the true and actual cost for reimbursements. DMS has examined different ways to establish a reimbursement rate to protect the child advocacy centers to not expose the centers to extensive costs at the end of the year by substantial Medicaid overpayments. He stated that since the services are unbundled, DMS is introducing three new provider types, and seven new billable services, and that the front end costs will fluctuate.

In response to questions and comments from Representative Tate, Mr. Scott stated that 907 KAR 003:160 is a priority for CHFS and that DMS is working diligently to file the final amended version of the regulation and plan to share that version with the child advocacy centers. He stated that non-profit facilities were concerned with high repayment rates at the end of the year and could potentially close if amounts were unusually high.

In response to questions and comments from Senator Storm, Mr. Scott stated that the bill was signed into law April 1, 2022, the regulation is drafted, and DMS must do a

state plan amendment process with the regulation that requires information to be forwarded to the federal government to approve the reimbursement changes. He stated that the regulation is a priority for CHFS but there has been more difficulty than expected.

Update from the Kentucky External Child Fatality and Near Fatality Review Panel

Steve Shannon, Executive Director, Kentucky Association of Regional Programs and member of the review panel, discussed the Child Fatality and Near Fatality External Review Panel membership, the design and steps in the panel's review process, the three components of the annual report, the number of cases reviewed by county of incident, the findings regarding maltreatment incidents per age adolescent age group, and other key findings.

Melissa Currie, MD, FAAP, Kosair Charities Professor, Endowed Chair for Pediatric Forensic Medicine, Medical Director, Chief, Norton Children's Pediatric Protection Specialists and member of the review panel, discussed the panel's recommendations to address the complexities of substance misuse within families, the comparison of substance abuse with co-occurring issues, the percentages of drug exposure per drug type in utero, implementation of Plans of Safe Care, and opportunities for improvement with medication-assisted treatment. Dr. Currie presented a case study that reflected the lack of a statewide, consistent collaborative approach to substance affected families. She discussed the need for the Department for Behavioral Health, Developmental and Intellectual Disabilities to expand the statewide utilization of a psychological autopsy in youth suicides, the overall increase in sudden unexpected death in infancy cases, and the need to fund and implement a safe sleep campaign. She gave additional recommendations regarding the Department for Community Based Services (DCBS), medical providers, coroners, law enforcement, and the Prosecutor's Advisory Council.

In response to questions and comments from Representative Banta, Dr. Currie stated that there could be more done to educate communities and that there should be more community based, community generated, and community owned supports to greater affect behavioral changes. Mr. Shannon gave an example of how Scotland prioritizes infant safe sleeping.

In response to questions and comments from Representative Bechler, Dr. Currie stated that the hospital does drug test for which drug is present, if a child is born with substances in their system. Mr. Shannon stated that drugs detected are marijuana, opioids, and methamphetamines, and are often a mixture of more than one substance. Dr. Currie stated that in regards to her presentation, an impaired caregiver who is under the influence of any substance is therefore unable to make adequate and safe decisions for the child. She stated that to label a person as an impaired caregiver, evidence must be found that they were using the substance at the time of the child's death.

In response to questions and comments from Senator Berg, Dr. Currie stated that the Child Fatality and Near Fatality External Review Panel is in support of mandatory reporting. She stated that DCBS is piloting a new type of report with an alternative response of support and services. She stated that there is not a lot of information on children that have committed suicide because the psychological autopsy is not being completed. She stated that children with gender differences or identify within the LGBTQIA+ community have a much higher risk of suicide. Elisha Mahoney, Executive Staff Advisor, Office of Legal Services, Justice and Public Safety Cabinet, stated that the panel reviewed eight suicide cases last year, only a small subset of all suicides in Kentucky because there must be an abuse or neglect element to be referred to the panel.

In response to questions and comments from Representative Meade, Dr. Currie stated that child fatalities in daycare residential facilities will only be referred to the panel if someone makes an allegation of abuse or neglect related to the death. She stated that often times there is a lack of accurate information about the case to be concerned about abuse or neglect. She stated that the Office of Inspector General should have involvement with facility related deaths and near deaths. Mr. Shannon stated that DCBS, as the placing agency, may have information regarding facility related deaths and near deaths.

Update from the Kentucky Citizens Foster Care Review Board

Eboni Thompson, Manager of Family Juvenile Services, Kentucky Administrative Office of the Courts, gave a brief overview of the Kentucky Citizen Foster Care Review Board's (CFCRB) history, volunteer status, and the primary focus of the reviews. She discussed the expanded role for the CFCRB since the passage of 2018 Regular Session House Bill 1, fiscal year (FY) 2022 regional community forums, and the emerging needs from the meetings which have addressed cultural awareness and representation, several recommendations for supports and services needed for families, and overall system concerns and barriers for youth and families in the foster care system.

Cletus Poat, Chair, Citizen Foster Care Review Board, Kentucky Court of Justice, discussed the CFCRB legislative recommendations regarding family court, statewide expansion of broadband services, disproportionality and disparity for youth and families, and the continuance of services for transition-age youth.

In response to questions and comments from Representative Raymond, Mr. Poat stated that when a case is received for review and the child has been removed, the case has a court assignment, and the reason for removal and a description of what led to the removal is listed in the report. The report is read and verified or clarified by all parties at the review.

In response to questions and comments from Representative Tate, Ms. Thompson stated that CFCRB does not provide recommendations to the Executive Branch but there are programs that will be implemented to address the concerns regarding other branches of

government. Mr. Poat stated that the review board's recommendations go to legislators, the Governor, and the Chief Justice.

In response to questions and comments from Senator Berg, Ms. Thompson stated that each child in foster care has a review board meeting and review biannually. Ms. Thompson stated that the review board anticipates additional births of unwanted children whose families are unable or incapable of caring for the children and are having conversations as to what the review board program can do to prepare for that situation. Mr. Poat stated that statute requires a review for each child at least every 6 months but some cases are reviewed more often if circumstances create the need for review.

Adjournment

There being no further business, the meeting was adjourned at 3:09 PM.