

STATEMENT OF CONSIDERATION RELATING TO 922 KAR 1:130
Not Amended After Comments

- (1) A public hearing on 922 KAR 1:130 was held on May 21, 2013, at 9 a.m. at the Cabinet for Health and Family Services Auditorium, 275 East Main Street, Frankfort, Kentucky 40621.
- (2) The following people attended this public hearing or submitted written comments:

| <u>NAME AND TITLE</u> | <u>AGENCY/ORGANIZATION/ENTITY/OTHER</u> |
|---|---|
| Sandra Flynn, Kinship Caregiver, Grandparent** 1233 Embry Ave. Lexington, KY 40504 | |
| Doug Burnham, Director** Grandparents and Other Relatives Raising Children Training Project University of Kentucky, College of Social Work One Quality Street Lexington, KY 40507 | |
| Deneen Petty, Former Child Protective Services Investigator and Teacher, Rosenwald Center for Families and Children, Kentucky State University** 315 Maryland Ave. Frankfort, KY 40601 | |
| Helen Deines, Professor of Social Work, Spalding University and Volunteer, Kentucky Youth Advocates** 4318 St. Regis Lane Louisville, KY 40220 | |
| Phylliss Frankenfield, Kinship Caregiver, Grandparent** 227 Ellis Lane Taylorsville, KY 40071 | |
| Eula Somerville, Kinship Caregiver, Relative Caregiver, Grandparent** 3609 Baymeadow Dr. Louisville, KY 40258 | |
| William Newman, Kinship Caregiver, Grandparent** 9609 Thor Ave. Louisville, KY 40229 | |

Patricia Tenner, Senior Policy Analyst**
Kentucky Youth Advocates
11001 Bluegrass Parkway, 100
Jeffersontwon, KY 40299

Dorothy McNair, Kinship Caregiver
Grandmothers Running Against the Wind**
262 Marcellus Dr. Apt 2
Berea, KY 40404

Ron Jackson and Natalie Reteneller, Co-Chairs
Race Community and Child Welfare -- Louisville Advisory Board
845 South third St.
Louisville, KY 40203

MyLinda Simms, Rebecca Ballard DiLoreto, Carol Taylor, Marion Gibson
Race Community and Child Welfare – Fayette County
c/o Children’s Law Center, Inc.
1555 Georgetown Rd.
Lexington, KY 40511

Marion Gibson, Co-Chair for the Race, Community and Child Welfare (Fayette County)
884 Hidden Stream Dr.
Lexington, KY 40511

Mary Beth Manning, APRN**
Sterling Health Care
209 N. Maysville St., Suite 200
Mt. Sterling, KY 40353

Carla Isaacs Hagan, Concerned Citizen and Respite Caregiver**

Lea Haynes Fischbach, Volunteer
Citizen Foster Care Review System
9113 Darley Dr.
Louisville, KY 40241

Janice Masengale, Grandparent**
Georgetown, KY

Debrah Moon, Service Coordinator**
First Steps – Lake Cumberland District

**Email address was provided.

- (3) The following people from the promulgating administrative body attended this public hearing or responded to the written comments:

NAME AND TITLE

Mark Cornett, Deputy Commissioner
Elizabeth Caywood, Internal Policy Analyst IV
Justin Dearing, Internal Policy Analyst III
Carrie Cotton, Assistant Counsel
Jeff Jagnow, Internal Policy Analyst IV
Tricia Orme, Administrative Specialist III

Summary of Comments and Responses

(1) Subject Matter: Kinship Care Program Moratorium

(a) Comment: Ms. Phylliss Frankenfield, Mr. William Newman, Ms. Sandra Flynn, Ms. Eula Somerville, and Ms. Dorothy McNair testified during the public hearing that they were relative caregivers and relied upon the Kinship Care Program for their current caregiving or recent caregiving experiences. They spoke of the virtues of placing a child with a loving and devoted relative rather than foster care. They commented about how the benefit allowed them to work or not work, as necessitated by the number of children in their care and/or the specialized care the children required. In addition, the benefit allowed them to provide for household goods and services, sports equipment, toys, and activities that children need to mature and develop into productive citizens. They discussed the struggles they had overcome to raise their family members, but more importantly, the rewards and joys of the experience. Many spoke of specialized care that the children required due to drug exposure or health condition, and that the benefit allowed them to be an active participant in that care. They spoke of how the benefit as is today made the level of care they provided possible. They asked the agency to refrain from altering the program.

(b) Response: As a result of economic pressures placed on human services programs over the past six years, the Cabinet for Health and Family Services' Department for Community Based Services (DCBS) is facing a projected budget shortfall of nearly \$87 million in State Fiscal Year 2014, which runs July 1, 2013, to June 30, 2014. Federal Temporary Assistance for Needy Families Block Grant (TANF) carry-forward and stimulus dollars helped programs meet record demands for services; however, those funds are now depleted. In addition to reduction in federal funding, DCBS has experienced state fund budget reductions like many other state agencies. Compounding the budgetary context, caseload growth and increased acuity levels of families being served continue to be realized by DCBS.

DCBS aggressively managed revenues and expenditures over the past six years, which helped DCBS avoid drastic reductions in services before now. No optimal solutions remain to balance State Fiscal Year 2014. DCBS finds itself in circumstances comparable to that of many other states' human services agencies. To manage within available funding, DCBS had to act as soon as possible.

Impacts to Kentucky's citizens were primary considerations in determining the actions to be taken. Unfortunately, significant programmatic changes are required in addition to continued aggressive monitoring of revenue and expenditures, cash management, and operating savings and efficiencies. The moratorium on the Kinship Care Program is one of three programmatic changes necessitated by DCBS' current budgetary context. DCBS publicly announced the three programmatic changes in late January.

The moratorium did not, and will not, impact relative caregivers and children enrolled in the Kinship Care Program upon implementation. So long as existing enrollees meet technical and financial eligibility requirements, the approximately 11,000 children in the program will continue to receive Kinship Care Program benefits. This

and other concurrently filed administrative regulations will ensure that the Kinship Care Program is maintained within available state and federal funding, and that benefits available to current enrollees remain at the same level.

In addition, these administrative regulations make certain that children subject to placement by DCBS with a nonparental relative from April 1st moving forward have supportive services and benefits aligned with available resources. The administrative regulations outline: (1) placement considerations for a nonparental relative placement, including home evaluation and background checks, and (2) a one-time supportive service to cover an immediate need of a child upon placement with a nonparental relative, such as clothing, furniture, deposit for a larger apartment, and school supplies.

Lastly, the administrative regulations identify other public assistance programs for which the child and/or nonparental relative's household may be eligible to further support the health, safety, and wellbeing of a child placed with a nonparental relative. Other public assistance programs include the Kentucky Transitional Assistance Program (K-TAP), Medicaid or the Kentucky Children's Health Insurance Program (KCHIP), and the Supplemental Nutrition Assistance Program (SNAP).

Until the budgetary context improves, DCBS does not have the revenues to pursue options made available under Title IV-E of the Social Security Act (Title IV-E) as authorized through the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351. Kentucky's existing Kinship Care Program governed by 922 KAR 1:130 also does not meet the requirements of this federal option. DCBS will continue its research and, when possible, pursue additional alternatives to the Kinship Care Program to establish further supports for relative placements and children's health, safety, and wellbeing in said placements.

(c) Comment: Ms. Carla Isaacs Hagan stated, "...Grandparents receive little to no help with their grandchildren. Many have spent years trying to help their problem children get straightened up and as a result are tired, severely financially strained, and emotionally drained. They are often denied or hidden access to child care assistance which is especially difficult as many have returned to the workforce only to live in poverty to provide mere basics for their grandchild or grandchildren. If they are given any help by the state it is in the kinship care program where they are given just \$300 a month—half of what a non-relative foster parent would get. Any quality foster parent will tell you the childcare stipend they receive is not adequate to properly provide for a child. However, the state provides grandparents far less and they keep going because they love their families. These grandparents have served this country, our workforce, and our communities. They've served you, but now when their family needs you, you turn away your eyes. Interestingly, I've not met a kinship grandparent yet that wasn't somehow in their situation due to the drug epidemic in this state. Yet this state will give KTAP and SNAP to drug parents who we know are greatly increasing the amount of neglect, physical and sexual abuse, and trauma in Kentucky's children yet do virtually nothing for grandparents who are going above and beyond for their families..."

"If you are counting on the foster care system to step up when these unsupported grandparents can no longer care for these children you are sorely mistaken and you are further endangering our communities. Our foster care system is already overrun with needy/angry children--too little staffing and too little funding. In Madison County there is

not a single Child Protective Services social worker who will answer their phone or email for a non-emergency. They are so understaffed they are simply putting out fires-- not preventing further damage to the children in foster care or properly protecting the ones that are not. Children, with rage issues from abandonment and neglect..., exhaust even the most dedicated foster families and thus they go from placement to placement where they gradually become our future violent criminals, drug addicts, homeless, or state dependents.

"These children need to know some family member wanted to keep them. They need people who are committed to them by biological bonds, and those family members need support—financial, respite, emotional backing. I understand the state needs to make budget cuts but you endanger us all when you cut from programs like these. These children are not like your kids. They will not grow up 'fine'. They need to be bonded posthaste to the people with which we know they are most likely to form bonds—their families.

"Kinship care and childcare assistance are for people who are working to help their families. Of all the abuse of 'welfare' programs I have seen these programs are not where I see it. Efforts toward saving money should be an expansion of kinship care as it is much more cost effective than foster care. However, moral codes should dictate that child welfare is not a budgetary line item and the real efficiency of kinship care is in the benefit to Kentucky's children."

(d) Response: Please refer to the response provided under item (b).

(e) Comment: Ms. Janice Masengale wrote, "Please help us keep our benefits for our grandchildren. It costs quite a bit to raise children these days. As a retired grandparent on a fixed income, I hadn't planned to have a grandchild in my budget. I need all the assistance I can get, even though it is very little. \$186.00 a month at least buys a growing teenager food for at least two weeks. Without this money, we wouldn't have the funds to help take care of him. Grandchildren need to be with family that love them and not in foster homes with strangers. Please reconsider this bill and keep our kinship care.

(f) Response: The Kinship Care Program moratorium does not impact the current beneficiaries of that program or the benefits through the Kentucky Transitional Assistance Program (K-TAP), which you may currently receive for your grandchild. Please also refer to the response provided under item (b).

(g) Comment: Ms. Lea Hayes Fischbach wrote, "...I have been a volunteer in the Citizen Foster Care Review system since 1979. In addition I have been involved in an extension of that program, Interested Party Reviews, for more than 5 year.

"During that span I have reviewed several thousand files of families caught up in both the need for alternative care for abused and neglected children as well as the grips of poverty and the 'welfare system.'

"For many many years the only way relatives could gain care and custody of children in need of alternative care, was to become certified foster parents. If children were lucky enough to be placed with relatives informally before the legal processes

began, children were informally but legally placed with relatives. But all too often, that did not happen soon enough, that is before substantiated abuse and neglect had taken place and been documented.

"From a Citizen Foster Care Reviewer's perspective, there were a few pitfalls in the Kinship Program that were not always addressed. Some children did not receive the services that were needed in order to deal with the abuse and neglect they were removed from. And many children remained in a quasi-permanent status as relatives did not seek permanent custody of the children. BUT THE PROGRAM DID DO MANY POSITIVE THINGS AND SHOULD NOT BE ELIMINATED. If this is for cost cutting reasons this cut makes no fiscal sense. Many of these sibling groups will have to go into specialized homes that can take three or four children. Such home cost the State much more than the \$10 per day paid to relatives. As I understand it, the therapeutic focus of keeping siblings together is a tenant of the Cabinet and is to be supported at all times. So, what could have been a healthful \$30 a day placement for three children rapidly becomes a \$120 a day placement, as most of the sibling group homes are under the supervision of private child care (PCC) providers. At least that is the case in Jefferson County where more than ¼ of the children in foster care come from. The mast is just not there. The 'savings' just are not there.

"BUT MORE IMPORTANTLY, SAFE RELATIVE PLACEMENTS SHOULD BE FOUND FIRST. THAT IS WHAT IS BEST FOR EACH AND EVERY ABUSED AND NEGLECTED CHILD. If a relative becomes a certified home, the cost per child more than doubles.

"In regard to the severe cuts in the CCAP Program. AGAIN THE MATH IS JUST NOT THERE. Many parents struggle to make a go of working and caring for their children even WITH THE CCAP subsidies. Without the subsidies all too many will throw in the towel and give up their barely more than minimum wage jobs and most probably go back to an even more substandard way of living with and raising children. No one has been able to escape the fact that so many folks live perilously from paycheck to paycheck, even with subsidies. The die is cast when these subsidies are no longer available for so many families.

"Now here is the irony in all of this...put your children in situations where abuse or neglect can take place, be the cause of abuse and neglect, and your children will still be eligible for child care subsidies after they have been placed in foster care, as Kinship Care is no longer an option. HOW IN THE WORLD DOES THAT MAKE FISCAL SENSES? This is not a conjecture on my part; it has happened and will happen after these cuts. In all of the focus on balancing fiscal realities, the harm to children, as all say, OUR COMMONWEALTH'S FUTURE, cannot be quantified. The results of these cuts should weigh heavily on the hearts of all those who see them as the best way out of a bad budgetary reality. It just can't be so. One less pothole filled, one less shrub planted on a golf course, even one less mowing of grass along a highway, can't compare to the harm that is about ready to be done to children and their families."

(h) Response: Please refer to the response provided in item (b).

(i) Comment: Mr. Doug Burnham submitted the following written testimony during the public hearing, "As director of the Grandparents and Other Relatives Raising

Children Training Project and Chair of the Program Committee for the Annual Grandparents as Parent's Conference. I often hear from this population the issues and concerns they have encountered while serving as caregivers for relative children. For those with young children I most often hear of difficulties affording child care. With these regulations they would not receive the 300 dollar subsidy or assistance for child care. Those with school age children are often looking for affordable consistent after school programs and they help pay for that service with the subsidy they receive.

"At this years GAP conference forty eight percent of those relative caregivers attending were employed, thus in need for child care or/and after school programs. Thirty three percent were retired, making it difficult to manage extra costs on a fixed income. Three hundred dollars a month may not seem like a lot of money to some people but if you are living on a fixed income or having to pay for child care that is a rather helpful sum...

"The argument has been made that families should bare the responsibility of caring for children when biological parents are, for whatever reason, unable to do so. And, in fact, most families do exactly that. In Kentucky there are, according to census data, 63,000 relatives caring, full time, for children. Only 12,000 of them are receiving kinship subsidy. Thus, in fact, a large number of Kentucky families are taking care of their kin children. Thus families are saving Kentucky citizens a rather large sum of money each year. With this regulations some of the 12,000 children living with relatives would be in foster care if they did not receive this small subsidy and or child care assistance. This would be costly for the state and a drain on the already taxed work force in the Cabinet for Health and Family Services."

(j) Response: Please refer to the response provided in item (b).

(k) Comment: Mr. Ron Jackson and Ms. Natalie Reteneller commented, "The Louisville Race, Community and Child Welfare Board is writing to speak out on behalf of children, in order to voice our concerns with the proposed changes to the administrative regulations for the Kinship Care Program. We believe in the Kinship Care Program and only know it to have produced favorable outcomes for children and their families. This program has ensured the permanent placement of children who have been removed from their homes with relative caregivers, as an alternative to Foster Care. Curtailing the availability of this program makes over 11,000 children vulnerable, not to mention the number of children that could enter the doors of Child Protective Services each day. This holds a lot of weight and speaks to the magnitude of the program. We, here in Jefferson County were excited to see some decline in the number of children entering foster care and could see the benefit of Kinship Care supporting this decline. Many relative caregivers, such as grandparents, are only able to accept the placement of a child because of the support provided by the Kinship Care Program. This is the more economical and compassionate solution to a complex problem. Without this program and its supports, some children will not be placed with family and have to enter more institutional placements in our foster care system.

"The Louisville Race, Community and Child Welfare Board made up of over 20 agencies and individuals that are committee to seeking solutions to addressing the significant racial and ethnic disparities faced by children of color, and the data shows

that the loss of this program will only intensify these disparities. We understand that the child welfare system is made up of all of us across the social work, business, faith, education, justice, government and other sectors, so we seek your support to pursue other solutions to shutting down a program with proven outcomes for children and families. We totally disagree with the stance that this cut will only impact groups already supported by the program, because we understand that new cases are seen each day and they too will be the next cases (children) with placement needs. To correctly evaluate the impact of this regulation, it is necessary to accurately estimate how many new Kinship Care cases would likely be opened in the next year. Kinship Care is one of the best alternatives for our children because it remediates future identity building issues and cultural growth issues of this population that makes up our next generation.

"The elimination of the Kinship Care Program as of April 1, 2013, may save the Cabinet financial resources in one area; however in a short time this will create hardships on other agency systems, which are already underfunded and ill-prepared to accept the ongoing influx of children across the state.

"We ask that you seek solutions to keep Kinship Care available for the wellbeing of our children."

(l) Response: Please refer to the response provided in item (b).

(m) Comment: MyLinda Sims, Rebecca Ballard Diloreto, Carol Taylor, and Marion Gibson c/o the Children's Law Center, Inc., provided the following written comments, "We are writing as members of the Fayette County Race, Community and Child Welfare Initiative and on behalf of children we have represented to voice our concerns with the proposed changes to the administrative regulations for the Kinship Care Program. The Kinship Care Program exists to facilitate the permanent placement of children who have been removed from their homes with relatives caregivers, as an alternative to Foster Care. There are over 11,000 children in this program, which speaks to the volume of children that benefit from being placed with a relative caregiver rather than a foster care placement. Many relative caregivers, such as grandparents, are only able to accept placement because of the support provided by the Kinship Care Program, in absence of this program Kentucky's children, our most vulnerable, will be deprived of placements with relative caregivers and forced into foster care. Additionally, as attorneys for children of color and as participants in the Fayette County, Race, Community and Child Welfare Committee, we also recognize how essential Kinship Care is to African American, Hispanic and immigrant families as they work to take care of their children. Our system of care for children already has significant racial and ethnic disparity and the ending of Kinship Care will only exacerbate these disparities.

"Concern #1: CHFS Failed to Identify the Type and Number of individuals, businesses, organizations or state or local governments affected by implementation of this regulation.

"The Cabinet for Health and Family Services has identified children already supported by the program as being the only group affected by the administrative regulation. In actuality, the regulation is aimed at ceasing intake applications considered for initial eligibility into the Kinship Care Program. To correctly evaluate the impact of this regulation it is necessary to accurately estimate how many new Kinship

Care cases would likely be opened in the next year. One way to evaluate the impact would be to review the number of new Kinship Care cases opened each year for the past three years. This would provide some indication to the public as to how many children per year will no longer be eligible for the Kinship Care Program.

"In addition, CHFS did not identify all state or local agencies that would be affected by the proposed changes. The Cabinet has failed to identify and provide an adequate impact statement to address the impact these changes will have on other agencies. The absence of the Kinship Care Program will cause more children to enter a foster care placement. The regulation permits funding through other cabinet resources such as K-TAP and SNAP, however the impact statement fails to identify the impact the elimination of the Kinship Care Program will have on these other resources.

"While the Cabinet may save financial resources in one area this shift will inevitably create hardship and stress on other agency systems, which are already underfunded and ill-prepared to accept the influx of children that will follow the elimination of the Kinship Care Program within the Commonwealth of Kentucky. The Cabinet for Health and Family Services should provide the public with an adequate impact statement fully addressing the individuals, businesses, organizations, state or local governments which will be affected by the proposed changes.

"Concern #2: Elimination of the Kinship Care Program will create inequity

"In addition, from our perspective this change creates inequities between children who have been removed from their biological or adoptive parent. By eliminating the Kinship Care Program as of April 1, 2013, the CHFS has made the choice to treat populations of children differently. If a child has a relative caretaker willing to take placement, CHFS will no longer fund that child's placement, even though the child has been removed from their biological or adoptive parent. However, if a child does not have a relative caretaker and has been removed from their biological or adoptive parent, then the Cabinet will pay for a state foster care placement. Children removed from their biological or adoptive parent should be treated equally, in their out of home care.

"We have been advised that the Cabinet for Health and Family Services has chosen not to implement the Fostering Connections Act of 2008, which would have provided for Title IV-E funding for kinship families. This action coupled with the elimination of financial support through the Kinship Care Program creates an inequitable system. Children who have been removed from their homes are treated differently: this change in funding will mean either support by the state through a foster care placement or denial of support based on placement with a relative.

"Concern #3: Elimination of the Kinship Care Program will increase racial and ethnic disproportionality in the child welfare system.

"Racial disproportionality within the child welfare system is present throughout the Commonwealth. At each stage in the continuum of placement the disparity negatively impacting African American children increases...The Kinship Care Program has been recognized as a program that can help reduce the number of African-American children placed in foster care by providing support for the children to be placed with relatives. Elimination of intake applications to the Kinship Care Program will drastically affect African-American children thereby increasing the number of children

placed in foster care. This will in turn increase racial disproportionality and disparate outcomes for African-American youth and families within the welfare system.”

(n) Response: Please refer to the response provided in item (b).

(o) Comment: Mary Beth Manning said, “I am opposed to the kinship care cuts. It seems to be more economical for the state to keep these children in the care of their extended families rather than put them in foster care. While I don't know the exact numbers, I do feel foster care is more expensive for the state taxpayers than kinship care money. Also, there is the belief that most families will care more emotionally for their relatives children although I know it is not always the case. Thanks for your time and attention.”

(p) Response: Please refer to the response provided in item (b).

(q) Comment: Ms. Debrah Moon stated, “I am a service coordinator with First Steps in the Lake Cumberland district. I serve a lot of children who are being raised by grandparents. The majority of these grandparents are not raising one but three or four of their grandchildren. I have one grandmother who is single-handedly raising eight of her grandchildren. I am asking that you reinstate the kinship care funds to these families so that they are able to provide a stable environment for their grandchildren. The majority of the children that I serve come from unhealthy environments which negatively contributes to their early development. By placing them with grandparents and with the aid of First Step providers, they are given a chance to meet developmental milestones and have a normal life. If these grandparents are unable to care for them by providing their basic needs of food, shelter and clothing, then they end up in foster care which in turn costs the state more money than kinship care. At every meeting I attend with my families, I always ask if there is anything that they need. The replies I get include help with utilities, diapers, clothing, and food. These are all expenses that would be covered by the kinship care money. I personally help these families as much as I can by buying diapers and food. I scramble to get diapers and clothing donated whenever someone asks. I locate organizations that will help them pay their utility bills so they will have electricity and gas. I am blessed to be able to help these families but I am one person and I can only do so much. I urge you to reconsider funding cuts to kinship care and help provide these families with the monetary support that they need to raise their grandchildren.”

(r) Response: Please refer to the response provided in item (b).

(s) Comment: Dr. Helen Deines wrote, “I write as a private citizen, a retired social work professor, who volunteers with Kentucky Youth Advocates and Louisville Race, Community, and Child Welfare Policy, Practice, and Culture Change Committee. I also volunteer now and then with the Cabinet, providing free staff training and offering support on special projects.

“I appreciate the opportunity to comment in regard to Regulation 922 KAR 1:130. This regulation closes intake to the Kentucky Kinship care program effective April 1,

2013. I comment specifically regarding the 'FISCAL NOTE ON STATE OR LOCAL GOVERNMENT,' p. 21 of the regulation, emphasizing parts 1 and 3c

- (1) (Part 1) 'What units, parts, and divisions of state or local governments (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation;' and
- (2) (Part 3) 'Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect...(c) How much will it cost to administer this program for the first year?'

"WHO IS IN KINSHIP CARE? Let me begin by looking at some statistics presented by DCBS Commissioner Theresa James when she was discussing ending the subsidy:

| Column1 | SFY09 | SFY10 | SFY11 | SFY12 |
|--|--------|--------|--------|--------|
| Total # CPS Calls | 72,563 | 77,635 | 79,943 | 87,447 |
| # Accepted for Investigations or FINSA | 47,257 | 47,490 | 47,825 | 50,953 |
| # Open In-Home Cases | 6,399 | 6,951 | 6,863 | 6,739 |
| # Open Cases in Foster Case | 5,122 | 5,083 | 4,887 | 4,855 |
| # Children in Foster Care 8/SFY | 6,922 | 6,927 | 6,691 | 6,934 |
| # Children in Kinship Care 8/SFY | 9,750 | 10,548 | 11,210 | 11,400 |

"This chart shows that from state fiscal year 2009 to 2012

- Calls reporting abuse of neglect statewide increased by approximately 15,000;
- From that starting point, the number of cases accepted for investigations or "families in need of service" increased by only 3,000;
- Open in-home cases, open cases in foster care, and the number of children in foster care remained almost exactly the same from 2009 to 2012;
- How did that happen? The other number that climbed significantly was the number of children in kinship care, an increase from 9,750 to 11,400, each of these children with a substantiated allegation of neglect or abuse.

"It is the kinship care option that has allowed the Cabinet (DCBS) to ensure protection and permanency to the increasing numbers of Kentucky's children found to be maltreated. **Had DCBS removed those children and placed them in traditional foster care, they would have spent on average \$72/day in contrast to the \$10/day kinship subsidy.**

"HOW DOES ONE CALCULATE THE COST OF CLOSING INTAKE FOR KINSHIP CARE SUBSIDY? The FISCAL NOTE says

There will be no new costs to the agency to implement this administrative regulation. Without this and companion amendments, an increase in funding would be required to sustain current and new enrollment in the Kinship Care program, supportive services and benefits to other children in relative placements, or additional foster care; and to meet prospective federal standards to be levied on the Kinship Care Program.

"There will be no new costs to the agency to implement this administrative regulation' is a sentence that defies logic. **The Cabinet may cut off intake for the Kinship Care subsidy, but the need for the service still exists.**

- **Children still have substantiated incidents of neglect and abuse and still require removal from parents to ensure their safety,**
- **Workers have a choice: Place these already traumatized children if possible with extended family or with well-intentioned strangers in the traditional foster care system? *What does the research evidence tell them to do, and how would it effect cost?***

“EVIDENCE For children whose parents are unable to care for them even temporarily, the first priority is kinship care with relatives who are willing and able to provide safe, quality care. Compared to children in non-relative placements, children living with kin experience a range of positive outcomes:

- Higher scores on physical, cognitive, emotional and skill-based indicators,
- Fewer behavioral problems as rated by their teachers and caregivers,
- Increased placement stability and continuity,
- Safety levels that equal or surpass those of children living with non-relative foster parents
- Greater satisfaction with the people they live with and fewer attempts to run away,
- Higher rate of placement with their siblings,
- Fewer school changes.[1]
- Less likelihood of re-abuse (Casey, 2012)
- Less likelihood of serious mental illness in young adulthood (Casey 2012)
- Higher educational achievement (Casey, 2012)
- Better preparation for independent living (Casey, 2012)

“Children who reunify with their birth parent(s) after kinship care are less likely to re-enter foster care than those who had been in non-relative foster placements or in group care facilities. [2] Care by willing and able kin is also a critical way to maintain lifelong connections with an extended kinship network.

“Of the approximately 6 million children who live in households headed by a grandparent or other relative, 2.3 million do so without the presence of a parent in the household. Of these children, approximately 1.8 million were privately placed with kin without the involvement of the child welfare system. Of the 500,000 placed with a relative following child welfare involvement, only about half are taken into state custody by the agency [3]– an arrangement often called ‘formal’ kinship care or ‘kinship foster care.’ Many relative caregivers in both formal and informal kinship care arrangements are grandparents, and 20 percent live below the poverty line, often on fixed incomes.[4] Consequently, children in kinship care are more likely than children living with their parents to be raised in poverty and in a single caregiver household.[5]

“Kinship foster care accounts for an estimated 30 percent of national out-of-home placements, with wide local variation. Increasing demand for foster care, shrinking numbers of non-kin foster care providers, changing attitudes regarding family care, [6]along with demonstrated benefits of family connections are driving the rise in kinship placements. Despite this growing reliance on kinship care, research demonstrates that children and caregivers in kinship foster care arrangements receive, request, and are offered fewer services and supports than non-kin foster caregivers. [7]

“Kinship care is more common in communities of color. In Illinois, African American children are four to five times more likely to live in kinship care than white children. Support for permanency with kin can help reduce racial disproportionality in

foster care, and adequate support for kinship caregivers can help improve outcomes for vulnerable children of color.

“Congress and most state legislatures have codified the preference for placement with relatives. At the same time, a range of policies are key to making the connection with kin and providing the assistance that they, like other caregivers, need to nurture children who have experienced abuse or neglect. Policies supporting kinship caregivers that are described in other sections of this report include:

- Kinship navigators that help caregivers find and obtain assistance to support both the child’s healthy development and their own capacity to parent. (See Policy 1.5, Navigators to connect families with services.)

- Investment in parenting education and training, respite, and crisis care that help caregivers provide quality, stable homes for children if parenting challenges develop or as children’s developmental needs change. (See Policy 1.3, Parenting education and training and 1.4, Respite and short-term crisis care.)

- Relative location and engagement strategies that help to identify kin as soon as a child comes to the attention of the child welfare agency and to ensure that appropriate kin are available to care for the child if removal is necessary. (See Policy 3.1, Location and engagement of kin.)

“Specific state policy options are presented for each of the following areas:

- 4.1 Permanent legal guardianship
- 4.2 " Preventative" permanent guardianship
- 4.3 Eliminating financial disincentives
- 4.4 Medical consent and school enrollement

[1] Conway, T. & Hutson, R.Q. 2007. *Is Kinship Care Good for Kids?* Washington, DC: Center for Law and Social Policy ; Hutson, R.Q. December 17, 2007. Presentation for National Governor’s Association Webcast, *Supporting Kinship Families: What State Policymakers Can Do*. Washington, DC: NGA. <http://www.nga.org/portal/site/nga/menuitem.9123e83a1f6786440ddcbeeb501010a0/?vgnnextoid=bb4e4edc8acf54110VgnVCM1000001a01010aRCRD>

[2] Courtney, M. & Needell, B. “Outcomes of kinship care: Lessons from California.” In *Child welfare research review*. Vol. 2. J.D. Berrick, R.P. Barth and N. Gilbert, eds. New York: Columbia University Press, 1997, pp. 130 – 149

[3] Main, R., Macomber, J.E., & Geen, R. 2006. *Trends in Service Receipt: Children in Kinship Care Gaining Ground*, Series B, No. B-68. Washington: The Urban Institute.

[4] Hutson, *Supporting Kinship Families*.

[5] Main, Macomber, and Geen.

[6] Berrick, Jill Duer. 1988. “When Children Cannot Remain Home: Foster Family Care and Kinship Care,” *The Future of Children* 8 (1): 72-87.

[7] See, for example:

Barth, R. P.; Courtney, M.; Berrick, J. D.; & Albert, V. 1994. *From Child Abuse to Permanency Planning: Child Welfare Services Pathways and Placements*. New York: Aldine De Gruyter.

Berrick, J. D.; Barth, R. P.; & Needell, B. 1994. “A Comparison of Kinship Foster Homes and Foster Family Homes: Implications for Kinship Foster Care as Family Preservation,” *Children and Youth Services Review*, 16: 33-63.

Chipungu, S. S.; Everett, J. E.; Verduik, M. J.; & Jones, H. 1998. *Children Placed in Foster Care with Relatives: A Multi-State Study*. Washington, D.C.: U.S. Department of Health and Human Services, Administration for Children and Families.

Main, R; Macomber, J; and Geen, R. May 2006. Trends in Service Receipt: Children in Kinship Care Gaining Ground, Urban Institute; Washington, DC. http://www.urban.org/UploadedPDF/311310_B-68.pdf

“WHAT DOES ALL THIS HAVE TO DO WITH COSTS? If removing maltreated children from parents is required to ensure safety, making that placement if at all possible with extended family maximizes the children’s chances for good outcomes at the same time as it does so at the lowest possible cost!

- Former kinship care stipend \$300/month/child or \$10/day
- Current non-kin foster care base rate \$600/month/child or average cost \$72/day

“In addition, placing a child in non-kin foster care increases the likelihood of need for mental health services to address trauma related to the move into care, increasing educational services as repeated placement moves ensue, and on and on. Certainly making comments to the Cabinet about the links between moving into care and the diversion to the Department of Juvenile Justice is well known. Similarly the links between growing up in foster care and addictions, mental illness, unemployment, homelessness, and incarceration are well documented. Currently we talk about trauma-informed care: How do we avoid programs and systems that re-traumatize these children? And we have one set of answers: When possible, seek permanency within the family. If children cannot be their biological parents, their first, best option should be with their extended families (Casey, 2012).

“SPECIFIC CURRENT CONCERNS I am not saying that the program that was closed was perfect and must be restored in exactly the same form. I am saying that closing intake to kinship care in general is penny-wise and pound-foolish.

- 1. The annual increase in kinship care, although variable, was consistent. Without the subsidized kinship care option, the majority of those children will likely go into non-kin foster care. The cost of foster care for children whose families could not take them because of lack of subsidy should be monitored and considered one of the costs of this regulation.**
- 2. If the Cabinet (DCBS) has specific concerns about the way the program was operated, those concerns should be addressed through issuing new regulations. Commissioner James’ concerns about accountability are always important and valuable. That is exactly what regulations are for. Any laxity in the former program should be so addressed specific regulations.**
- 3. Means-testing the kinship care subsidy seems unworkable as the act of taking in children seems to dramatically change the circumstances of the kinship caregivers. For example, a family in which both caregivers work can quickly become a one-income home as the adults find the responsibilities of caring for special needs children requires one adult to quit their job. Or, in the latest cuts, a care giving grandparent loses the child care subsidy that allowed him to work while caring for four grandchildren; now he is trying to determine whether he can afford to keep his**

job. Research shows that the overwhelming majority of kinship caregivers live close to the poverty level.

4. Given the \$59 million dollars in cuts the Cabinet has experienced over the last four years, the long term solution for kinship care probably lies in moving thoughtfully toward implementing the provisions of the Fostering Connections and Promoting Adoptions Act of 2008 and the Subsidized Guardianship Program, both of which provide federal Title IVe funds for kinship care on the same basis as the government does now for foster care. These laws were written to equalize the treatment given to kin and on-kin, given the overwhelming research that maltreated children do best with extended family, if at all possible.
5. Finally, just a word about race. Kinship care givers in Kentucky reflect the face of the Commonwealth. AARP's GRANDFACTS describe them as being 87 percent white, 9 percent black, and 3 percent Hispanic. "Taking care of our own" is a value throughout our state. However, within the context of the Cabinet, kinship care has been a key strategy in reducing racial inequity in the child welfare system. Closing intake to the subsidy will likely disproportionately affect people of color, who are also disproportionately poor. This will impact both black and brown children. Your most recent figures show, I believe, disproportionate removals for Hispanics as well as black children. I am not questioning your intention. Rather I am pointing out disproportionate impact.

"Thank you for giving me the opportunity to comment. I recognize the financial pressures under which the Cabinet is functioning. Yet Kentucky will be the poorer if its children are placed in circumstances where they are likely to fare less well...

"REFERENCE

Anney E. Casey Foundation. (2012, December). *STEPPING UP FOR KIDS: What government and communities should do to support kinship families*. Author. Available from: <http://www.aecf.org/KnowledgeCenter/Publications.aspx?pubguid=%7b642BF3F2-9A85-4C6B-83C8-A30F5D928E4D%7d>

(r) Response: Please refer to the response provided in item (b).

(s) Comment: Ms. Deneen Petty, Ms. Patricia Tennen, Ms. Marion Gibson, Mr. Doug Burnham, and Dr. Helen Deines provided oral comments during the public hearing. Their comments included the limited ability of relatives, particularly low-income households, to provide care to children without the benefits made available through the Kinship Care Program. They explained the state's financial benefit of retaining the Kinship Care Program, as the Kinship Care Program's benefits are less than those paid for a traditional foster care placement and the services a child is more likely to require in foster care. In addition, they cited evidence and research that relative placements are preferred to foster care placements, because relative placements reduce the trauma a child experiences during the child's removal from his/her home origin, improve maltreatment recovery for the child, and assure familial and often times community continuity for the child. The commenters indicated concerns about the foster care system's ability to accommodate the influx of children who would have previously been placed with relatives with Kinship Care benefits and the possibility for increased

disproportionality of African-American children in foster care. The commenters also relayed concerns about the ability of children to recover from maltreatment and to reach their ultimate potentials in foster care over relative placements. They suggested that a moratorium on the Kinship Care Program did not demonstrate the value Kentucky places on its children.

(t) Response: Please refer to the response provided in item (b).

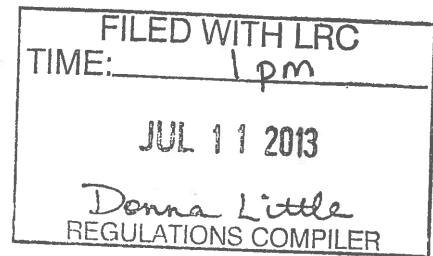
Summary of Statement of Consideration and
Action Taken by Promulgating Administrative Body

(1) Summary of Statement of Consideration:

This Statement of Consideration addresses written comments submitted by Sandra Flynn, Doug Burnham, Deneen Petty, Helen Deines, Phylliss Frankenfield, Eula Somerville, William Newman, Patricia Tennen, Dorothy McNair, Ron Jackson, Natalie Reteneller, MyLinda Sims, Rebecca DiLoreto, Carol Taylor, Marion Gibson, Mary Beth Manning, Carla Isaacs Hagan, Lea Haynes Fischbach, Janice Masengale, and Debrah Moon. The commenters outlined the benefits of the Kinship Care Program and relative placements, verses foster care, for a child who has been removed from the child's home of origin due to maltreatment or death of both parents. They called upon the state to reinstitute the program and refrain from this cost containment measure.

(2) Action taken by promulgating administrative body:

As a result of the comments received regarding 922 KAR 1:130, the Cabinet for Health and Family Services will not file an amended after hearing administrative regulation.



STATEMENT OF CONSIDERATION RELATING TO 922 KAR 1:320
Not Amended After Comments

- (1) A public hearing on 922 KAR 1:320 was held on May 21, 2013, at 9 a.m. at the Cabinet for Health and Family Services Auditorium, 275 East Main Street, Frankfort, Kentucky 40621.
- (2) The following people attended this public hearing or submitted written comments:

| <u>NAME AND TITLE</u> | <u>AGENCY/ORGANIZATION/ENTITY/OTHER</u> |
|---|---|
| Sandra and Tim Flynn, Kinship Caregiver, Grandparent ** 1233 Embry Ave. Lexington, KY 40504 | |
| Marion Gibson, Co-Chair** Race, Community, and Child Welfare (Fayette) 884 Hidden Stream Dr. Lexington, KY 40511 | |
| Doug Burnham, Director** Grandparents and Other Relatives Raising Children Training Project University of Kentucky, College of Social Work One Quality Street Lexington, KY 40507 | |
| Deneen Petty, Former Child Protective Services Investigator and Teacher, Rosenwald Center for Families and Children, Kentucky State University** 315 Maryland Ave. Frankfort, KY 40601 | |
| Helen Deines, Professor of Social Work, Spalding University and Volunteer, Kentucky Youth Advocates** 4318 St. Regis Lane Louisville, KY 40220 | |
| Phylliss Frankenfield, Kinship Caregiver, Grandparent** 227 Ellis Lane Taylorsville, KY 40071 | |
| Eula Somerville, Kinship Caregiver, Relative Caregiver, Grandparent** 3609 Baymeadow Dr. Louisville, KY 40258 | |

William Newman, Kinship Caregiver, Grandparent**
9609 Thor Ave.
Louisville, KY 40229

Patricia Tenner, Senior Policy Analyst**
Kentucky Youth Advocates
11001 Bluegrass Parkway, 100
Jeffersontwon, KY 40299

Dorothy McNair, Grandmothers Running Against the Wind, Kinship Caregiver**
262 Marcellus Dr. Apt 2
Berea, KY 40404

Anne Marie Whelan, Family and Youth Specialist/Therapist**
Specialized Alternatives for Family and Youth, SAFY of Kentucky - Louisville Division
4010 Dupont Circle, Suite 379
Louisville, KY 40207

Jo Ann Kalb, Therapist**
Jewish Family and Career Services
2821 Klempner Way
Louisville, KY 40205

Robin Cooke, Legal Helpline for Older Kentuckians**
Access to Justice Foundation
535 W. Second St., Suite 101
Lexington, KY 40508

Patricia May, Field Service Coordinator**
Wellcare Health Plans, Inc.
2480 Fortune Dr., Suite 200
Lexington, KY 40509

Salina Ramsay, Graduate Intern**
No Identified Agency Affiliation

** Email address was provided.

- (3) The following people from the promulgating administrative body attended this public hearing or responded to the written comments:

NAME AND TITLE

Mark Cornett, Deputy Commissioner Elizabeth Caywood, Internal Policy Analyst IV
Justin Dearing, Internal Policy Analyst III Carrie Cotton, Assistant Counsel
Jeff Jagnow, Internal Policy Analyst IV Tricia Orme, Administrative Specialist III

Summary of Comments and Responses

(1) Subject Matter: Kinship Care Program Moratorium

(a) Comment: Ms. Patricia Tennen, Ms. Anne Marie Whelan, Ms. Robin Cooke, Ms. Patricia May, and Ms. Salina Ramsay submitted written comments. They stated, "We strongly oppose the recent cuts to the Kinship Care Program as outlined in 922 KAR 1:320 due to the negative impact it will have on children in Kentucky who will be forced into the foster care system and the added costs to the state.

"Negative Impact on Children

Children who have been exposed to abuse and neglect recover faster and better with relatives than with strangers, even well-intentioned strangers. Studies have shown that living with kin minimizes the trauma and loss children feel at parental separation. Children living with kin also have fewer behavioral and mental health problems and experience fewer educational disruptions. Yet, our kinship families who are stepping up to care for children are faced with extreme challenges. They are more likely to be poor, single, older, less-educated and unemployed than families in which at least one parent is present. Cuts to Kinship Care subsidies will make it harder for grandparents and other relatives to help kids recover from abuse or neglect and drive more kids into the foster care system.

"Fiscal Impact on the State

The fiscal note attached to the regulation says that there will be no new costs to the agency to implement this administrative regulation. We respectfully point out the following increased costs directly attributable to terminating new admissions to the Kentucky Kinship Care Program:

- 1) Increased costs in foster care for children who would have been placed in Kinship Care are now removed from their families' care and placed in out-of-home settings. A kinship care subsidy for grandparents and other close relatives costs the state \$10 a day, while the average payment for kids in the foster care system is \$70 a day.
- 2) Increased costs for mental health counseling required to help children cope with the trauma associated with adjustment to living with even the most well-intentioned strangers;
- 3) Increased costs associated with more frequent educational disruptions and lower educational outcomes associated with non-kin foster care in comparison with Kinship Care;
- 4) Increased treatment costs associated with greater likelihood of serious mental health problems associated with non-kin foster care in comparison with Kinship Care; and
- 5) Increased treatment costs associated with the likelihood of re-abuse, an experience documented as more likely to occur in non-kin foster care than in Kinship Care.

"We ask the Cabinet to find a way to continue support for the Kinship Care Program in order to provide the best care for children and save the state money in both the short and long term."

(b) Response: As a result of economic pressures placed on human services programs over the past six years, the Cabinet for Health and Family Services' Department for Community Based Services (DCBS) is facing a projected budget shortfall of nearly \$87 million in State Fiscal Year 2014, which runs July 1, 2013, to June 30, 2014. Federal Temporary Assistance for Needy Families Block Grant (TANF) carry-forward and stimulus dollars helped programs meet record demands for services; however, those funds are now depleted. In addition to reduction in federal funding, DCBS has experienced state fund budget reductions like many other state agencies. Compounding the budgetary context, caseload growth and increased acuity levels of families being served continue to be realized by DCBS.

DCBS aggressively managed revenues and expenditures over the past six years, which helped DCBS avoid drastic reductions in services before now. No optimal solutions remain to balance State Fiscal Year 2014. DCBS finds itself in circumstances comparable to that of many other states' human services agencies. To manage within available funding, DCBS had to act as soon as possible.

Impacts to Kentucky's citizens were primary considerations in determining the actions to be taken. Unfortunately, significant programmatic changes are required in addition to continued aggressive monitoring of revenue and expenditures, cash management, and operating savings and efficiencies. The moratorium on the Kinship Care Program is one of three programmatic changes necessitated by DCBS' current budgetary context. DCBS publicly announced the three programmatic changes in late January.

The moratorium did not, and will not, impact relative caregivers and children enrolled in the Kinship Care Program upon implementation. So long as existing enrollees meet technical and financial eligibility requirements, the approximately 11,000 children in the program will continue to receive Kinship Care Program benefits. This and other concurrently filed administrative regulations will ensure that the Kinship Care Program is maintained within available state and federal funding, and that benefits available to current enrollees remain at the same level.

In addition, these administrative regulations make certain that children subject to placement by DCBS with a nonparental relative from April 1st moving forward have supportive services and benefits aligned with available resources. The administrative regulations outline: (1) placement considerations for a nonparental relative placement, including home evaluation and background checks, and (2) a one-time supportive service to cover an immediate need of a child upon placement with a nonparental relative, such as clothing, furniture, deposit for a larger apartment, and school supplies.

Lastly, the administrative regulations identify other public assistance programs for which the child and/or nonparental relative's household may be eligible to further support the health, safety, and wellbeing of a child placed with a nonparental relative. Other public assistance programs include the Kentucky Transitional Assistance Program (K-TAP), Medicaid or the Kentucky Children's Health Insurance Program (KCHIP), and the Supplemental Nutrition Assistance Program (SNAP).

Until the budgetary context improves, DCBS does not have the revenues to pursue options made available under Title IV-E of the Social Security Act (Title IV-E) as authorized through the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351. Kentucky's existing Kinship Care Program governed by

922 KAR 1:130 also does not meet the requirements of this federal option. DCBS will continue its research and, when possible, pursue additional alternatives to the Kinship Care Program to establish further supports for relative placements and children's health, safety, and wellbeing in said placements.

(c) Comment: Ms. Jo Ann Kalb wrote, "I strongly oppose the recent cuts to the Kinship Care Program as outlined in 922 KAR 1:320E due to the negative impact it will have on children in Kentucky who will be forced into the foster care system and the added costs to the state. As a provider who has worked for many years offering support services to grandparent and relative caregivers, I know firsthand how invaluable and needed the money for kinship care is needed to these families.

"With the proposed cuts in place, the fiscal burden for caring for these children will be too great for these grandparents. The cost to the state for increased foster care placement will only escalate.

"The grandparents are dealing with the impact of the violence and trauma that these young ones have experienced and witnessed. Please do not place additional stressors on these grandparents by upholding the cuts in funding to the Kinship Care Program.

"Please invest in the families that are saving the system a lot of money.

"I humbly ask the Cabinet to find a way to continue support for the Kinship Care Program in order to provide the best care for children and save the state money in both the short and long term."

(d) Response: Please refer to the response provided under item (b).

(e) Comment: Ms. Sandra Flynn, Ms. Marion Gibson, Mr. Doug Burnham, Ms. Deneen Petty, Ms. Helen Deines, Ms. Phylliss Frankenfield, Ms. Eula Somerville, Mr. William Newman, Ms. Patricia Tennen, and Ms. Dorothy McNair attended the public hearing and provided comments expressing concerns with the sunset of initial eligibility determination for the Kinship Care Program, frequently referred to as programmatic cuts. They called upon the state to find money to support the continuation of the program. Please refer to the Statement of Consideration for 922 KAR 1:130, the Kinship Care Program, for additional, but related commentary.

(f) Response: Please refer to the response provided under item (b).

**Summary of Statement of Consideration and
Action Taken by Promulgating Administrative Body**

(1) Summary of Statement of Consideration:

This Statement of Consideration addresses comments submitted by Ms. Sandra Flynn, Ms. Marion Gibson, Mr. Doug Burnham, Ms. Deneen Petty, Ms. Helen Deines, Ms. Phylliss Frankenfield, Ms. Eula Somerville, Mr. William Newman, Ms. Patricia Tennen, Ms. Jo Ann Kalb, Ms. Anne Marie Whelan, Ms. Patricia May, and Ms. Dorothy McNair. The commenters expressed concerns about the cost containment measures in the Kinship Care Program effective April 1, 2013, and called upon the Cabinet for Health and Family Services to find funding for continuation of the program.

(2) Action taken by promulgating administrative body:

As a result of the comments received regarding 922 KAR 1:320, the Cabinet for Health and Family Services will not file an amended after comments administrative regulation.