

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

USING RELATIVES FOR FOSTER CARE



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EXECUTIVE SUMMARY

PURPOSE

This report concerns foster home care provided by the relatives of those children in the legal custody of State child welfare agencies. It identifies issues in State regulations and official practices concerning the use, certification, and support of extended family members within the foster care systems of the fifty States and the District of Columbia. The companion report, "State Practices in Using Relatives for Foster Care," describes policy and practices on a state-by-state basis.

METHODOLOGY

We used a four-step process for data collection:

- we explored the many recently initiated research and policy development efforts in this area;
- we interviewed foster care administrators in the fifty States and the District of Columbia concerning policies and practices in using relative foster care providers;
- we reviewed relevant State policy documents; and,
- we interviewed administrators of special programs for relative foster-care providers concerning the features of their programs.

FINDINGS

- ▶ *Few States collect detailed information about foster-care placements with relatives.*

Last year, almost 80,000 children received foster care from relatives in the 29 States with the capability to identify such placements.

- ▶ *Over the last five years, States have made increased use of relatives as foster parents.*

The growing success of State policies that encourage maintenance of extended family ties, litigation, and the shortage of foster homes are key reasons for the increased use of relative foster homes.

- ▶ *States frequently lack formal policies for licensing or approving relative foster homes.*

Relative foster parents are generally held to lesser standards unless they also care for non-related foster children.

- ▶ *Policies concerning the payment of foster-care maintenance vary widely between and within States.*

- ▶ *There is evidence that children placed with relatives remain the legal responsibility of the State for longer than children in other alternative care arrangements.*

RECOMMENDATIONS

The States, universities, and family and child welfare organizations should:

- ▶ Conduct further research concerning the use of relative caregivers within the child welfare system.

The Administration for Children and Families (ACF) should:

- ▶ Encourage States to extend existing foster home standards to relative foster homes or to develop reasonable and consistent standards for using and evaluating relative foster care homes that are not licensed or approved.
- ▶ Encourage States to develop consistent, straightforward policies for informing licensed or approved relatives of their eligibility for financial reimbursement.
- ▶ Assist States to accomplish the two prior recommendations through research, consultation and technical assistance.
- ▶ Study the potential costs and benefits of providing subsidies to relatives who assume guardianship for special-needs children in their care.

DEPARTMENTAL COMMENTS

We received comments from the Administration for Children and Families (AFDC), the Assistant Secretary for Planning and Evaluation (ASPE), and the Assistant Secretary for Management and Budget (ASMB). Respondents were generally supportive of our findings, but the ACF and the ASMB expressed doubts about the ACF's authority to intervene in the States' application of standards or provision of foster care maintenance payments when foster care placements are not supported through Federal funds. We have amended the recommendations to meet these concerns by calling on ACF to "encourage"

rather than "require" appropriate State actions. We have made other changes in the recommendations to make the intent of the recommendations clearer. Please refer to Appendix C, "OIG Response to Departmental Comments," and to Appendix D for the full text of all departmental comments.

We are appreciative of comments received from staff of the Child Welfare League of America and the American Public Welfare Association.

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INTRODUCTION

PURPOSE

The purpose of the study is to provide information on how States use and support foster homes provided by relatives. This report concerns foster home care provided by the relatives of those children in the legal custody of State child welfare agencies. It identifies issues in State regulations and official practices concerning the use, certification, and support of extended family members within the foster-care systems of the fifty States and the District of Columbia. A companion report, "State Practices in Using Relatives for Foster Care," describes how each State uses, reviews and supports relative foster homes.

BACKGROUND

U.S. Census projections in 1985 indicated that close to 3.5 million children were being raised in extended family households. About 1.8 million of these children were being raised in households in which their parents were not present.¹ The avenues by which these children come to live with relatives vary along a continuum from informal, intrafamily arrangements to formal arrangements between public agencies and the children's relatives: For examples:

- Children may be cared for in a relative's home as an arrangement between the parents and the relative. The parent remains in the home some or all of the time with the child.
- Children may be left in the care of the relative either as a result of a mutually agreed upon plan or because the parents have temporarily or permanently abandoned them.
- A relative may assume the care of children at the request of outside parties (frequently the State child protection authorities or health and welfare agencies providing treatment to the child) in an effort to prevent the need for placing a child in foster care.
- Children may come into the legal custody of State child welfare agencies because they require care and protection. Through those agencies' efforts the children may be placed in foster care with the relative.

The last legal and physical arrangement is the focus of this report. These children, although living with family members, are the direct responsibility of the State child welfare agency and generally are cared for in programs underwritten with Federal child welfare funds. While legally and administratively these children are part of the general

foster-care population, the family relationships involved in their placements result in unique policy and practice issues.

The practice of placing children for whom the State is legally responsible with extended family members is not a new one. Child welfare agencies have long used "specific" foster homes drawn from families' informal support networks to care for children in their legal custody.² In such placements, adults with biological or emotional ties to children were approved to care for only those children. Because they cared only for these particular children, standards for approving the home were less formal, if not less stringent, and services and financial support were based on individual case assessments rather than entitlements through policy.

Clear policy and anecdotal evidence indicates, however, such placements were considered as a last resort in many State child welfare systems and were actively discouraged in others. Certainly the use of "specific" foster homes was considered less within the limits of agency policies than more traditional placements with foster parents having no previous relationship to the child. In some States, for example, children placed with relatives, whatever their legal status vis-a-vis the State child welfare agency, were frequently considered the responsibility of the Assistance Payments staff who often supervised Aid to Families with Dependent Children (AFDC) payments to the relatives. The role of these placements in the child welfare system was rarely clear in either policy or practice. Their limited numbers allowed public policy makers to avoid the question on a systemic level.

Three events in the late 1970s and early 1980s pushed the States to begin rethinking these policies:

- enactment of the Indian Child Welfare Act of 1978;
- enactment of the Adoption Assistance and Child Welfare Act of 1980; and
- the 1979 Supreme Court decision in *Miller vs. Youakim*.

The Indian Child Welfare Act (P.L. 95-608) called for preservation of the ethnic heritage of Native American children in foster care through a variety of protections, among them extended family placements. The Adoption Assistance and Child Welfare Act (P.L. 96-272) required placement of children who were the legal responsibility of the State in the least restrictive setting and in close proximity to their families. State policy makers have interpreted the "least restrictive" requirements as preferring placements with relatives.

Both pieces of legislation spurred States to adopt policies which used relatives as the first level of alternative care to insure continuity for children in foster care. In some States, the policy language adopted subsequent to the Federal legislation implies that State child welfare agencies should look to relative care as an alternative to traditional foster care. Suddenly, relatives were given a priority role in a foster-care system in which they previously played only an incidental part.

The third event *Miller vs. Youakim* (440 US 125 (1979)) began a process of change in the

treatment of relative foster-care providers. The Court ruled that, if relative foster home arrangements meet the Federal eligibility standards for Federal funding, States could not deny Federally-funded benefits based solely upon the fact that the caregiver was a relative.

Foster parents who care for children in the legal custody of the State ordinarily receive foster-care maintenance payments on behalf of those children. States or local jurisdictions provide the base monies, but a significant part of the funds for these payments are derived from Federal Social Security Title IV-E and IV-B funds. Prior to *Miller vs. Youakim*, many States routinely denied all foster-care maintenance payments, regardless of funding source, to children placed with relatives even though they met Federal criteria (i.e., children who were adjudicated dependent, placed in a licensed or approved home, and AFDC-eligible). The Supreme Court ruled there was no basis for denying Social Security Act funds to eligible children placed with relatives.

This decision changed the financial arrangements between large numbers of extended family foster parents and State child welfare agencies by making many relative foster-care providers eligible for Federally-supported, foster-care maintenance payments. By drawing relatives into the formal subsidy arrangement to reimburse paraprofessional foster parents, it opened placements with relatives to increased scrutiny and formalized the roles of relatives providing foster care in many States.

Over the last five years, relative foster care has come under increasing scrutiny for several reasons:

- lawsuits in several States with large foster-care populations (e.g., New York, Illinois, and pending litigation in Oregon and California) have drawn attention to financial support and classification of relative foster parents;
- a rapid rise in State foster-care caseloads, a decrease in the number of traditional foster homes available, and the increasing severity of the problems causing the need for substitute care have resulted in reconsidering many resources for placement of children³; and,
- the trend toward recruiting and supporting foster parents as trained, paraprofessional members of child and family treatment teams highlights the differences between relative caregivers and individuals with no previous relationship to foster children.

Organizations such as the Child Welfare League of America, the American Public Welfare Association, and the American Bar Association Center for Children and the Law, as well as Departmental staff and members of Congress, recently have begun to raise concerns about the need for policy guidance in making such foster-care placements. Child welfare administrators and public advocacy groups raise many issues concerning relative foster care as a practice. Undergirding many of these concerns, and most of the findings of this report, is the central question of how to define the role of extended family members in the

formal child welfare system. Questions and issues arise as public agencies, charged with caring and planning for foster children, struggle to classify care provided by a relative as either foster care or family preservation.

While most practitioners now agree that placing children within their extended family networks offers many benefits, the practice raises many public policy issues. A recent report from the National Commission on Family Foster Care,⁴ convened by the Child Welfare League of America and the National Foster Parent Association, presented the major issues:

- **Child Protection and Nurturing**— Policies must simultaneously protect children in foster care while allowing some leeway in recognition of the overriding benefits of placing children with extended family members.
- **Permanency Planning**— Permanency planning when children are placed with relatives must be defined and then made part of the casework process.
- **Monitoring and Supervision**— State child welfare agencies must insure the safety and well-being of children placed with relatives without unduly interfering in the reconstituted family.
- **Equity and Fiscal Implications**— Relative foster care presents public policymakers with three concerns to balance in determining the level of financial support available to relative foster caregivers: 1) equity and adequacy for the relatives; 2) the implications of this equitable and adequate level of reimbursement for financial support to the families of origin; and, 3) the effect on public budgets of the levels of support.

METHODOLOGY

We used a four-step process for data collection. In the first level of the investigation, we explored the many recently initiated research and policy development efforts in this area. This review of works in progress provided an overview of emerging issues about relative foster-care placements.

Second, in order to describe States' policies and legal frameworks for using relative foster-care parents and to determine current practice, we conducted telephone interviews with public foster-care officials in each of the fifty States and the District of Columbia (hereafter referred to as a State).

Third, in these interviews, we requested copies of written materials that give in-depth information on unique aspects of programs. Finally, we interviewed by telephone individuals in several States who were involved with public and private relative foster-care programs identified by State administrators.

FINDINGS

► *Few States collect detailed information about foster-care placements with relatives.*

Only 25 States could produce even a basic census for the last five years of children in foster care with relatives. Four additional States began compiling data concerning relative placements during the State's last fiscal year in response to rising public attention to these placements. Four of the 29 State administrators expressed reservations about the accuracy of the numbers supplied through their agencies' information systems.

The lack of complete, reliable information reflects the current state of child welfare data collection systems in the States. Some of the lack of annual census information, and most of the inability to provide descriptive or impact data concerning placements with relatives, are due to inadequate and outmoded collection and processing systems that affect all children in foster care.

However, there are also telling programmatic reasons why information about these placements is not available. Most have to do with the way the individual States have traditionally defined foster care with relatives. If States consider relatives' homes as part of the general population of foster homes, children placed with related foster parents are counted within the general foster-care population and cannot be distinguished from other foster children. They frequently have no special status either in policy or within the information management systems of those States. At the other extreme are those States which consider some placements of children in foster homes with relatives as a form of family preservation. The children are considered only loosely part of the foster-care system. Unless included as part of a special data collection effort, children in these States do not appear in State data systems.

► *Last year, almost 80,000 children received foster care from relatives in the 29 States with the capability to identify such placements.*

These 80,000 children represented over 31 percent of the total number of foster children in the legal custody of these States. The proportion of children shows wide variation between the States, however. States tend to follow their own consistent patterns in the degree to which children are placed with extended family members.

New York, Illinois and California account for nearly two-thirds (65 percent) of the number of children placed with relatives. Within these States, most of the placements with relatives are in New York City, Cook County (Chicago), and Los Angeles and San Francisco. If these three States are removed from the calculations of the total proportion of foster children who are provided foster care by relatives, the figure of 31 percent drops to 18 percent. (See Table 1 on the next page.)

- ▶ *Over the last five years, States have made increased use of relatives as foster parents.*

As shown in Table 1, for those 25 States with data on placements with relatives, the percentage of children cared for by relatives has grown from 18 to 31 percent over the last five years. Excluding New York (NY), Illinois (IL) and California (CA), relative placements show a more gradual increase from 12 to 18 percent from 1986 to 1990.

FY	All Reporting States (n = 25)	Reporting States without CA, NY, IL
1986	18%	12%
1987	22%	13%
1988	25%	14%
1989	28%	17%
1990	31%	18%

The proportion of children placed with relatives has increased by more than 10 percent over the last 5 years in five of the 25 reporting States (Arizona, California, Illinois, Maryland, and New York). As noted above, in three of these States (California, Illinois and New York), the bulk of such placements are in major urban centers. The perception of enormous increases in the number of children placed with relatives appears driven largely by experiences in these three States.

Another three States have experienced more modest increases of between 5 to 9 percent. The remaining 17 States have experienced increases of less than 5 percent or even very slight decreases in the proportion of the States' total foster-care caseload placed with relatives.

Administrators in 22 of the 26 States that cannot provide historic data on relative foster care stated that staff reports indicated some growth or stability in the proportion of relative caretakers. Administrators in two of these 26 States reported quite large increases in the proportion of relative foster-care placements.

- ▶ *The growing success of State policies that encourage maintenance of extended family ties, litigation, and the shortage of foster homes are key reasons for the increased use of relative foster homes.*

Most States with slight or moderate increases attributed the rise to the growing success of State policies encouraging placements with extended family members. Most such policies have been promulgated within the last decade as a response to the "least restrictive setting" requirements of the Adoption Assistance and Child Welfare Act of 1980⁵ and

relative placement requirements in the Indian Child Welfare Act of 1978. Administrators believed that staff and court personnel were becoming more sensitive to children's need for family supports, and therefore were more willing to search for and use relative caregivers.

Litigation during the last decade has had a significant effect on the increases in the proportion of children placed in relative homes who were classified as part of the foster-care system in Illinois and New York. To some extent, the increases in these States reflect a change in the categories to which the placements are assigned. In several other States, suits brought or threatened by relatives have resulted in official agency procedures requiring comprehensive pre-placement searches for relatives, which in turn have facilitated additional foster-care placements with kin.

Since 1985, the Office of Human Development Services (OHDS), incorporated now into the Administration for Children and Families, has issued three policy clarifications reminding States of their responsibility to insure children placed with relatives undergo periodic permanency planning reviews.⁶ Further, OHDS has demanded that States include records of these children in the total records available for Departmental audits of agency caseloads. This pressure by OHDS to insure that children placed with relatives are guaranteed permanency planning protections undoubtedly has resulted in reclassification of some existing informal arrangements with relatives as foster-care placements.

While mentioned less frequently, administrators stated the increased use of relatives, particularly in major urban areas, resulted from the shortage of foster family homes and the inability of State agencies to find other homes for medically fragile and drug-addicted children. A study conducted by the National Black Child Development Institute lends support to this latter perception. In that study, relatives were considered as a resource significantly more often in parental drug abuse cases than in non-drug abuse cases.⁷

► *States frequently lack formal policies for licensing or approving relative foster homes.*

Departmental regulations for Federal Financial Participation (FFP) in State foster-care maintenance payments require States to license or approve homes providing 24-hour care for children. Standards for licensing homes do exist and are used by the States. The Child Welfare League of America calls upon agencies to select foster families on the basis of "careful study and evaluation," and offers standards in eleven different areas for scrutiny.⁸ Evaluations of traditional foster family homes use detailed standards or approval guidelines specified in State policies.

This is not always the case for relative foster homes. Only 20 States license or approve as meeting licensing criteria all relative foster homes. (See Table 2 on the next page.) In 27 States some relative homes are licensed or approved, but most are subject only to review processes which may or may not be specified in policy.

TABLE 2. APPROVAL STATUS OF RELATIVE FOSTER HOMES

Practice	Number of States
License	10
Approve	10
Formal Review	2
License or Formal Review	13
Unspecified Review	3
License or Unspecified Review	13

When relative homes are licensed or approved, the evaluation is nominally based upon the same policy standards specified for all other foster homes. These standards are defined in State policies, and administrators and staff are trained and held accountable for insuring the standards are met. As with non-relative homes, the evaluation usually is conducted by staff specializing in finding, assessing, and supporting foster family homes.

The evaluations conducted on relative homes not being certified vary greatly even within the same State. Fifteen States have formal standards for reviewing homes which cannot be licensed. These formal standards may be identical to those applied to licensed homes, or may be basically similar but have various predefined exceptions or allow automatic waivers in specific areas such as space requirements or age and marital status requirements. The standards and allowable exceptions are explicit in policy, however. The remaining sixteen States, while usually requiring some assessment before placing children in the homes of relatives, do not provide detailed criteria in policy for conducting reviews. Evaluations may be as detailed as the licensing reviews conducted in the States, or be based upon protective services standards, or be based on a single visit to the homes or reports of such visits made by staff of other programs. Whether formal or unspecified, reviews of homes not preparing for licensing are rarely conducted by State foster home specialists.

► *Relative foster parents are generally held to lesser standards unless they also care for non-related foster children.*

Home Studies Vary Widely

Home studies for relative placements vary widely in terms of their formality, contents and stringency. Typically, prospective relative foster parents are held to lesser standards. Standards for less formal review processes are frequently lower than those required for licensing, and waivers are common even in the more stringent reviews. Administrators reported that home studies sought to insure the basic health and safety of children in the

care of the agencies. Procedures for insuring that homes meet these minimal standards are not clear.

Licensing or certification of foster homes is meant to insure the safety and suitability of homes to accept children. If a family's home cannot meet minimum physical and emotional standards, by policy that home cannot be licensed and consequently cannot assume the care of children for whom the State is legally responsible. In 30 States, however, children may be placed in all or some relative foster homes whether or not the homes meet minimum certification standards. If homes meet licensing criteria, these are certified; if the home cannot meet licensing criteria, the relatives are not certified, but they are permitted to assume care for related children. In some States the inability of relatives' homes to be licensed could be based upon such factors as relatives' refusal to sign agreements concerning use of corporal punishment or to submit to criminal or protective service record checks, or on the inability of homes to meet fire or water safety standards.

Waiver Standards

All the administrators stated that standards related to the health and safety of children would never be waived, although what was interpreted as a threat to children's health and safety varied widely. For instance, space considerations and sleeping arrangements were frequently waived, as were well-water tests and fire inspections. The most frequently waived licensing requirement, and usually the primary distinction between licensed and approved status, was the agency practice of dropping requirements for relatives to attend orientation and training sessions.

Reduced Monitoring and Support

Lack of approval standards is troubling because monitoring relative foster homes may be less rigorous due to their perceived stability. In only one State is the determination of stability (which must precede relaxation of social worker visits) based upon specific evaluation procedures. Evidence from studies in New York City and Baltimore is quite clear that visits between agency staff and foster families is quite infrequent when the foster parents are relatives and that provision of health and social services to the foster family is inadequate.⁹

Few of the States provided training or policy guidance to staff on issues related to contact between parents and children when the children were cared for by relatives, nor did any State have policies or official procedures guiding staff on the use of court orders to protect children if necessary. Because of the prior relationship between parents and relative foster-care providers, the access of parents to children is different from most situations in which children are placed with strangers. Intergenerational appearance of certain family issues is also a unique potential factor in such placements. Neither difference is reflected in policy or staff training in most States.

Effects of Lack of Stringency

No States had reliable data on the number of children re-abused while in foster care with relatives. Two States reported recent cases which received publicity because children were killed while in the care of relatives. But studies in New York, Maryland and Colorado indicate children placed with relatives are in placements that "are good for them" or perceived to be so by staff.¹⁰ Lack of rigorous pre-placement review coupled with infrequent monitoring of children in placements potentially exposes children to increased risk. There is no evidence, however, to allow for an evaluation of the safety and well-being of children placed with relatives.

► *Policies concerning the payment of foster-care maintenance vary widely between and within States.*

For unrelated foster parents, receipt of foster-care maintenance payments on behalf of children in State custody is automatic. In order to be foster parents, these individuals must first be licensed. Once licensed and caring for a child, foster parents receive maintenance payments based on the child's age, and may receive additional monthly sums to meet the expenses of children with special medical or emotional needs. Children ineligible for Federal funds generally are supported through State or local budgets.

For individuals who provide foster care for related children, reimbursement for children's expenses is not so automatic. As a result of the Supreme Court decision in *Miller vs. Youakim*, relatives who are licensed and caring for children who meet Title IV-E eligibility requirements cannot be denied Federally-funded, foster-care maintenance payments. As noted above, however, less than half the States license all relative foster caregivers, apparently removing many relatives from the requirements of *Miller vs. Youakim*. Further, *Miller vs. Youakim* made no findings about the use of State funds.¹¹

In most States, the minimum regulatory criterion for provision of maintenance payments is the licensing or certification status of the home. (See Table 3 below.) If the relatives

TABLE 3. CRITERIA FOR FOSTER CARE MAINTENANCE PAYMENTS TO RELATIVE FOSTER HOMES

<u>Criteria for Provision of Maintenance</u>	<u>Number of States</u>
All receive foster care maintenance	2
If licensed only	39
If licensed and child income-eligible	9
None receive foster care maintenance	1

are licensed or are officially approved as meeting licensing standards, however, they do not necessarily receive reimbursement for related foster children. Some States have prohibitions on using State funds for board payments to relatives, so only relatives caring for children who meet the Federal Title IV-E income requirements are eligible for Federal foster-care monies.

If relatives do not choose to go through the licensing process or cannot meet licensing standards, they generally are not able to receive foster-care payments. Some of these foster families may be eligible for AFDC and receive support as Grantee Relatives through this program. Others, frequently referred to as "free homes," receive no reimbursement for the care they provide.

In several States, relatives must request foster-care payments or be assessed as needing financial assistance before they can receive maintenance. Most administrators identified the "desire of relatives to be reimbursed" as a secondary determinant of whether these foster caregivers were reimbursed. Further, while State-level regulations may permit payment of foster-care benefits for eligible children in licensed relative homes, county child welfare administrators in some States have wide discretion in the reimbursement practices in their counties. Provision of maintenance payments in some locally administered programs is not automatic even if relatives meet all criteria.

Whether most States help relatives make an informed choice concerning licensing and reimbursement options is questionable. Foster-care staff encourage relatives to apply for AFDC rather than foster-care maintenance as a matter of unofficial agency policy in some States. The AFDC payments are generally considerably lower than foster-care payments. (See Appendix A for a comparison of AFDC and foster-care maintenance rates.) It is not clear in several other States whether relatives are fully apprised of their potential eligibility for higher foster-care payments. Few relative foster-care providers participate in orientation programs and even fewer are active in State Foster Care Associations. Thus, they have few ways of learning of the discrepancies between the support programs.

► *There is evidence that children placed with relatives remain the legal responsibility of the State longer than children in other alternative care arrangements.*

According to several recent studies, children placed with relatives remain the legal responsibility of the State longer than children in other alternative care arrangements.¹² While these studies did not find any conclusive reasons for these longer stays, they do point to several possible factors which contribute to this phenomenon.

Confusion over the goals for children placed with relatives results from definitional confusion. This affects both agency and related foster-parent actions in the foster-care relationship. Staff, unsure of where relatives fit in the system, do not clearly pursue permanent placements. Because they frequently do not see themselves as part of the foster-care system, relatives may pursue their own family goals regardless of agency decisions. Since relatives rarely participate in orientation and training programs, they

have little chance to understand the roles the child welfare agencies expect them to play. In addition, the very stability of these placements often works against permanency planning initiatives. One administrator explained, "These are usually the quiet placements. It is hard to convince staff to do the boat-rocking necessary to return children home, especially since the parents also are satisfied."

States frequently do not have viable paths out of foster care for children for whom continued care by the relative is the best permanent plan but for whom adoption is not a practical option. For many of these foster parents, adoption of children who already are part of their extended families flies in the face of cultural norms. When agencies and relatives agree that the best long-term plan for a child is continued care by the relative, social workers must continue to monitor the placement often on a monthly basis. In several States, "permanent foster care" is not legally recognized as a final plan for a child. Children who are understood to be in the care of a relative until adulthood in these States must continue to appear in court on a regular basis for "dispositional" hearings since, technically, the child does not have a permanent plan.

In many relative foster-care situations, assumption of legal responsibility for a child by the relative through legal arrangements such as guardianship is the most effective permanent plan for children. Except in six States, however, transfer of custody from the State to relatives results in cessation of all foster-care benefits. As discussed earlier, the wide differences in most States between foster-care maintenance payments and AFDC payments, for which the children may or may not be eligible, creates a powerful economic disincentive for relatives to take such action. This is particularly true when children have special medical or psychiatric needs.

Six States provide financial assistance to relatives assuming legal custody for children in foster care. The rationale for these States' guardianship subsidy programs is the same as that guiding the creation of the Adoption Subsidy Program, namely, that expenditures to assist families to assume legal responsibility for children in the care of the State will be amply offset by savings in foster-care maintenance and administration created by removal of children from the foster-care rolls. Such subsidies appear particularly valuable if foster children are disabled. These subsidies can provide the support necessary for relatives to assume legal responsibility for their kin and remove children from the foster-care system.

RECOMMENDATIONS

The States, universities, and family and child welfare organizations should:

► *Conduct further research concerning the use of relative caregivers within the child welfare system.*

The problem of defining the role of relative foster caregivers must be resolved if child welfare programs are to effectively tie into extended family care networks. Before either the States or the Department can attempt such a definition, more must be known about the participation of relatives in the child welfare system in general, and relative foster-care placements in particular.

Initially we would recommend studies to examine the following questions:

- What are the short- and long-term effects of relative placements on children? This should include gross measures of well-being such as absence of re-abuse or illness, as well as the effect on the outcomes of foster care for children.
- What are the advantages and disadvantages for the States, for relative caregivers, and for the children regarding the various roles relatives could have? Where State laws and policies help define and determine relatives' roles, the impact of various policies should be studied.

The Administration for Children and Families (ACF) should:

► *Encourage States to extend existing foster home standards to relative foster homes or to develop reasonable and consistent standards for using and evaluating relative foster-care homes that are not licensed or approved.*

It makes little sense for State agencies to remove children from the homes of their parents because the home situations are not assessed as safe only to place them in situations that have not been thoroughly investigated and found to be safe. States may adopt special standards for relatives' homes that recognize the unique contribution of continued extended family ties, but children placed with relatives are the legal responsibility of the State agencies, and like all other children in foster care, clearly should be offered a basic level of protection. The current lack of standards for approving and monitoring relative foster homes creates great potential for harm to children.

While ACF may not have clear regulatory authority to require States to insure the safety and suitability of unlicensed (and therefore not Federally funded) relative homes, we

strongly urge that ACF take an active role in encouraging States to protect these children adequately.

► *Encourage States to develop consistent, straightforward policies for informing licensed or approved relatives of their eligibility for financial reimbursement.*

ACF should encourage States to develop clear criteria for providing foster-care maintenance payments to relatives who provide foster care. All parts of State agencies must then be held accountable for insuring that all foster parents are aware of the benefits due them, and are offered such benefits as a matter of routine placement procedures.

► *Assist States to accomplish the two prior recommendations through research, consultation and technical assistance.*

States must begin to establish clear and consistent policies and standards for using and supporting relative foster-care placements. ACF should participate actively in this development effort by collecting, maintaining, and disseminating materials to assist States in their efforts.

ACF must first develop its own explicit policy concerning relative placements through the research agenda proposed above and through its continued participation in national deliberations on the topic. ACF should continue to encourage national organizations to address this topic. Based upon the research and national discussions, ACF can be in a position to encourage States in the development of quality assurance standards for these foster homes and of consistent requirements for relative foster-home support.

One specific area in which there seems to be a role for ACF is in the development of training packages that address the needs of relative foster parents. Relative foster-care parents are invited to attend foster-parent orientation and training in most States. As State administrators reported, most relatives regard these sessions as irrelevant to the role they have been asked to perform. It is clear from States' current experiences that revised programs, specifically for relative caregivers, are needed if agencies are to secure their participation. ACF should assist States and national organizations in this curriculum development effort.

► *Study the potential costs and benefits of providing subsidies to relatives who assume guardianship for special-needs children in their care.*

Guardianship subsidies appear to benefit those extended families willing to assume permanent responsibility for children, but who require financial support because of the special medical needs of these children. The same cost-benefit arguments applying to adoption subsidies such as those offered through the Adoption Assistance and Child Welfare Act of 1980 might also apply here. Namely, the increased costs of subsidies are amply offset by the long-term savings in foster-care costs.

DEPARTMENTAL COMMENTS

We received comments from the Administration for Children and Families (ACF), the Assistant Secretary for Planning and Evaluation (ASPE), and the Assistant Secretary for Management and Budget (ASMB). Respondents were generally supportive of our findings, but the ACF and the ASMB expressed doubts about the ACF's authority to intervene in the States' application of standards or provision of foster care maintenance payments when foster care placements are not supported through Federal funds. We have amended the recommendations to meet these concerns by calling on ACF to "encourage" rather than "require" appropriate State actions. We have made other changes in the recommendations to make the intent of the recommendations clearer. Please refer to Appendix C, "OIG Response to Departmental Comments," and to Appendix D for the full text of all departmental comments.

We are appreciative of comments received from staff of the Child Welfare League of America and the American Public Welfare Association.

ENDNOTES

1. U.S. Bureau of the Census, Census Projections Report: Living Arrangements of Adults and Children, Washington, DC: U.S. Department of Commerce, p. 1, 1985.

The data are based on samples from the 1980 U.S. Census projected to 1985. The 1990 U.S. Census data concerning the Living Arrangements of Children will not be available until 1992. Data from the 1980 projections should be used cautiously when considering children in foster care with relatives since there is some evidence, as presented in this report, of changing trends in this area of practice over the last decade.

2. Lewis, Robert, and Mark Fraser, "Blending Formal and Informal Networks in Foster Care," Children and Youth Services Review, vol. 9, pp. 153-169, 1987.
3. A recent study of seven urban sites found that from 20 to 40% of all HIV-infected children are placed with extended family members. (Lela Baughman, Cynthia Holmes-Morgan, Stephen Margolis, and Martin Kotler, Infants and Children with HIV Infection in Foster Care, Washington, DC: Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, September 1989.)

An OEI inspection of programs serving crack babies found similar trends in urban areas for this population of foster children (Office of Evaluation and Inspections, Office of Inspector General, Crack Babies, Washington, DC: U.S. Department of Health and Human Services, April 1990.)

4. National Commission on Family Foster Care, A Blueprint for Fostering Infants, Children, and Youth in the 1990's, Washington, DC: Child Welfare League of America, unpublished draft, March, 1991, pp. 75-82.
5. Although neither Adoption Assistance and Child Welfare Act of 1980 nor Departmental regulations state a preference for relative placements, State agency personnel often stated they believed a preference to exist. State policies frequently describe a preference for relative placements. Administrators usually connected such policies to requirements in Federal regulations.
6. ACYF Information Memorandum, ACYF-IM-91-11; Policy Information Question, PIQ-82-12; and PIQ-85-06.
7. Walker, Clarice, Patricia Zangrillo and Jacqueline Smith, Parental Drug Abuse and African American Children in Foster Care, Washington, DC: National Black Child Development Institute, pp. 27-28, February 1991.

8. Child Welfare League of America, Standards for Foster Family Service (revised), Washington, DC: Child Welfare League of America, 1975.
9. New York Task Force on Permanency Planning for Children, Kinship Foster Care: The Double-Edged Dilemma (unpublished report), Rochester, New York, pp. 10, 12, October 1990.

Dubowitz, Howard, M.D. The Physical and Mental Health and Educational Status of Children Placed with Relatives (unpublished report), Baltimore, Maryland: School of Medicine, University of Maryland at Baltimore, pp. 106-109, August 24, 1990.
10. New York Task Force on Permanency Planning for Children, op.cit., p. 9.

Schatz, Mona, "Relative Foster Care: What Do We Know?" Fostering Families (unpublished report), University of Colorado School of Social Work, Boulder, Colorado, p. 2, December 1990.
11. Litigation in Federal District Courts in Oregon (*Lipscomb v. Simmons*) and California (*City of San Francisco v. McMahon*) seeks to place such requirements on the States.
12. See, e.g., Benedict, Mary and Roger White, "Factors Associated with Foster Care Length of Stay," Child Welfare, vol. 70, p. 55, January-February 1991; and, Goerge, Robert, "The Reunification Process in Substitute Care," Social Service Review, vol. 37, p. 436, September 1990.

APPENDIX A

AFDC AND FOSTER-CARE MAINTENANCE RATES

APPENDIX A: AFDC AND FOSTER CARE MAINTENANCE RATES

States	AFDC Payment ¹	Foster Care Maintenance (FCM) ² For Children Aged:			Average FCM Payment All Ages	\$ Diff. [FCM - AFDC]	% Diff. [(FCM - AFDC) ÷ AFDC] x 100]
		2 years	8 years	13 years			
AL	\$ 59.00	\$181.00	\$202.00	\$213.00	\$198.67	\$139.67	236.72%
AK	273.07	519.00	574.00	635.00	576.00	302.93	110.93
AR	81.00	195.00	210.00	240.00	215.00	134.00	165.43
AZ	161.11	240.00	240.00	299.00	259.67	98.56	61.17
CA	317.52	294.00	340.00	412.00	348.67	31.15	9.81
CO	125.59	284.00	284.00	338.00	302.00	176.41	140.47
CT	333.39	319.00	355.00	407.00	360.33	26.94	8.08
DE	169.00	284.00	286.00	369.00	313.00	144.00	85.21
DC	240.13	307.00	307.00	321.00	311.67	71.54	29.79
FL	153.82	286.00	286.00	360.00	310.67	156.85	101.97
GA	145.42	300.00	300.00	300.00	300.00	154.58	106.30
HI	315.52	504.00	504.00	504.00	504.00	188.48	59.74
ID	136.56	208.00	230.00	308.00	248.67	112.11	82.09
IL	98.38	257.00	286.00	311.00	284.67	186.29	189.35
IN	139.54	268.00	312.00	369.00	316.33	176.79	126.70
IA	166.73	177.00	222.00	279.00	226.00	59.27	35.55
KS	166.67	205.00	277.00	351.00	277.67	111.00	66.60
KY	147.38	250.00	266.00	304.00	273.33	125.95	85.46
LA	67.06	234.00	267.00	300.00	267.00	199.94	298.15
ME	159.43	269.00	276.00	321.00	288.67	129.24	81.06
MD	165.54	460.00	460.00	477.00	465.67	300.13	181.30
MA	385.32	410.00	410.00	436.00	418.67	33.35	8.65
MI	184.89	347.00	347.00	433.00	375.67	190.78	103.18
MN	276.19	308.00	308.00	399.00	338.33	62.14	22.50
MS	218.96	145.00	165.00	175.00	161.67	-57.29	-26.17

MO	131.70	182.00	222.00	244.00	216.00	84.30	64.01
MT	74.00	288.00	288.00	361.00	312.33	238.33	322.07
NE	220.34	222.00	222.00	222.00	222.00	1.66	0.75
NV	207.44	281.00	281.00	337.00	299.67	92.23	44.46
NH	309.80	200.00	251.00	354.00	268.33	-41.47	-13.38
NJ	168.18	213.00	226.00	266.00	235.00	66.82	39.73
NM	143.41	258.00	270.00	281.00	269.67	126.26	88.04
NY	287.42	339.00	407.00	471.00	405.67	118.25	41.14
NC	304.56	215.00	215.00	215.00	215.00	-89.56	-29.41
ND	100.00	250.00	300.00	400.00	316.67	216.67	216.67
OH	181.06	237.00	246.00	290.00	257.67	76.61	42.31
OK	110.93	300.00	360.00	420.00	360.00	249.07	224.53
OR	169.28	212.00	248.00	335.00	265.00	95.72	56.55
PA	195.85	291.00	323.00	354.00	322.67	126.82	64.75
RI	294.00	232.00	232.00	284.00	249.33	-44.67	-15.19
SC	231.83	182.00	209.00	275.00	222.00	-9.83	-4.24
SD	172.33	220.00	270.00	325.00	271.67	99.34	57.64
TN	177.52	213.00	213.00	250.00	225.33	47.81	26.93
TX	63.00	390.00	390.00	390.00	390.00	327.00	519.05
UT	223.72	240.00	240.00	240.00	240.00	16.28	7.28
VT	267.94	353.00	353.00	426.00	377.33	109.39	40.83
VA	160.85	228.00	267.00	337.00	277.33	116.48	72.42
WA	306.64	215.00	265.00	313.00	264.33	-42.31	-13.80
WV	135.94	161.00	202.00	242.00	201.67	65.73	48.35
WI	245.30	163.00	224.00	284.00	223.67	-21.63	-8.82
WY	188.33	300.00	300.00	330.00	310.00	121.67	64.60
AVERAGE	\$191.34	\$267.37	\$288.98	\$335.43	\$297.26	\$105.92	55.35%

1. Family Support Administration, Characteristics and Financial Circumstances of AFDC Recipients, FY 1989, Washington, DC: U.S. Department of Health and Human Services, p. 70, 1990.
2. Miller, Jennifer, Annelise Goldstein, and Theresa Finchio, "Foster Care Rates," Washington Memo, vol. 3, p. 8, November 1991.

APPENDIX B

BIBLIOGRAPHY

APPENDIX B - BIBLIOGRAPHY

Baughman, Lela, Cynthia Holmes-Morgan, Stephen Margolis, and Martin Kotler, *Infants and Children with HIV Infection in Foster Care*, Washington, DC: Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, September 1989.

Benedict, Mary and Roger White, "Factors Associated with Foster Care Length of Stay," *Child Welfare* 70:45-58, January-February 1991.

Child Welfare League of America, *Standards for Foster Family Care*, Washington, DC: Child Welfare League of America, 1975.

Dubowitz, Howard, M.D., *The Physical and Mental Health and Educational Status of Children Placed with Relatives* (unpublished), Baltimore, Maryland: School of Medicine, University of Maryland at Baltimore, August 1990.

Goerge, Robert, "The Reunification Process in Substitute Care," *Social Service Review* 37:422-57, September 1990.

Katz, Linda, and Chris Robinson, "Foster Care Drift: A Risk-Assessment Matrix," *Child Welfare* 70:347-57, May-June 1991.

Lewis, Robert, "The Use of Specific Foster Homes in the Substitute Care Program" (unpublished report), submitted to the Utah Department of Social Services, January 1986.

Lewis, Robert, and Mark Fraser, "Blending Formal and Informal Networks in Foster Care," *Children and Youth Services Review* 9:153-69, 1987.

Longino, Miriam, "Kinship Care: Keeping It in the Family," *The Connection* 6:1,4-6, Spring 1991.

National Commission on Family Foster Care, *A Blueprint for Fostering Infants, Children and Youth in the 1990's* (unpublished), Washington, DC, March 1991.

Office of Evaluation and Inspections/Office of Inspector General, *Crack Babies*, Washington, DC: Department of Health and Human Services, April 1990.

Schatz, Mona, "Relative Foster Care: What Do We Know?" *Fostering Families* (unpublished report), University of Colorado School of Social Work, Boulder, Colorado, December 1990.

Task Force on Permanency Planning, *Kinship Care: The Double-Edged Dilemma* (unpublished), Rochester, New York, October 1990.

Thorton, J. L., *An Investigation into the Nature of Kinship Foster Home* (doctoral dissertation), Yeshiva University, New York, 1987.

Walker, Clarice, Patricia Zangrillo and Jacqueline Smith, *Parental Drug Abuse and African American Children in Foster Care*, Washington, DC: National Black Child Development Institute, February 1991.

Whittaker, James K., "Formal and Informal Helping in Child Welfare Services: Implications for Management and Practice," *Child Welfare* 65:17-25, January-February 1986.

APPENDIX C

OIG RESPONSE TO DEPARTMENT COMMENTS

APPENDIX C - OIG RESPONSE TO DEPARTMENT COMMENTS

We received comments from the Assistant Secretary for Planning and Evaluation, the Assistant Secretary for Management and Budget, and the Assistant Secretary for Children and Families. Please see APPENDIX D for full texts.

Assistant Secretary for Planning and Evaluation

The ASPE concurred with the findings and recommendations of the report. They urged more specificity in some of the research recommendations.

We have added some additional detail to the "Issues for Further Research."

Assistant Secretary for Management and Budget

The ASMB concurred with the findings of the report and strongly supported the report's recommendations concerning ACF's role in providing technical assistance to the States in their policy development efforts.

The ASMB voiced strong concerns, however, about the recommendation that ACF require States to develop reasonable and consistent policies concerning the use, evaluation, and support of relative foster care homes. The ASMB does "not believe the Department is, or should be, in a position to require States to develop policies regarding relative placements...."

We have made several changes in our initial recommendation to address the concerns expressed by the ASMB and ACF. First, we recognize that ACF may not have the authority to require application of standards to children whose care is not reimbursed through use of Federal funds, so we have recommended that ACF encourage the application of standards.

Second, our intention in the recommendation was not to encourage separate treatment of relative foster-care homes, and we have rewritten the recommendation to make our position clearer. We have not defined specific standards for approving relatives, or even called for separate standards for these homes. These decisions should come from the research efforts suggested, the standard review work of national organizations, and the deliberations of State administrators. Our inclusion in the recommendation of a statement that States might develop new standards for these foster care situations was meant to recognize that States may need some flexibility in this area, not to imply a requirement for

separate status for these children. Certainly our recommendations make no suggestion for ACF to mandate or even promulgate any specific Federal standards in this area.

The recommendations do not, as implied in the ASMB's comments, create a new class of potential IV-E recipients. Legislation, as interpreted by the Supreme Court in Miller v. Youakim, requires States to make available federally-reimbursed foster-care maintenance payments to relative foster-care providers if they are licensed and the child meets the eligibility requirements for foster care payments under Title IV-E of the Social Security Act. While State policies adhere to this requirement, several States allow or encourage the use of additional limitations in practice (i.e., encouraging staff to conduct needs assessments or to await a request from relative foster-care providers before initiating foster care payments). Our concern is that those relatives who are eligible for financial assistance should be made aware of the availability and requirements of such support. We have clarified this point in the recommendations.

The ASMB urged that once basic research efforts have been completed, the Department should establish a public position on relative foster care as a precursor to its efforts to assist the States in their policy development efforts.

We agree. We believe that ACF should lead the Department in developing an internal policy on this issue. We have added language to the recommendation to support this effort.

Assistant Secretary for Children and Families

ACF expressed several concerns about the recommendations of the report.

They did not concur with the first recommendation that ACF should require States to develop reasonable and consistent standards for evaluating and reimbursing relative foster care homes. Specifically, the ACF

- expressed confusion over the recommendation's call for standards;

Our recommendation speaks only to the issue of health and safety standards, not to permanency planning review requirements.

- shared the ASMB's concern that the report called for a mandate from ACF for States to develop separate standards for relative foster care homes or to incorporate any Federally-defined standards;

We reiterate our response to the ASMB (as above). A requirement for ACF to mandate separate standards or to define specific standards was not our intention. As ACF points out, Section 471 (a) (10-11) requires that ACF review State standards for evaluating the

safety of foster home placements eligible for Federal Financial Participation. Despite current discussions, children in the legal custody of State child welfare agencies who are placed with relatives are "in foster care," and States should be accountable for their care and protection. Therefore, States should be encouraged to accord them the protections available to all children in foster care.

- maintained that they have no legislative authority to require States to develop standards for non-IV-E children in the care of relatives;

We have changed the language of the recommendation, and call for ACF to encourage extension of existing standards or development of reasonable and consistent standards for relative foster homes in order to protect the health and safety of children in the custody of State child welfare agencies.

- asked for clarification concerning the recommendation for exploration of a program of guardianship subsidies for special needs children.

We have rewritten the recommendation.

Finally, the ACF agreed with the recommendation that ACF assist States in their policy development efforts.

APPENDIX D

FULL TEXTS OF DEPARTMENT COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

JAN 28 1992

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

TO: Richard P. Kusserow
Inspector General

FROM: Jo Anne B. Barnhart
Assistant Secretary
for Children and Families

SUBJECT: Comments on the Office of Inspector General Draft
Report: "Issues in Relative Foster Care,"
OEI-06-90-02390

Included below are the Administration for Children and Families' (ACF) comments on the Office of the Inspector General (OIG) draft inspection report entitled: "Issues in Relative Foster Care."

OIG RECOMMENDATION

The Administration for Children and Families should require States, as a condition of participation in the Federal foster care program, to:

Develop and enforce reasonable and consistent standards for using and evaluating relative foster care homes.

Develop consistent, straightforward policies for providing financial reimbursement for relatives.

COMMENTS

The first part of this recommendation can be understood in two ways: as applying to the health and safety requirements for licensing/approving a foster home; and as pertaining to the various foster care protections required under section 427 of the Social Security Act.

1. Regarding health and safety requirements for licensing/approving relative homes as foster family homes:

Section 471(a)(10-11) provides for the establishment and periodic review of standards related to "...admission policies, safety, sanitation and protection of civil rights...." Such standards are to be "reasonably in accord" with the standards established by national organizations concerned with such standards.

At this time national organizations have not established standards specific to relative homes, although many States use their regular foster home licensing requirements while also granting some waivers for relative placements. Some States have established working criteria for the approval rather than the licensure of such homes as foster care homes. The main difference seems to be that standards for relative homes are generally more flexible provided that the health and safety of the child is not jeopardized. Because no national standards have been set for relatives' homes, neither the State nor the Federal government in the course of approving State plans has any criteria against which to judge proposed State standards. It is not legislatively permissible for the Federal government to establish standards since section 471(a)(10) specifically indicates to which standards the States must conform.

In addition, such a requirement would only be applicable to title IV-E children and not to the other 55 per cent of the children in relative foster care not covered by title IV-E. To cover non-title IV-E children, a legislative amendment to title IV-B, would be needed.

The ACF, does agree, however, that States should adopt standards for using relative homes that recognize the unique benefits of continued, extended family ties while continuing to protect the health and safety of children in these homes.

2. Regarding standards for the application of foster care safeguards and protections for children placed in the homes of relatives:

We believe this aspect of foster care to be at least as important as the conditions or standards that are required of the homes of relatives who provide care. The protections required in section 427 are the primary tools we have to hold States accountable for providing ongoing services that all children in foster care need. The Department has always taken a firm and unambiguous position that any child who is under the care and responsibility of the State agency and who is in substitute care must have the safeguards and protections specified under section 427 of the Social Security Act. This includes children placed with relatives, regardless of whether the home is licensed/approved and whether a payment is being made or what the source of the payment is. This is a condition of funding under title IV-B. Accordingly, we feel that in this regard the OIG recommendation is already being met.

3. Regarding the development of consistent, straightforward policies for providing financial reimbursement for relatives:

In Youakim vs. Miller, the Supreme Court ruled that relatives who are serving as foster parents, licensed/approved by the State for Federal reimbursement under the State foster care program, must be paid according to the same rate structure as other foster family homes.

In many States, caretaker relatives receive AFDC payments for children, usually considerably less than foster care payments. In some instances, reimbursement is provided; in others, no reimbursement is given. In both these instances, the homes normally are not licensed or approved by the State agency as meeting the established foster care home standards.

We agree that States should have clear, consistent policies for providing foster care maintenance payments to relatives who provide foster care and that all such foster parents should be informed of the benefits they qualify for, and offered such benefits as a part of routine placement procedures. To make such a requirement a condition for funding under title IV-E, however, would be impractical since the Supreme Court decision already requires it for title IV-E eligible children. For those children who are in unlicensed or unapproved relative homes, no title IV-E claim is made and therefore, the requirement based on "a condition of funding" would have no effect.

To make it a requirement under title IV-B might be more effective and would cover all the children involved, however, it would be very difficult to enforce and would have to be legislatively mandated.

Thus, regarding the recommendation for licensure/approval standards as a condition of funding for the States, we do not concur with the recommendation.

Through program instructions and guidance issued to State agencies and by working with them in the required joint development of title IV-B State plans, the ACF will support and encourage States to adopt appropriate procedures and practices. We can also encourage national organizations to address the issue of relative foster care and take the lead in developing standards which the States may then use or adapt as appropriate.

OIG RECOMMENDATION

Assist States to accomplish the above through research, consultation and technical assistance.

COMMENT

We concur with the recommendation that policies, standards, orientation and training materials for relative foster homes should be supported through study, consultation and technical assistance. The ACF has begun consideration of issues related to relative foster care. The OIG findings and observations will provide a very useful base for developing ACF initiatives.

OIG RECOMMENDATION

Study the potential costs and benefits of extending subsidies, such as those offered through the Adoption Assistance and Child Welfare Act of 1980, to relatives who assume guardianship for special-needs children in their care.

COMMENT

We cannot concur with the recommendation for a study of the benefits of subsidies for relative foster care placements because we do not understand the recommendation. Use of the term "special needs children" suggests that eligibility be limited to children who meet the criteria of the adoption assistance program. However, the brief explanation of the recommendation refers to families who require a higher level of support than that available under AFDC. We suggest that you clarify the OIG intent. At that point, we will be pleased to consider the recommendation once again and provide further comments.

ISSUES FOR FURTHER RESEARCH

The ACF is interested in gaining additional information about relative foster care placements and has already included a study of outcomes for relative foster care in our fiscal year 1992 Evaluation Plan.

Thank you for the opportunity to comment on this draft report.



TO: Richard P. Kusserow
Inspector General

FROM: Assistant Secretary for
Planning and Evaluation

SUBJECT: Comments on OIG Draft Report: "Issues in Relative Foster Care," OEI-06-90-02390

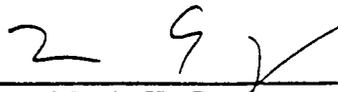
Per your request I have reviewed your draft inspection report entitled "Issues in Relative Foster Care." In general I found it a very helpful report detailing important policy and programmatic issues in an area of growing concern. I do have several relatively minor comments as outlined below.

On page 7 the report cites a study conducted by the National Association of Black Social Workers. First, the report being referred to was conducted by the National Black Child Development Institute (NBCDI), under contract to ASPE and not by the National Association of Black Social Workers. In addition, the paragraph strongly implies that this was a study of medically fragile children. This is not the case. Data about child health was not discussed in the NBCDI report, and, in fact, only a very few of the children in either the parental drug abuse or non-drug abuse groups had substantial health problems. The study therefore does not support the hypothesis for which your report uses it, namely that relatives are being used more often to care for medically fragile children.

The fourth paragraph on page 9 could use clarification. First, it might be more clear to emphasize the tension between potential benefits of increased reliance on extended family networks and resources, on the one hand, and potential dangers of increased parental access to children and intergenerational family dysfunction on the other. In addition, I would suggest either specifying some examples of the "certain family issues" about which there should be concern or else broadening it to a more general statement of intergenerational family dysfunction.

Regarding the first of the issues suggested for further research on page 14, I note that a study to determine the effects of relative placements on children will be quite difficult to design and conduct. Because ACYF has such a study planned, additional detail in this recommendation would be useful

Finally, a very recent article in Child Welfare may be of particular interest to the authors of your report and probably did not appear until after information collection for your evaluation was complete. Entitled "Permanency Planning for Children in Kinship Foster Homes," I attach it for you information.



Martin H. Gerry

Attachment



NOV 22 1991

MEMORANDUM TO RICHARD P. KUSSEROW
Inspector General

FROM:

AK

Kevin E. Moley *Elizabeth M. James*
Assistant Secretary for Management and Budget

SUBJECT: ASMB Comments on the OIG Draft Report: "Issues in
Relative Foster Care"

Thank you for sharing the draft report and affording us the opportunity to provide comments. Overall, the report is an excellent summary and discussion of the important policy issues in the emerging area of relative foster care, and it will be a useful resource document within and outside the Department.

We are concerned, however, about the tone of the report's first two recommendations for ACF to "require States, as a condition of participation in the Federal foster care program to:

- o Develop and enforce reasonable and consistent standards for using and evaluating relative foster care homes.
- o Develop consistent, straightforward policies for providing financial reimbursement for relatives."

We agree that the varying and inconsistent practices highlighted by the report indicate that States need to examine closely their policies in this area. However, we do not believe the Department is, or should be, in a position to require States to develop policies regarding relative placements as a condition of participation in the federal foster care program. Our reasons are three:

- o Although we would certainly defer to the opinion of the General Counsel, it appears that the legal authority for ACF to require States, as a condition of participation in the federal foster care program, to develop and enforce policies in the areas of standards and payments for relative foster homes, is questionable. The statute requires certain policies and procedures be in place for all children in substitute care in the custody of the State agency. There is no explicit authority for the Department to require a separate set of policies for children in relative care, and trying to require this may place us in a dubious position legally.

- o The Department already has a clear policy on eligibility for Federal Financial Participation and minimum protections for all children in foster care, which includes children in relative placements. Beyond these provisions, setting standards for and regulating foster care has always been left to the States. The Administration has been very clear in its opposition to requiring standards, or even in allowing States to impose standards, in the child care arena--one group of child care providers we did not want to eliminate were relatives who may not meet State health and safety requirements. Likewise, we would probably not support, and certainly do not want to require, State efforts that may have the effect of eliminating some relatives as substitute care providers.
- o Finally, requiring certain policies for relative care, especially in the area of payments, may result in even more "formalization" of placements and in increased claims for reimbursement under the Title IV-E program.

We would be more comfortable with the report's recommendations if they encouraged States to develop policies in these areas, as opposed to "required."

The report's third recommendation--that ACF should assist States in developing clear policies on relative care through research, consultation and technical assistance--is one that we strongly support. However, given the Department has not yet developed clear policies concerning the many and complex issues raised in your report, we believe there needs to be an interim step. The Department, through the leadership of ACF, should first establish positions on such issues as:

- o What constitutes relative care?
- o Should the Department encourage the use of relatives as foster care providers; should they be licensed the same as other foster family homes?
- o Should the Department dissuade States from retaining legal custody, encouraging instead that relatives take legal responsibility for these children?
- o What are the appropriate mechanisms and levels of payment for relative caregivers?

We believe that a recommendation for ACF to develop policies in these areas would then allow for the federal leadership called for in your third recommendation.