

State of Hawaii Sued for Short-Changing Foster Parents and Children

A federal class-action lawsuit challenges the state's persistent refusal to cover the real costs of caring for some of Hawaii's most disadvantaged and troubled children

HONOLULU - A class-action lawsuit was filed today against the state of Hawai'i for violating federal law by failing to pay foster parents enough to adequately care for the foster children in their homes. Long-time foster parent Raynette Nalani Ah Chong filed the suit on behalf of all foster parents in the state who have been short-changed because the state has failed to increase the payments since 1990. The federal Child Welfare Act requires that reimbursements cover the expenses of children in foster care, but the \$529 per month payment — set by the state more than 20 years ago — does not come close. Had the payment been adjusted for inflation, it would be over \$950.

The interests of the roughly 1000 foster parents in Hawai'i are being represented by the non-profit Hawai'i Appleseed Center for Law and Economic Justice, local law firm Alston Hunt Floyd & Ing, and global law firm Morrison & Foerster LLP.

Requests to raise the inadequate foster care payments have been under consideration by the Hawai'i Legislature since 2009. The Hawai'i Department of Human Services (DHS) — the state agency responsible for the foster care program — has repeatedly opposed an increase, claiming that it would cost too much. "It costs too much to *not* increase the payment," says Hawai'i Appleseed Executive Director Victor Geminiani. "Foster children are suffering because the state is not providing sufficient support. The consequences can last a lifetime in terms of the children's broken lives and the expensive state services required to support them down the road."

'THEIR NEEDS GET PUSHED ASIDE'

Ms. Ah Chong and her family have cared for more than 100 foster children during the nearly 20 years they have been involved in the program. To try to make ends meet, she always clips coupons, visiting as many as four different grocery stores in one day in an effort to afford the quality meals the children need to thrive. But it is impossible to adequately provide for the children using only the \$529 provided by the state. "Foster children are one of the most vulnerable groups out there, and it has been terribly frustrating to see their needs get pushed aside year after year," said Ms. Ah Chong. "Most foster parents truly care about the children that come to their homes, and it is painful to have so few resources to help them."

The DHS expects foster parents to cover, at a minimum, the following expenses on about \$17 per day:

- Food
- Shelter and utilities
- Use of household furnishings and supplies
- Expenses involved in household operations
- Personal essentials, such as but not limited to toothpaste, soap, comb, haircuts, sanitary supplies, replacement of milk bottles and nipples, disposable diapers
- Reading and educational supplies, including school supplies
- Recreation and community activities for the children, such as but not limited to parties, picnics, church money, movies, and excursions
- Transportation expenses for the foster parent to shop for the foster child or deliver the child to school events, church or other recreational activities;
- Non-prescribed medication such as aspirin and cough syrup or first-aid materials such as bandages
- Allowances
- Babysitting expense incurred by foster parents for their own recreational purposes

- Other requirements for infant care, including such “basic sub-items” as vitamins generally recommended by doctors for children up to five years of age.

A study published six years ago, *Hitting the M.A.R.C.: Establishing Foster Care Minimum Adequate Rates for Children*¹, found that as long ago as 2007, Hawai‘i’s board reimbursement rate for teenagers was 49% below what would be required to adequately cover “the real costs of providing care for children.” Even though Hawaii has the highest cost of living in the country,² it is one of the stingiest in terms of taking care of foster children. For example, Kentucky, ranked the 3rd least expensive place to live, provided foster families over \$200 more a month than Hawaii, according to a 2012 report by the Child Trends Organization.³ Tennessee, which ranks as the 2nd least expensive place to live, provides foster families with almost \$300 more a month.

STATE HAS OBLIGATION TO HELP

The state must significantly increase the payments to comply with the law. “DHS seems to think it has a choice about whether to increase the payments,” said attorney Paul Alston. “It doesn’t. The payment hasn’t been adjusted for nearly a quarter century. An increase is long overdue.”

Legal precedent favors the foster parents. Just two years ago, foster parents in California won a major victory in federal court on the same issue, forcing the state of California to substantially increase its reimbursement rates. That case, *California State Foster Parent Association v. Wagner*, was appealed to the U.S. Court of Appeals for the Ninth Circuit, which found for the foster parents. The law firm that advocated for those parents, Morrison Foerster, will serve as co-counsel for Hawai‘i’s foster parents.

“It was disheartening to hear that this problem exists in Hawai‘i,” said attorney A.C. Johnston. “It costs more to kennel a dog than DHS provides to care for foster children. These children deserve better.”

For a copy of the complaint and more information about the lawsuit and the issue of foster care support payments, go to <http://www.hiappleseed.org/foster-care-payments>. **A press conference will be held at 10:00 A.M. on Tuesday, December 3, 2013 at the offices of Alston Hunt Floyd & Ing, 1001 Bishop Street, Ste. 1800, Honolulu, HI 96813. Ms. Ah Chong will be available to answer questions about her experience as a foster parent, and one of her attorneys will be available to discuss the case.**

MEDIA CONTACT INFORMATION

The Hawai‘i Appleseed Center for Law and Economic Justice (hiappleseed.org) advocates on behalf of low-income people in Hawai‘i to help them gain access to the resources, services, and fair treatment that they need to realize their opportunities for self-achievement and economic security. For additional information, contact **Victor Geminiani by email at victor@hiappleseed.org or by phone at (808) 227-3845.**

Alston Hunt Floyd & Ing was founded in 1991, under the core principle of making the law and Hawai‘i better for all, with high-quality, fast, cost-effective service. For additional information, contact **Paul Alston by email at PALston@ahfi.com or by phone at (808) 524-1800.**

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¹ www.childrensrights.org/policy-projects/foster-care/hitting-the-marc-foster-care-reimbursement-rates/foster-care-rates-by-state/

² www.cnbc.com/id/100824779

³ childtrends.org/wp-content/uploads/2013/04/Foster-Care-Payment-Rate-Report.pdf