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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK
SHEEHEY, RAYNETTE AH CHONG,
individually and on behalf of the class
of licensed foster care providers residing
in the state of Hawai'i;

Plaintiffs,

vs.

RACHAEL WONG, in her official
capacity as the Director of the Hawai'i
Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC

**MOTION FOR CLASS
CERTIFICATION;**
MEMORANDUM IN SUPPORT OF
MOTION; DECLARATION OF
RAYNETTE NALANI AH CHONG;
DECLARATION OF PATRICIA
SHEEHEY; DECLARATION OF
CLAIRE WONG BLACK; EXHIBITS
“1” – “8”; CERTIFICATE OF
SERVICE

MOTION FOR CLASS CERTIFICATION

Plaintiffs Patricia Sheehey, Patrick Sheehey, and Raynette Ah Chong (“Plaintiffs”), hereby move for an Order certifying a class of all parents providing care to children in Hawai'i and eligible to receive support payments pursuant to the Child Welfare Act (“CWA”) that are fully or partially funded by the federal government and that are based on—and capped by—the foster care maintenance rates set by the Hawai'i Department of Human Services (collectively, the “Class”).

The issues to be decided in this Motion are:

1. Whether the Court should certify under Rule 23 of the Federal Rules of Civil Procedure the proposed Class defined above;

2. Whether the Court should appoint Plaintiffs as Class representatives; and
3. Whether the Court should appoint Plaintiffs' counsel as Class counsel.

Plaintiffs allege that class members are all similarly injured because the foster care maintenance rates set by the Hawai'i Department of Human Services ("HDHS") are not properly set in compliance with federal law. The Class is comprised of the following subclasses:

Foster Care Payment Subclass: all licensed foster care providers in Hawai'i who shelter foster children and are entitled to receive foster care maintenance payments pursuant to the CWA (collectively, the "Foster Care Subclass").

Adoption Assistance Payment Subclass: all adoptive parents in Hawai'i who are providing care to children with special needs and are entitled to receive adoption assistance payments pursuant to the CWA (collectively, the Adoption Assistance Subclass").

Plaintiffs bring this Motion under Federal Rule of Civil Procedure 23 on the grounds that the class is sufficiently numerous to make joinder impractical, there are questions of law and fact common to the class, Plaintiffs' claims are typical of the claims of other class members, and Plaintiffs will fairly and adequately protect the interests of the class.

This Motion is based on this Motion, the attached Memorandum in Support of Motion, the declarations of Patricia Sheehey, Raynette Nalani Ah Chong, and

Claire Wong Black and exhibits submitted in support, and the records and files herein.

Dated: April 23, 2015

Respectfully submitted,

By: /s/ Claire Wong Black
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GAVIN THORNTON
PAUL ALSTON
J. BLAINE ROGERS
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Attorneys for Plaintiffs

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**MEMORANDUM IN SUPPORT
OF MOTION**

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MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

This is a class action for declaratory and injunctive relief brought by Patricia Sheehey, Patrick Sheehey (the “Sheeheys”), and Raynette Nalani Ah Chong individually and on behalf of parents providing care to children in Hawai‘i and receiving inadequate support payments in violation of Title IV-E of the Child Welfare Act (“CWA”). Plaintiffs’ First Amended Complaint (“FAC”) alleges that Defendant fails to comply with the CWA by providing inadequate foster care maintenance payments and adoption assistance payments. Plaintiffs seek certification of two subclasses. The first subclass consists of Hawai‘i-licensed foster care providers who are entitled to receive foster care maintenance payments pursuant to the CWA. The second subclass consists of adoptive parents in Hawai‘i who are entitled to receive adoption assistance payments pursuant to the CWA. The Sheeheys and Ms. Ah Chong represent both subclasses. Because the Sheeheys and Ms. Ah Chong are members of an identifiable class and subclasses and the requirements for Federal Rules of Civil Procedures 23(a) and 23(b)(1) and (b)(2) are met, the Court should grant Plaintiffs’ motion for class certification.

II. FACTUAL BACKGROUND

A. The Child Welfare Act

Congress enacted the Child Welfare Act, Title IV-E of the Social Security Act, 42 U.S.C. §§ 670-679(b), in 1980 to assist states in providing appropriate

foster care for children removed from the custody of their parents or guardians. 42 U.S.C. § 670. Under the CWA, the federal government and state and county governments share the cost of supporting licensed third parties (*e.g.*, foster and adoptive parents) who care for these children. 42 U.S.C. § 674. The foster care program provides for “foster care maintenance payments” to be paid to licensed foster parents, such as those represented by Plaintiffs in this case. 42 U.S.C. § 672.

In order for a state to be eligible to receive federal funds, the CWA requires that the state’s foster care maintenance payments cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, and reasonable travel to the child’s home for visitation. 42 U.S.C. § 675(4)(A).

To become eligible for federal funding, a state must submit a plan for financial assistance to the Secretary of the U.S. Department of Health and Human Services (“DHHS”) for approval. As a prerequisite for DHHS approval, the submitting state must agree to administer its foster care program pursuant to the Child Welfare Act, related regulations, and policies promulgated by the Secretary of DHHS. 42 U.S.C. § 671(a); 42 C.F.R. §§ 233.110, 1355.21, 1356.20, 1356.21. A state must also designate a state agency to administer and/or supervise the administration of the approved state plan, amend this plan by appropriate submission to the Secretary of DHHS whenever necessary to comply with

alterations to the Child Welfare Act and/or federal regulations or policies, and provide foster care maintenance payments to licensed foster parents. 42 U.S.C. §§ 671(a)(2), 672(b)(1), 675(4); 45 C.F.R. §§ 1356.20(e)(1), 1356.21(a).

The Child Welfare Act also requires participating states to provide monthly adoption assistance payments under Title IV-E to support eligible special needs children. Eligible children are those in the foster care system with special factors or conditions which make it reasonable to conclude that they cannot be adopted without adoption assistance. 42 U.S.C. §§ 673(a)(1)(B), 673(a)(1)(2), 673(c).

Under the CWA, the adoption assistance payment amount must be determined through agreement between the adoptive parents and the state, based upon the needs of the child and the circumstances of the family. Participating states are required to “take into consideration the circumstances of the adopting parents and the needs of the child being adopted.” 42 U.S.C. § 673(a)(3). However, the adoptive payment rates may not exceed the amount set for foster care maintenance payments.¹ 42 U.S.C. § 673(a)(3).

¹ Documents produced by Defendant demonstrate that in practice, adoption assistance payments are equal to (rather than being less than) the rate set for foster care maintenance payments. In estimating the fiscal impact of setting the foster care maintenance payment at varying flat rates, Defendant consistently calculates the adoption assistance rate at an amount equal to the foster care maintenance rate. (Declaration of Claire Wong Black (“Black Decl.”) Ex. 1, SOH02248-250; Ex. 2, SOH03900-901; Ex. 3, SOH05042-45.)

B. Hawaii's Insufficient Maintenance Payment Rates

1. Hawai'i Did Not Increase the Basic Foster Care Payment Rate of \$529 for Over 24 Years

Hawai'i applied for and has willingly accepted federal funding under the CWA beginning in 1982. Haw. Admin. Rules §§ 17-828-6 (adopted July 19, 1982; amended May 9, 1983; amended Oct. 28, 1983; amended Sept. 30, 1985; amended Mar. 21, 1988; amended and compiled July 6, 1990), 17-1617-2 (defining "Federally funded foster care maintenance payments"). HDHS is the agency responsible for establishing foster maintenance rates. *Id.* § 17-1617-13. Hawai'i Administrative Rule § 17-828-6 has been amended five times since its adoption in 1982. The monthly foster care maintenance rate was set at \$504 per child on July 1, 1989. Haw. Admin. Rules § 17-828-6(d)(2)(A). Just a year later the rate was increased to \$529 per child on July 1, 1990. *Id.*

In 2009—after nineteen years without any increase to the rate—the state House of Representatives requested that HDHS (1) determine the feasibility of increasing the rate; and (2) determine the feasibility of linking future rate increases to various inflation index measures (such as the Consumer Price Index). (Black Decl. Ex. 4, SOH05446 – 5453). The House noted that the foster rate “was last set in 1990 and has not been adjusted even as the total rate of inflation since then has risen sixty-six per cent; and . . . is insufficient to raise a child because costs for food, housing utilities, clothing, and other necessities have increased”. *Id.*

SOH05446. However, the \$529 rate still remained unchanged until 2014, when Defendant finally recommended to the Hawai'i Legislature that the \$529 rate be raised for the first time in twenty-four years.² As one supporter of the increase aptly testified:

[t]he \$529 per month reimbursement rate that Hawai'i resource caregivers receive to cover their foster children's costs has not been changed since 1990. Per the Hawai'i State Data Center, the cost for a basket of food to be prepared at home in 1990 was \$24.71. In 2011, the cost for that same basket of food was \$53.75. That cost alone has risen 100% while the reimbursement has not budged.

(Black Decl. Ex. 5, January 30, 2014 Testimony by the Family Programs Hawai'i in Support of H.B. 1576 (SOH02269).)

2. The Current Rates Remain Insufficient

On July 23, 2014, HDHS announced a new monthly rate of \$575 for children under the age of five, \$650 for children between six and eleven, and \$676 for children older than 12. (Black Decl. Ex. 6, SOH02278-80.) As HDHS itself determined, the consumer price index for All Urban Consumers in Honolulu increased by at least 52% during the time when the \$529 rate was in effect and

² Between 2009 and 2013, HDHS opposed bills before the legislature that would increase the foster board rate. *See* Dkt. 28-2 (February 5, 2009 testimony from HDHS Director Lillian Koller opposing increase; March 16, 2009 Koller testimony opposing increase; February 3, 2011 testimony from HDHS Interim Director Patricia McManaman opposing increase; February 21, 2013 McManaman testimony expressing concern regarding fiscal impact of increase).

may have as much as doubled. (Black Decl. Ex. 7, SOH05025.) If the \$529 rate set in 1990 were adjusted for the change in the CPI, it should now be in the vicinity of \$1,000 per month per child.³

Accordingly, notwithstanding the 2014 rate increases, the current payment rates fail to comply with CWA's requirement that HDHS provide foster care maintenance payments sufficient to cover the costs enumerated in the CWA or individualized needs.

C. The Plaintiffs

1. Thousands of Hawai'i Parents and Children Are Impacted by the Foster Care Maintenance Rate

By HDHS's own accounts, the number of parents and children impacted by Defendant's failure to comply with the CWA is substantial. There are over a thousand licensed foster care providers and over a thousand foster care children for whom foster care maintenance rates are paid. According to Defendant's reports to the United States Department of Health and Human Resources, as of June 30, 2014, HDHS made foster care maintenance payments for 1,131 children each month. (Black Decl. Ex. 8, Form CB-496: Title IV-E Programs Quarterly Financial Report, SOH04837-4843 at SOH04837.) Of those, 568 children received payments

³ This range is consistent with national CPI inflation rates. According to the Bureau of Labor Statistics website (http://www.bls.gov/data/inflation_calculator.htm), \$529 in 1990 would be the equivalent of \$945 in 2015.

pursuant to Title IV-E. *Id.* The number of children receiving Title IV-E monthly maintenance payments was estimated to increase to 628 the following quarter. *Id.*

The number of adoption assistance payments made by HDHS is higher still. According to Defendant's reports, 3,379 Hawai'i children receive adoption assistance each month as of June 30, 2014. *Id.* at SOH04840. The majority of those children—2,759—receive Title IV-E adoption assistance payments.

In sum, nearly 5,000 payments are made each month based on HDHS's insufficient rates. Of those, over 3,000 of payments are made under Title IV-E.

2. The Sheeheys and Ms. Ah Chong Are Members of the Foster Care Subclass

The Sheeheys and Ms. Ah Chong all have current foster care licenses from HDHS that have been renewed within the past two years. The Sheeheys have cared for three foster children in their home and received foster care maintenance payments for each of those children. (Declaration of Patricia Sheehey ¶¶ 2, 3, 6.) Recently, the Sheeheys successfully adopted their most recent foster child (for whom they received foster care maintenance payments through November 2014). (*Id.* ¶¶ 5-6.)

Ms. Ah Chong has provided foster care services for over 100 children since the mid-1990s. (Declaration of Raynette Ah Chong at ¶ 2.) HDHS renewed Ms. Ah Chong's license to be a foster care provider on September 13, 2013, at which time she was certified to provide boarding care for up to two children through

September 13, 2015. (*Id.* at 3.) HDHS continues to request that she care for foster children. (*Id.* at 6.) In early April 2014, HDHS asked Ms. Ah Chong to be “on standby” to foster a kindergarten-aged boy. (*Id.*) Ms. Ah Chong agreed. (*Id.*) Ultimately, Ms. Ah Chong was informed by HDHS that the boy was placed with another foster family. (*Id.*) In light of Ms. Ah Chong’s experience as a long-time foster parent, and given her current household composition, she believes her current household composition is best suited to boys between the ages of 5 and 9. (*Id.* ¶ 7.) When offered such a placement Ms. Ah Chong expects to take a foster child under her care again. (*Id.*)

3. The Sheeheys and Ms. Ah Chong Are Members of the Adoption Assistance Subclass

Ms. Ah Chong has four children in her home who came into her care through the foster care system, two of whom she has adopted. (Dkt. 34-1 ¶ 3.) She received monthly payments from HDHS for each of those children and continues to receive monthly payments for the younger adoptee. (Ah Chong Decl., ¶ 5.) The Sheeheys have an adopted child in their home who came into their care through the foster care system. (Sheehey Decl., ¶¶ 5-6.) They receive monthly payments from HDHS for their child. (*Id.* ¶ 7.) Each of Ms. Ah Chong’s and the Sheeheys’ monthly payments is limited by the current tiered foster care maintenance rates because the Child Welfare Act and HDHS rules cap the payments for “adoption assistance” at the state’s basic foster care maintenance payment rates. Until the

foster care maintenance rate is recalculated as required under the CWA criteria, these adoption assistance payments cannot be increased.

III. ARGUMENT

Plaintiffs respectfully request that the Class, Foster Care Subclass, and Adoption Assistance Subclass be certified pursuant to Federal Rule of Civil Procedure 23.

- **Class:** all parents providing care to children in Hawai'i and eligible to receive support payments pursuant to the CWA that are based on the foster care maintenance rates set by the Hawai'i Department of Human Services.
- **Foster Care Subclass:** all licensed foster care providers in Hawai'i who shelter foster children and are entitled to receive foster care maintenance payments pursuant to the Child Welfare Act.
- **Adoption Assistance Subclass:** all adoptive parents in Hawai'i who are providing care to children with special needs and are entitled to receive adoption assistance payments pursuant to the Child Welfare Act.

Under Rule 23, the Court can exercise substantial discretion in determining whether to certify a class action and adopt a flexible standard to best serve the ends of justice in a particular case while promoting judicial efficiency. *Gunnells v. Healthplan Servs., Inc.*, 348 F.3d 417, 424 (4th Cir. 2003); *Allison v. Citgo Petroleum Corp.*, 151 F.3d 402, 407 (5th Cir. 1998). Here, Plaintiffs, the Class, and each of the subclasses satisfy the numerosity, commonality, typicality, and adequacy criteria for class certification under Rule 23(a). Moreover, the

requirements of Rule 23(b)(2) are met because class-wide injunctive relief is requested. As a result, the Court should grant Plaintiffs' motion.

A. An Identifiable Class Exists

The proposed definitions of the Class, Foster Care Subclass, and Adoption Assistance Subclass each satisfy the implicit requirement that a class definition provide a court with tangible and practicable standards for determining who is and who is not a member of the class. *Crosby v. Social Sec. Admin.*, 796 F.2d 576, 580 (1st Cir. 1986); *Alliance to End Repression v. Rochford*, 565 F.2d 975, 977 (7th Cir. 1977) (class must be sufficiently definite to permit ascertainment of class members). However, less precision is required in class definitions for class actions where, as here, the proposed class would be certified under Federal Rule of Civil Procedure 23(b)(2) since notice is not required and class members do not have the right to opt out. *Rice v. Philadelphia*, 66 F.R.D. 17, 19 (E.D. Pa. 1974); see *Battle v. Commonwealth of Pa.*, 629 F.2d 269, 271 n.1 (3d Cir. 1980) (district court has greater discretion in deciding adequacy of definition in Fed. R. Civ. P. 23(b)(2) class actions); *McHan v. Grandbouche*, 99 F.R.D. 260, 265 (D. Kan. 1983).

The proposed Class, Foster Care Subclass, and Adoption Assistance Subclass are all defined using precise and verifiable criteria. Whether a parent is eligible to receive Title IV-E foster care maintenance payments (Foster Care

Subclass) and/or Title IV-E adoption assistance payments (Adoption Assistance Subclass) should be readily determinable by Defendant.

B. Plaintiffs have satisfied the requirements of Rule 23(a)

1. Numerosity

Plaintiffs satisfy the numerosity requirement because the class and subclasses are so large that joinder of all members is impractical. Fed. R. Civ. P. 23(a)(1); *Jordan v. Los Angeles Cnty.*, 669 F.2d 1311, 1319 (9th Cir. 1982) (“Although the absolute number of class members is not the sole determining factor, where a class is large in numbers, joinder will usually be impracticable.”). As this Court recently noted, numerosity generally exists when the class comprises 40 or more members. *Davis v. Abercrombie*, Civ. No. 11-00144 LEK-BMK, 2014 WL 4956454, *10 (Sept. 30, 2014) (finding “fluid” subclass with 37 potential members sufficiently numerous); see *Baker v. Castle & Cooke Homes Haw., Inc.*, Civ. No. 11-00616 SOM, 2014 WL 1669158, at *5 (D. Haw. Apr. 28, 2014) (numerosity generally satisfied when the class comprises 40 or more members). Moreover, “a class may be certified even when the exact membership of the class is not immediately ascertainable.” *Id.*

Defendant cannot dispute that the number of monthly Title IV-E maintenance payments made is well over three thousand. Defendant’s Quarterly Financial Report to DHHS identifies 568 foster children receiving Title VI-E

maintenance assistance payments, (Ex. 7 at SOH04837), and 2,759 children receiving Title IV-E adoption assistance payments (*id.* at SOH04840).

In light of these statistics, it is clear that hundreds of foster parents and thousands of adoptive parents receive foster care maintenance or adoption assistance payments pursuant to the CWA. *Baker v. Castle & Cooke Homes Haw., Inc.*, 2014 WL 1669158, at *13-14 (D. Haw. Apr. 28, 2014) (precise calculations and exact numbers not required when sufficient circumstantial evidence regarding the scope of the proposed class provided). There are therefore thousands of parents being denied adequate compensation as required by law and hundreds more who face this same threat in the event that they take on or adopt a Title IV-E eligible foster child. This is more than sufficient to establish numerosity.

2. Commonality

This case involves resolution of issues of law and fact common to the Class. Plaintiffs' claims meet the commonality requirement, because they "depend upon a common contention . . . [that is] of such a nature that it is capable of classwide resolution." *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011); *see also, Wolin v. Jaguar Land Rover N. Am., LLC*, 617 F.3d 1168, 1172 (9th Cir. 2010) ("Commonality exists where class members' situations share a common issue of law or fact, and are sufficiently parallel to insure a vigorous and full presentation of all claims for relief."); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011,

1019 (9th Cir. 1998) (“The existence of shared legal issues with divergent factual predicates is sufficient, as is a common core of salient facts coupled with disparate legal remedies within the class.”). Furthermore, not “every question of law or fact must be common to the class; all that Rule 23(a)(2) requires is a single significant question of law or fact.” *Abdullah v. U.S. Sec. Associates, Inc.*, 731 F.3d 952, 957 (9th Cir. 2013) (internal quotation omitted).

Here, many questions of law and fact are common to the proposed Class, and a class-wide proceeding will provide answers and resolution common to all class members. These include whether Defendant fails to provide foster care maintenance payments to class members adequate to cover costs as required by the Child Welfare Act, whether Defendant fails to employ a methodology for determining foster care maintenance rates that takes into account statutorily prescribed criteria, whether Defendant fails to employ a methodology that considers the circumstances of adopting parents and the needs of foster children with special needs who are adopted, and what actions are needed to ensure that foster care maintenance rates will be adjusted to appropriate levels in the future.

Class members’ claims are governed by the same statutory requirements. All of class members’ claims depend on the resolution of the threshold question of whether HDHS’s foster care maintenance rate properly covers the statutorily

enumerated costs. Because it does not, this alone is sufficient to meet the commonality requirement.

3. Typicality

The considerations establishing commonality also demonstrate that Plaintiffs satisfy the typicality requirement. As this Court (the Honorable Susan Oki Mollway presiding) recently noted, “commonality and typicality requirements of FRCP 23(a) tend to merge.” *Baker v. Castle & Cooke Homes Haw., Inc.*, 2014 WL 1669158, at *10 (citations omitted). Typicality requires that Plaintiffs’ claims be “reasonably coextensive with those of absent class members” without the claims having to be “substantially identical.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998).

Plaintiffs’ claims are typical of the claims of the members of the proposed class and subclasses in that they have been denied adequate maintenance payments for the foster care services provided to the Defendant and have received inadequate adoption assistance payments that are capped at the inadequate and improperly determined rate of foster care maintenance payments. In this case, the same conduct by Defendant forms the basis for each class member’s claim against Defendant. Because Plaintiffs suffer the same the common injury suffered by the class, the typicality requirement is satisfied. *Baker v. Castle & Cooke Homes Haw., Inc.*, 2014 WL 1669158, at *10.

4. Adequacy

Finally, Plaintiffs “will fairly and adequately represent and protect the interests of the class [and subclasses].” Fed. R. Civ. P. 23(a)(4). Adequacy turns on whether the named plaintiffs and their counsel are free of any conflicts of interest with other class members and whether the named plaintiffs and their counsel will prosecute the action vigorously on behalf of the class. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998). Because these conditions are met by the Sheeheys, Ms. Ah Chong, and their counsel, the class should be certified.

As discussed above with respect to commonality and typicality, the class members are united in their interests. No conflicts of interest exist within the Class or between the Class and Plaintiffs’ attorneys. In addition, the putative class and subclasses are represented by not one, but three legal services providers who are experienced in federal civil rights litigation and class actions. *See, e.g., Cal. State Foster Parent Assoc. v. Wagner*, No. C 07-05086 WHA (Morrison Foerster, counsel for plaintiff foster parent organizations in CWA maintenance payment action); *Williams v. California*, No. 312236 (Cal. Super. Ct. 2004) (Morrison Foerster, co-lead class counsel); *Felix v. Cayetano*, Civ. No. 93-00367 (DAE) (AHFI, lead class counsel); *Burns-Vidlak v. Chandler*, Civ. No. 95-00892 (AHFI, lead class counsel); *Pasatiempo v. Aizawa*, 103 F.3d 796 (9th Cir. 1996) (AHFI, lead class counsel); *Kihara v. Chandler*, Civ. No. 00-1-2847 (SSM) (AHFI, co-

lead class counsel); *Waters v. Hous. And Cmty. Dev. Corp.*, Civ. No. 05-1-0815-05 EEH (AHFI and LEJ as class counsel); *Amone v. Aveiro*, CV04-00508 ACK/BMK (AHFI and LEJ as class counsel); *McMillon v. State*, CV08-00578 JMS/LEK (AHFI and LEJ with Legal Aid Society as class counsel). Plaintiffs and their counsel have done significant work investigating and identifying potential claims in this litigation, have committed substantial resources to representing the Class and prosecuting this matter, and will continue to do so once the Class is certified.

C. Plaintiffs have satisfied the requirements of Rule 23(b)(1) and (b)(2)

1. Class-wide Injunctive Relief Is Appropriate Under Rule 23(b)(2)

Plaintiffs are seeking injunctive relief requiring HDHS to comply with the requirements of the CWA. Because Plaintiffs have satisfied each of the elements of Rule 23(a), a class may be certified under Rule 23(b)(2), which provides for certification if “the party opposing the class has acted or refused to act on grounds that apply generally to class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” The Ninth Circuit explains that Rule 23(b)(2) “does not require us to examine the viability or bases of class members’ claims for declaratory and injunctive relief, but only to look at whether class members seek uniform relief from a practice applicable to all of them.” *Rodriguez v. Hayes*, 591 F.3d 1105, 1125 (9th Cir. 2010). It is sufficient for

purposes of Rule 23(b)(2) that “class members complain of a pattern or practice that is generally applicable to the class as a whole.” *Id.* “The fact that some class members may have suffered no injury or different injuries from the challenged practice does not prevent the class from meeting the requirements of Rule 23(b)(2).” *Id.*

Here, because Plaintiffs have alleged that Defendant continues to set the foster care maintenance rate without regard to the specific requirements under the CWA, Plaintiffs pursue injunctive relief on behalf of parents impacted by Defendant’s non-compliance. Courts routinely certify classes under Rule 23(b)(2) where Plaintiffs seek injunctive relief under the CWA. *See, e.g., Neal v. Casey*, 43 F.3d 48, 59 (3d Cir. Pa. 1994) (“many very similar lawsuits challenging the provision of services to foster children have been certified despite the varieties of factual differences . . . legal claims [and] differently situated plaintiffs.”); *Connor B. v. Patrick*, 272 F.R.D. 288, 298 (D. Mass. 2011) (“Other jurisdictions have reached the same conclusion in certifying nearly identical classes of foster children”). In fact, the requirements of Rule 23(b)(2) are “almost automatically satisfied with actions primarily seeking injunctive relief.” *Neal v. Casey*, 43 F.3d at 58.

2. Certification Is Also Appropriate Under Rule 23(b)(1)(B) Because Any Ruling Would, as a Practical Matter, Be Dispositive of the Interests of Other Members Not Parties to These Proceedings

A class action may also be maintained if prosecuting separate actions brought by individual class members would create a risk of “adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.” Rule 23(b)(1)(B). Here, the Sheeheys and Ms. Ah Chong seek injunctive relief that would affect the rights of the entire class. *See Gray v. Cnty. of Riverside*, No. EDCV 13-00444-VAP, 2014 WL 5304915, at *38 (C.D. Cal. Sept. 2, 2014) (“The Classes and Subclasses proposed seek injunctive relief, that, if granted, would affect the rights of similarly situated potential plaintiffs who are affected by the Defendant’s policies.”); *Coleman v. Wilson*, 912 F. Supp. 1282, 1293 (E.D. Cal. 1995) (certification granted under Fed. R. Civ. P. 23(b)(1)(B) in action against government alleging unconstitutionality of prison mental health care); *In re Louisiana-Pac. Corp.*, No. CIV. 02-1023-KI, 2003 WL 23537936, at *9 (D. Or. Jan. 24, 2003) (certifying a class under Rule 23(b)(1)(B) “because the adjudication for an individual plaintiff would in a practical sense be dispositive of the interests of the other participants and beneficiaries, or substantially impair their ability to

protect their interests, because relief, particularly injunctive relief, would be plan-wide.”).

The members of the potential class are all eligible to receive foster care maintenance payments or adoption assistance payments, and the injunctive relief sought “would apply equally to the prospective and named plaintiffs in this action.” *See Hilton v. Wright*, 235 F.R.D. 40, 53 (N.D.N.Y. 2006). Furthermore, a finding in this case would bind a subsequent plaintiff in this Court “as a practical matter because of stare decisis.” *See Riley v. Nevada Supreme Court*, 763 F. Supp. 446, 453 (D. Nev. 1991). Accordingly, class certification is also appropriate under Rule 23(b)(1)(B).

IV. CONCLUSION

Defendant’s own reports and statements demonstrate that an identifiable class and subclasses exist that number in the hundreds, if not thousands of class members. Because the Sheeheys and Ms. Ah Chong satisfy the commonality, typicality, and adequacy requirements of Federal Rule of Civil Procedure 23(a) and are seeking class-wide injunctive relief, Plaintiffs’ motion for class certification should be granted under Federal Rule of Civil Procedure 23(b)(2) or 23(b)(1) for the reasons detailed above.

Dated: April 23, 2015

Respectfully submitted,

By: /s/ Claire Wong Black
VICTOR GEMINIANI
GAVIN THORNTON
PAUL ALSTON
J. BLAINE ROGERS
CLAIRE WONG BLACK
ALAN COPE JOHNSTON
JOSEPH K. KANADA

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK
SHEEHEY, RAYNETTE AH CHONG,
individually and on behalf of the class of
licensed foster care providers residing in
the state of Hawai'i;

Plaintiffs,

vs.

RACHAEL WONG, in her official
capacity as the Director of the Hawai'i
Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC

**DECLARATION OF
RAYNETTE NALANI
AH CHONG**

DECLARATION OF RAYNETTE NALANI AH CHONG

I, Raynette Nalani Ah Chong, declare pursuant to 28 U.S.C. § 1746 as
follows:

1. I make this declaration based on my personal knowledge and am
competent to testify to the matters discussed herein.
2. I have provided foster care services for over 100 children in Hawai'i
since the mid-1990s.

3. On September 13, 2013, my foster care provider license was renewed through September 13, 2015. I am certified to provide boarding care for up to two children through September 13, 2015.

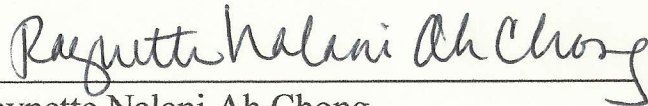
4. I currently have four children in my home, all of whom came into my care through the foster care system.

5. I received monthly maintenance payments of \$529 from HDHS for each of these children through July 2014. I received \$676 per month in adoption assistance payments for the older of my adopted children until he turned 21. I currently receive \$676 per month in adoption assistance payments for the younger of my adopted children.

6. In early April 2014, HDHS asked me to be "on standby" to foster a kindergarten aged- boy. I agreed. But HDHS later told me that the boy was placed with another foster family.

7. I believe my current household composition is best suited to boys between the ages of 5 and 9 years old. If offered such a foster child, I fully expect to take a foster child under my care again.

DATED: Honolulu, Hawai'i, April 22, 2015.


Raynette Nalani Ah Chong

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK
SHEEHEY, RAYNETTE AH CHONG,
individually and on behalf of the class of
licensed foster care providers residing in
the state of Hawai'i;

Plaintiffs,

vs.

RACHAEL WONG, in her official
capacity as the Director of the Hawai'i
Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC

**DECLARATION OF
PATRICIA SHEEHEY**

DECLARATION OF PATRICIA SHEEHEY

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I make this declaration based on my personal knowledge and am competent to testify to the matters discussed herein.
2. My husband and I have served as a foster parent for over fourteen years. In that time, we have fostered three children.

3. We received \$529 monthly foster care maintenance payments for two of those children from July 1998 through August 2011.

4. On or about May 2014, our foster care provider license was renewed through approximately May 2015.

5. My husband and I recently adopted a child (the infant daughter of our former foster child) who came into our care through the foster care system.


6. Prior to the adoption, we received \$529 monthly foster care maintenance payments from HDHS for our child from December 2012 through July 2014. Beginning in August 2014, we received \$576 per month through November 2014.

7. We currently receive monthly adoption assistance payments in the amount of \$576.

8. Although we are not currently caring for a foster child, under certain circumstances we would continue to accept foster children if asked by HDHS. In particular, my husband and I will only accept foster children with severe disabilities such as cerebral palsy or an intellectual/developmental disability.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, April 20, 2015.



Patricia Sheehey

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK
SHEEHEY, RAYNETTE AH CHONG,
individually and on behalf of the class
of licensed foster care providers
residing in the state of Hawai`i;

Plaintiffs,

vs.

RACHAEL WONG, in her official
capacity as the Director of the Hawai`i
Department of Human Services,

Defendant.

Case No. 13-cv-00663-LEK-KSC

**DECLARATION OF CLAIRE
WONG BLACK**

DECLARATION OF CLAIRE WONG BLACK

I, Claire Wong Black, pursuant to 28 U.S.C. § 1746, declare as
follows:

1. I am an attorney licensed to practice before all courts in the
State of Hawai`i and am one of the attorneys of record for Plaintiffs in this action. I
make this Declaration in support of Plaintiffs' Motion for Class Certification.

2. Attached as Exhibit "1" is a true and accurate copy of an
analysis prepared by the Hawai`i Department of Human Services ("HDHS") of
three different Foster Care Board Rate Structures entitled "Alternate Foster Care

Board Rate Structures Proposed,” produced by Defendant in this litigation as SOH 02248-02250.

3. Attached as Exhibit “2” is a true and accurate copy of a document containing cost estimates for room and board, produced by Defendant in this litigation as SOH 03900-SOH 03901.

4. Attached as Exhibit “3” is a true and accurate copy of the University of Hawai`i at Manoa, College of Social Sciences Public Policy Center’s “Foster Board Rate Analysis for Hawai`i,” prepared by Susan Meyers Chandler, Ph.D., dated September 2013, produced by Defendant in this litigation as SOH 05028-SOH 05048.

5. Attached as Exhibit “4” is a true and accurate copy of a document entitled House Resolution No. 209, produced by Defendant in this litigation as SOH 05446-SOH 05453.

6. Attached as Exhibit “5” is a true and accurate copy of testimony from Judith Wilhoite of Family Programs Hawai`i regarding HB 1576 – Relating to Foster Care Services, produced by Defendant in this litigation as SOH 02269.

7. Attached as Exhibit “6” is a true and accurate copy of HDHS’s Press Release dated July 23, 2014, entitled “Resource Caregivers Receive Increased Board Payments, Effective July 2014” produced by Defendant in this litigation as SOH 02278-SOH 02280.

8. Attached as Exhibit “7” is a true and accurate copy of an email dated August 30, 2013, from Mona Maehara to HDHS Research Staff Supervisor, Ricky Higashida, regarding the Foster Care Board Rate and consumer price index change rate, produced by Defendant in this litigation as SOH 05025.

9. Attached as Exhibit “8” is a true and accurate copy of HDHS’s quarterly financial report to the United States Department of Health and Human Services for the quarter ending in June 30, 2014, CB-496 Foster Care Financial Report, produced by Defendant in this litigation as SOH 04837-SOH 04843.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Honolulu, Hawai`i, on this 23rd day of April 2015.

/s/ Claire Wong Black
CLAIRE WONG BLACK

Alternate Foster Care Board Rate Structures Proposed

The DHS analyzed three different Foster Care Board Rate Structures and the funding required for each Option. The following is an analysis of the three different Options.

Option 1:

1. Meet 2011 USDA Monthly Expense by 100%
2. Provide Clothing allowance of \$50 per month, with the exception of those on Adoption Assistance (AA)

OPTION 1: Clothing Allowance Per Month: \$50					% USDA Monthly Expense: 100%				
Age of Child	Type of Assist	June 2013 Number of CWS Foster Children	2011 USDA Estimate Total Monthly Expense	Current 2013 CWS FC Board Rate	Net Amt Increased	Increased Monthly Board Rate w/o Clothing	Monthly add'l clothing rate	Increased Monthly Board Rate w/ Clothing	Monthly Cost of Increased Board Rate w/Clothing
0 – 5	FC	532	\$606	\$529	\$77	\$606	\$50	\$656	\$348,992
	PA	31	\$606	\$529	\$77	\$606	\$50	\$656	\$20,336
	AA	322	\$606	\$529	\$77	\$606	\$0	\$606	\$195,132
	subtotal:	885							\$564,460
6 – 11	FC	326	\$684	\$529	\$155	\$684	\$50	\$734	\$239,284
	PA	221	\$684	\$529	\$155	\$684	\$50	\$734	\$162,214
	AA	1,498	\$684	\$529	\$155	\$684	\$0	\$684	\$1,024,632
	subtotal:	2,045							\$1,426,130
12+	FC	333	\$712	\$529	\$183	\$712	\$50	\$762	\$253,746
	PA	571	\$712	\$529	\$183	\$712	\$50	\$762	\$435,102
	AA	1,740	\$712	\$529	\$183	\$712	\$0	\$712	\$1,238,880
	Higher Ed	300	\$712	\$529	\$183	\$712	\$50	\$762	\$228,600
	FC to 21	135	\$712	\$529	\$183	\$712	\$50	\$762	\$102,870
	subtotal:	3,079							\$2,259,198
	TOTAL:	6,009							
Total Monthly:									\$4,249,788
Total Annual:									\$50,997,456
Current Annual Cost Using Current Board Rate (\$529/mo):									(\$38,145,132)
FY 2014 Clothing Budget Allowance									(\$1,469,400)
Add'l Funds Needed Annually for Board Rate Increase									\$11,382,924

NOTE:

1. Children on Adoption Assistance (AA) do not receive clothing allowance.
2. Costs do not include Difficulty of Care payments which some foster children receive in addition to board payments.
3. Based on the 2011 USDA estimated annual expenditures on a child, Urban West (Before income tax average=\$79,240)
4. The average daily basic rate for children 0-5 is \$21.57; for children 6-11 the rate is \$24.13; and for children 12 and over the rate is \$25.05.

Option 2:

1. Meet 2011 USDA Monthly Expense by 95%
2. Provide Clothing allowance of \$50 per month

OPTION 2: Clothing Allowance Per Month: \$50					% USDA Monthly Expense: 95%				
Age of Child	Type of Assist	June 2013 Number of CWS Foster Children	2011 USDA Estimate Total Monthly Expense	Current 2013 CWS FC Board Rate	Net Amt increased	Increased Monthly Board Rate w/o Clothing	Monthly add'l clothing rate	Increased Monthly Board Rate w/ Clothing	Monthly Cost of Increased Board Rate w/Clothing
0 – 5	FC	532	\$606	\$529	\$47	\$576	\$50	\$626	\$333,032
	PA	31	\$606	\$529	\$47	\$576	\$50	\$626	\$19,406
	AA	322	\$606	\$529	\$47	\$576	\$0	\$576	\$185,472
	subtotal:	885							\$537,910
6 – 11	FC	326	\$684	\$529	\$121	\$650	\$50	\$700	\$228,200
	PA	221	\$684	\$529	\$121	\$650	\$50	\$700	\$154,700
	AA	1,498	\$684	\$529	\$121	\$650	\$0	\$650	\$973,700
	subtotal:	2,045							\$1,356,600
12+	FC	333	\$712	\$529	\$147	\$676	\$50	\$726	\$241,758
	PA	571	\$712	\$529	\$147	\$676	\$50	\$726	\$414,546
	AA	1,740	\$712	\$529	\$147	\$676	\$0	\$676	\$1,176,240
	Higher Ed	300	\$712	\$529	\$147	\$676	\$50	\$726	\$217,800
	FC to 21	135	\$712	\$529	\$147	\$676	\$50	\$726	\$98,010
	subtotal:	3,079							\$2,148,354
	TOTAL:	6,009							
Total Monthly:									\$4,042,864
Total Annual:									\$48,514,368
Current Annual Cost Using Current Board Rate (\$529/mo):									(\$38,145,132)
FY 2014 Clothing Budget Allowance									(\$1,469,400)
Add'l Funds Needed Annually for Board Rate Increase									\$8,899,836

NOTE:

1. Children on Adoption Assistance (AA) do not receive clothing allowance.
2. Costs do not include Difficulty of Care payments which some foster children receive in addition to board payments.
3. Based on the 2011 USDA estimated annual expenditures on a child, Urban West (Before income tax average=\$79,240)
4. The average daily basic rate for children 0-5 is \$20.58; for children 6-11 the rate is \$23.01; and for children 12 and over the rate is \$23.86.

Option 3:

1. Meet 2011 USDA Monthly Expense by 94%
2. Provide Clothing allowance of \$50 per month

OPTION 3: Clothing Allowance Per Month: \$50					% USDA Monthly Expense: 94%				
Age of Child	Type of Assist	June 2013 Number of CWS Foster Children	2011 USDA Estimate Total Monthly Expense	Current 2013 CWS FC Board Rate	Net Amt increased	Increased Monthly Board Rate w/o Clothing	Monthly add'l clothing rate	Increased Monthly Board Rate w/ Clothing	Monthly Cost of Increased Board Rate w/Clothing
0 – 5	FC	532	\$606	\$529	\$41	\$570	\$50	\$620	\$329,840
	PA	31	\$606	\$529	\$41	\$570	\$50	\$620	\$19,220
	AA	322	\$606	\$529	\$41	\$570	\$0	\$570	\$183,540
	subtotal:	885							\$532,600
6 – 11	FC	326	\$684	\$529	\$114	\$643	\$50	\$693	\$225,918
	PA	221	\$684	\$529	\$114	\$643	\$50	\$693	\$153,153
	AA	1,498	\$684	\$529	\$114	\$643	\$0	\$643	\$963,214
	subtotal:	2,045							\$1,342,285
12+	FC	333	\$712	\$529	\$140	\$669	\$50	\$719	\$239,427
	PA	571	\$712	\$529	\$140	\$669	\$50	\$719	\$410,549
	AA	1,740	\$712	\$529	\$140	\$669	\$0	\$669	\$1,164,060
	Higher Ed	300	\$712	\$529	\$140	\$669	\$50	\$719	\$215,700
	FC to 21	135	\$712	\$529	\$140	\$669	\$50	\$719	\$97,065
	subtotal:	3,079							\$2,126,801
TOTAL:		6,009			Total Monthly:				\$4,001,686
					Total Annual:				\$48,020,232
					Current Annual Cost Using Current Board Rate (\$529/mo):				(\$38,145,132)
					FY 2014 Clothing Budget Allowance				(\$1,469,400)
					Add'l Funds Needed Annually for Board Rate Increase				\$8,405,700

NOTE:

1. Children on Adoption Assistance (AA) do not receive clothing allowance.
2. Costs do not include Difficulty of Care payments which some foster children receive in addition to board payments.
3. Based on the 2011 USDA estimated annual expenditures on a child, Urban West (Before income tax average=\$79,240)
4. The average daily basic rate for children 0-5 is \$20.38; for children 6-11 the rate is \$22.78; and for children 12 and over the rate is \$23.64.

Costs for Room and Board at the current flat rate of \$529.00 a month

SFY14 Estimate

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per	Category
Room and Board	\$529	1191		\$630,039
Adoption Assistance	\$529	3560		\$1,883,240
Permanency Assistance	\$529	823		\$435,367
Higher Education	\$529	300		\$158,700
Difficulty of Care*	\$570	1612		\$918,840
Voluntary 18-21	\$529	700		\$370,300
TOTALS*		6574		\$3,477,646

* DOC not included in total

Costs for Room and Board estimates at the flat rate of \$604.00 a month (\$75.00 increase)

SFY14 Estimate

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per	Category
Room and Board	\$604	1191		\$719,364
Adoption Assistance	\$604	3560		\$2,150,240
Permanency Assistance	\$604	823		\$497,092
Higher Education	\$604	300		\$181,200
Difficulty of Care*	\$570	1612		\$918,840
Voluntary 18-21	\$604	700		\$422,800
TOTALS*		6574		\$3,970,696

* DOC not included in total

Youth 0-5 years of age

Costs for Room and Board estimates at the rate of \$604.00 a month (\$75.00 increase)

SFY14 Estimate

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per	Category
Room and Board	\$604	535		\$323,140
Adoption Assistance	\$604	320		\$193,280
Permanency Assistance	\$604	32		\$19,328
Difficulty of Care*	\$570	239		\$136,230
TOTALS*		887		\$535,748

* DOC not included in total

Youth 6-12 years of age

Costs for Room and Board estimates at the rate of \$619.00 a month (\$90.00 increase)

SFY14 Estimate

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per	Category
Room and Board	\$619	369		\$228,411
Adoption Assistance	\$619	1815		\$1,123,485
Permanency Assistance	\$619	296		\$183,224
Difficulty of Care*	\$570	725		\$413,250
TOTALS*		2480		\$1,535,120

* DOC not included in total

Youth13+ years of age

Costs for Room and Board estimates at the rate of \$729.00 a month (\$100.00 increase)

SFY14 Estimate

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per	Category
Room and Board	\$729	285		\$207,765
Adoption Assistance	\$729	1424		\$1,038,096
Permanency Assistance	\$729	493		\$359,397
Higher Education	\$729	300		\$218,700
Difficulty of Care*	\$570	646		\$368,220
Voluntary 18-21	\$729	700		\$510,300
TOTALS*		3202		\$2,334,258

* DOC not included in total

Total

6569

\$4,405,126

Note: Totals may not match because of rounding.

SOH 03901



Foster Board Rate Analysis for Hawai'i

Susan Meyers Chandler, Ph.D.

Public Policy Center, University of Hawaii

September, 2013

Executive Summary

INTRODUCTION

The Department of Human Services is conducting a study to determine the best option for establishing appropriate basic monthly board rates provided to resource care-givers (formerly called foster parents). This draft report will be distributed to a broad group of stakeholders in the community for feedback, comments and suggestions. Interviews and focus groups will be conducted by the University of Hawai'i Public Policy Center in September to gather public input prior to developing a final report. The final report will be submitted the Legislature 20 days before the beginning of the next session.

BACKGROUND

In order to provide a context to consider any change in foster board rates in Hawai'i, we reviewed several national studies and reports. A crucial study written by Kerry DeVooght, from Child Trends and Dennis Blazey an independent consultant who previously was the budget and fiscal officer at the Office for Children and Family Services in Ohio conducted a study called The Family Foster Care Provider Classifications and Rates Survey published in 2013. The Annie E. Casey Foundation, Casey Family Programs and Child Trends funded this report. The authors reviewed data from 46 states and examined the amount given in room and board payments and the methodology utilized in each state. (Hawai'i was not included in this study.)

These were the primary findings from the study:

- ❖ No state uses only a single rate for all children in foster homes across a state.
- ❖ Forty (40) states reported utilizing an age-related classification for determining their basic board rate, with the majority of states using three categories: 0-5 or 6 year olds; a second group of youth between the ages of 6 or 7 to 12 or 13 years old, and then the final group of youth over 13.
- ❖ Most states reported that they had recently increased their rates in the year 2009 or later, reflecting the increasing costs of caring for children.
- ❖ The study also concluded that the basic foster care rates in the majority of states fall below the estimated costs of caring for and raising a child. "A number of states have rates that represent less than half the estimated cost of care." (DeVooght and Blazey (2013) pg. 2)

Comparing rates across states, or ranking states against each other, is problematic since different states include different items in their "board rate" such as clothing and/or other components. Hawai'i is one of only 10 states that does not use an age-graded methodology for its board payments. In 1990, the

basic rate in Hawai'i was set at \$529 for all children regardless of age. This rate has remained unchanged since then. Research has found that increases in board stipends improves the placement stability for children, improves the recruitment and retention of resource care-givers and their satisfaction, and that these factors have positive effects on the well-being of children.

CONCLUSION

The \$529 monthly board amount provided to Hawai'i resource care-givers established in 1990 is insufficient due to the high cost of living in Hawai'i, the increased costs of housing, utilities, and the other necessities associated with raising children. While Hawai'i supplements this basic stipend with other benefits such as difficulty of care payments, clothing allowances (for entering care and then a maintenance allowance), clothing for special circumstances or events, certain transportation costs, medical treatments, enhancement, respite care, child care, limited liability insurance, trainings and other supports, many families do not apply for these extra benefits,, are not aware of them, or are not eligible for them.

The current costs for room and board at the rate of \$529.00 a month costs the state \$3,477,646. (Please note that adoption assistance, permanency assistance and higher education costs are included in this calculation, but that difficulty of care payments are not included.) The Legislature passed Act 252 to implement a program currently being called Voluntary Care 2-21 for the new group of youth 18-21 who may voluntarily choose to remain in foster care up to the age of 21 (n=135). These youth are included in the estimate of 6,574 children and youth per month are projected to be in foster care for the SFY 14.

**"Foster children often
require extraordinary
investments of
attention and time,
which can make foster
parenting a 24 hour
job."**

-Foster Parent

POLICY OPTIONS

1. Leave the board rate the same as it is now for all resource care-givers.

PRO: Making no changes to the flat board rate is the easiest option for DHS and the state to implement. The cost to the state would increase only if the number of children in foster care increased. All of the resource families need to be informed about the full package of benefits that they may be eligible for (i.e. clothing allowances, difficulty of care payments, travel, a child.

CON: The board rate is supposed to assist families cover the costs of housing, utilities and associated costs. Hawai'i has not increased its rate since 1990. It is difficult to recruit and retain resource care-givers when the rates are so low. Forty states have established their rates based on the age of the child, reflecting the increased costs of raising children as they age. Doing nothing does not help Hawai'i adequately support its resource care-givers. There are negative long term implications for the well-being of foster children, when there are not a sufficient number of high quality foster homes for an initial placement (children may have to enter group care) and/or when a resource family chooses not to keep a child or take a sibling which may be due to the increasing cost of raising children in Hawai'i.

2. Increase the board rate by a flat rate of \$75.00 a month to \$604.00 for all children and youth.

PRO: This option attempts to reflect the increased cost of raising children since the last rate adjustment in 1990. It is easy to implement and is not very costly to the state.

CON: This adjustment does not reflect the increasing costs of raising children as they age and their needs change. This small increase may not be sufficient to assist in recruitment and retention of resource care-givers or improve placement stability. This flat rate is likely to be considered insufficient for these youth and families.

3. Adjust the board payment from a flat rate to three age-tiered categories: 0-5, 6-12 and youth 13 and older.

PRO: This brings the state into alignment with the other 40 states that use an age-based methodology to determinate their board rates. This methodology appropriately reflects the known increase in the cost of providing care for children as they age.

CON: Deciding on which age group would receive an increase (and at what amount) could be challenging. Should it change at 5 years old or 6? At age 12 or 13? Over 14? Should there be an additional category for youth over 18?

4. Establish a geographic or regional variation based on the known differential cost of housing across the islands.

PRO: The Center for Public Policy Research at the University of California, Davis studied the cost of raising foster children in California and recommended adjusting board payments to reflect geographical cost of living differences within the state of California grouped into three categories of low, medium and high cost regions based on the costs of housing as indicated by the HUD fair market rental costs. Putting this methodology in place in Hawai'i would acknowledge the higher costs of housing on the neighbor islands, as well as high rent areas in some neighborhoods on Oahu.

CON: This option would be extremely difficult to implement. Children may move from one neighborhood to another and adjusting their board payment based on where they live would be challenging. Determination of the specific neighborhood fair market rental costs may be hard to determine on the neighbor islands and whenever this rate changed, there would have to be changes to the foster board payment allotments.

PREFERRED OPTION AND RECOMENDATION

Based on the review of the literature and analyzing the data in Hawai'i and discussing alternatives the preferred option is to establish an age related methodology of payments based on three categories:

Youth 0-5 years old (n=887): Increase the stipend by \$75.00. This would cost the state an additional \$ 798,300

Youth 6-12 years old (2,480): Increase the stipend by \$90.00. This would cost the state an additional \$2,678,400,

Youth 13 and over (2,637): Increase the stipend by \$100.00. This would cost the state an additional \$3,164,400.

The TOTAL ANNUAL cost would be \$6,641,100.

A major finding of relevance to Hawai'i is that most states implemented their current basic board rate in 2009 or later. Hawai'i has not raised the monthly rate for foster board since 1990. The basic rate of \$529 for all children, regardless of age is insufficient due to the high cost of living in Hawai'i, the increased costs of housing, utilities, and other necessities associated with raising children.

BACKGROUND

The research literature suggests that increases in board stipends improve the placement stability for children. Increased stipends have been found to improve care-givers' satisfaction and retention which indirectly affects the well-being of the child. An ongoing concern in child welfare is the shrinking number of available resource family homes and the increased difficulty to recruit new homes. Even a small increase in the stipends is associated with reduced family dropout and increased stability for children.

The Department of Human Services is conducting a study to determine the best option for increasing the monthly board rates for foster care. For the purposes of this study, the term "*foster parent(s)*" will be replaced with the term "*resource care-giver(s)*." Any board rate increase for foster board will also apply to adoption assistance, permanency assistance and higher education board allowance payments.

A study conducted by Kerry DeVoght and Dennis Blazey called The Family Foster Care Provider Classifications and Rates Survey published in 2013 and funded by the Annie E. Casey Foundation, Casey Family Programs and Child Trends analyzed board rate data from 46 states. (Hawai'i was not one of the states included in this study). The data revealed that the vast majority of states classify children into different payment groups based on the age of the child; all provided some type of "difficulty of care" or "special needs" categorical assistance using a diagnostic tool to determine the child's needs and level of care; most states pay the same rate across the state regardless of geographic location of the home; the basic rate in the majority of states falls well below the actual costs of caring for a child; and the states vary widely on providing assistance to care givers. Some states include such items as clothing, transportation, personal incidentals, in the basic board rate and others do not.

"The start up costs of fostering a child are steep. The family is usually unequipped with the necessities like diapers, formula, clothing and carriers. We usually find out we are getting a baby on the day it needs to be picked up." - Foster parent

WHAT ARE OTHER STATES DOING?

Overview and Comparison of States' Methodologies

The Family Foster Care Reimbursement Rates in the U.S. surveyed all the states to examine foster care provider classifications and rates. While they attempted to compare the data across the states, they concluded that the data were difficult to analyze since there is a wide range of variation across the states about what is included in the state's payment mix. For example, Arkansas had the lowest average board rate at \$427 a month, but they provide a clothing allowance of \$200 "sometimes" and "extraordinary expenses" may be reimbursed with advanced agreement. Medically fragile children of all ages may receive up to \$1,080 a month. Tennessee reported its average maintenance rate as \$738.00 a month. However, this amount includes a clothing allowance that varies depending on the age of the child. Twenty-five (25) states include clothing allowances within the basic care rates. Thirty-eight (38) states have separate rates for specialized care. Oregon has three levels of care and 4 levels of personal care that are used to determine their board rate. Nebraska has a 14-point reimbursement system that determines the rate paid based on the needs of the individual child. Most states do not revise their payment rates on a set time schedule, nor do they revise the rates automatically based on inflation or the cost of living index. The authors summarized their findings on page 33 by stating "the basic foster care rates in most states fall below the cost-of-care estimates for all age groups." Indiana conducted a survey of the foster parents on the cost of child rearing and developed a benchmarking methodology to set their rates. The District of Columbia based their rates on the USDA Expenditures of Children by Families and adjusted for regional expenses. Both of these methodologies were developed and implemented due to Court actions.

Indiana

As a result of a lawsuit and then a legal settlement, the state of Indiana released a new foster care per diem rate schedule. The state was required to develop and publicize its methodology for how the rates would be determined. In August 2011, the state contracted with the Center of Business and Economic Research at Ball State University to conduct a foster care survey of all foster parents in the Indiana Department of Child Services. While states often consider information like cost of living increases, or federal reports like the U.S Department of Agriculture's Expenditure on Children by Families when

establishing their foster board rate, the study in Indiana examined the *specific* expenditures allowable under Title IV-E of the Social Security Act as reported by current foster parents. The survey analyzed two groups of children: young children (infants to 4 years of age) and other children (5-18).

The study noted that the two major reports frequently cited when recommending foster board rates have serious methodological flaws. The first, the MARC Report (2007) (Hitting the M.A.R.C. Establishing Foster Care Minimum Adequate Rates for Children) published by Children Rights, the National Foster Parent Association and the University of Maryland, School of Social Work calculated state by state recommended, minimum rates by analyzing consumer expenditure data reflecting the costs of caring for a child; identifying and accounting for additional costs particular to children in foster care and applying a cost-of-living adjustment. This study also included additional expenditures necessary to meet a child's basic physical needs and to cover the costs of "normalizing" childhood activities such as after school sports, art programs, etc. This study has been criticized because it does not empirically document why certain costs of raising foster children would be so much more costly than raising non-foster children. For example the MARC study estimates a 15% higher cost for school supplies; 10% more for providing food and 15% more for personal incidentals for foster children, however there is no empirical data to justify these amount.

The second study frequently cited is the USDA federal survey data on the Expenditures on Children by Families based on the Consumer Expenditure Survey adjusted using the Consumer Price Index. The USDA study sums up different types of expenditures into categories that make direct comparisons across states, problematic. Secondly, the USDA study estimates the average daily expenditures and average total costs of household expenditures across ALL family members. This analysis would make the estimated actual costs associated with adding an additional child added to family expenditures inaccurate.

The Indiana study by contrast, measured the incremental most of an additional child, which is more relevant for determining an appropriate level for a foster board payment. The cost categories considered the *median* daily cost per day and included:

Breakfast, lunch, dinner, snacks, dining out and other food costs

On-going clothing

Increase in utilities

Personal incidentals (personal hygiene and school supplies for those over 5)

Travel and

Daily supervision

Using these data sources, the state of Indiana decided to establish a rate structure based on the levels of need. Their administrative rules determine that some children need enhanced supervision, which is categorized as Foster Care with Services, Therapeutic Foster Care or Therapeutic Plus. Rates for these

categories of supervision were determined by a formula using the Ball State University Foster Care rate and the current rates paid to service providers for these enhanced services. These are also broken out by age different age groups. A nationally recognized assessment tool, the Child and Adolescent Needs and Strengths Assessment (CANS), along with input from child and family team meetings, are used by the Department to determine the category of care the child requires. The personal allowance was increased from \$100 to \$300 annually which can help children in care participate in activities such as sports, band or scouts, attend events such as a prom, or provide for other extracurricular fees. Special allowances of \$50.00 for the child's birthday and during the December holiday season also were added. Below are their new rates starting January 1, 2012. (N.B. these are per diem rates by age category and need.)

INDIANA DEPARTMENT OF CHILD SERVICES' NEW FOSTER CARE RATES

The standard per diem payments effective January 1, 2012 are:

Category of Supervision	Infant-4 years	5 - 13 years	14 - 18 years	Monthly Rate
Foster Care	\$18.28	\$19.85	\$22.90	\$687.00
Foster Care with Services	\$26.05	\$27.62	\$30.67	\$920.10
Therapeutic Foster Care*	\$38.19	\$39.76	\$42.81	
Therapeutic Plus*	\$61.94	\$63.51	\$66.56	

* In Hawai'i the therapeutic foster homes are administered by the Department of Health and are not included in this study.

In addition to the above described per diem payment, foster parents in Indiana may receive the following payments to purchase items for the benefit of the child:

1. **Initial Clothing Allowance** - DCS may provide the foster family with an initial clothing and personal items allotment at the time of placement of up to \$200 based on the child's need.
2. **Liability Insurance** - DCS will provide foster care liability insurance for foster parents through a contract with the Indiana Foster Care and Adoption Association (IFCAA). Foster parents no longer need to be members of IFCAA to obtain the insurance.
3. **Personal Allowance** - DCS will reimburse foster parents up to \$300 annually for each child in placement. Foster parents may request reimbursement for personal allowance items once the child has been in placement for at least 8 days. The items that fall within the personal allowance will be defined in DCS Policy.
4. **Special Occasion Allowance** - DCS will provide a \$50 special occasion allowance on the child's birthday and a \$50 special occasion allowance during the December holidays.

5. Travel Reimbursement - DCS will reimburse foster parents for travel in excess of 162 miles if the travel is for visitation, school, physical/behavioral health appointment or other DCS required travel which will be set out in the Indiana Foster Parent Resource Guide.

(See Appendix 1 for final rules)

The District of Columbia

The District of Columbia computes a daily rate for its Board payment based on the USDA Report on the Cost of Raising a Child in the Urban South. Over the last several years, the rates in Washington, D.C. have increased approximately 3.5% annually. The rate varies by the age of the child.

(See Appendix 2 for the rates and methodology)

California

In 2007, the California Foster Parent Association challenged the adequacy of the foster board rates and won a judgment in Court that required the state to take into account the enumerated costs of raising children, and concluded that the state rates cannot "fall too far out of line with the costs of providing those items." The Center for Public Policy Research (CPPR) at the University of California Davis, conducted a study called Alternative Proposals for A New Foster Home Rate Structure in California (2011). The CPPR study made a recommendation for a rate setting methodology and a preferred approach. The study reviewed the MARC Report (2007) and matched the cost categories to those which are reimbursable under Title IV-E, including items that are particular to the cost of raising children in foster care, such as liability and property insurance. However, the California study recommended altering the MARC methodology in such areas as determining transportation expenses and included transportation costs for visits to birth parents, as well as developing a separate "cost of providing goods and services needed by foster children" whether costs related just to the foster child or shared costs for others in the family (like grocery shopping). No special costs aligned to caring for foster children (as opposed to other children) were incorporated. The study recommended that an initial clothing allowance at the time of placement be provided, but not a recurring allowance. The logic here was that the base foster board rate should include clothing, but that children who come into care initially often do not have adequate clothing, shoes or personal items. Finally, the report presented a recommended option to reflect geographical cost of living differences within the state grouped into three categories: low, medium and high cost regions based on the cost of housing as indicated by the HUD fair market rental costs.

The CPPR proposed a two-rate structure for board payments. The Table below displays the current rate (in 2011) and the recommended rate increases. Rate Structure #1 is the cost estimates based on the CES study using the lower estimate of "cost of providing care." Rate Structure #2 is the cost estimates using the upper estimate of "cost of providing care."

California Rates based on Two Different Estimates of Care

	Age 0-4	Age 5-8	Age 9-11	Age 12-14	Age 15-19
Current Rate	\$446	\$485	\$519	\$573	\$627
Rates #1	\$609	\$660	\$695	\$727	\$761
Rates #2	\$638	\$692	\$727	\$767	\$801

THE COSTS OF RAISING CHILDREN IN HAWAII

In Hawai'i, a resource family must provide evidence of self-sufficiency to become licensed as a resource family. The US Expenditures of Children and Families in 2011 estimated the annual expenditures on a child by a two parent household before tax income in the category between \$58,890 and \$101,960 in the urban West regions (including Hawai'i) for food, housing and miscellaneous costs to be:

Age	Housing	Food	Misc.	Totally Annual	Total Monthly
0-5	\$4,670	\$1,485	\$1,120	\$7,275	\$606.25
6-11	\$4,670	\$2,305	\$1,235	\$8,210	\$684.16
12-17	\$4,670	\$2,635	\$1,240	\$8,545	\$712.08

**"Twenty years ago the
\$17.00 per day
boarding payment
stretched a lot farther."**

-Foster Parent

Housing usually accounts for the largest share of the family expenses ranging from 30 to 32% of total monthly costs. Hawai'i has an extremely high housing "unaffordability" index and the highest cost of electricity in the nation. Electricity costs three times as much per Kw hour than the next highest state on the mainland.

THE CONSUMER PRICE INDEX AS MEASURE OF RAISING CHILDREN IN HAWAII

The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. Between 1990, when the most recent foster board payment level was established and 2012, the CPI in Honolulu has increased by 80.6%

HAWAII'S CURRENT APPROACH

Hawai'i is one of 9 states that have maintained a flat board rate. However, the DHS rules provide for many other possible ways to support resource families. See Administrative Rules (HAR 17-1617-3) Foster Care Maintenance Payments to Resource Families per month in Hawai' i below:

1. Maintenance Costs:

Includes food, shelter (including utilities, use of household furnishing & equipment, operations, personal essentials (toothbrush, soap, brush/comb, haircuts, contact lens, etc.), reading and educational materials, recreational and community activities (parties, picnics, movies, etc.), transportation for shopping for foster child, deliver child to school, medicine supplies, baby supplies & equipment.

Difficulty of Care Payments, Reimbursements in addition to Maintenance payments.

Payments for a child who requires more care and supervision as documented by treating professional because of the child's physical, emotional, psychological and/or behavioral needs as documented by appropriate school personnel when the child requires academic or educational assistance over and above the average assistance needed for a child.

2. Other Transportation Costs:

- a) School bus fare or private car mileage – Car mileage paid to resource families at the current established state mileage rate when free school transportation is not available for the months school is in session.
- b) Local bus fare, private care mileage, taxi fare for medical car/therapy – Available when transportation services not covered by Med-Quest or Medicaid and when other resources not available. Car mileage paid to resource families at the current established state mileage rate.

- c) Transportation to effect placement or reunify with family – Transportation for out of state travel needs prior approval from SA, receiving state's interstate compact, and Director.
- d) Transportation for resource care-givers to attend authorized meetings such as trainings.
- e) Transportation for child visitation / ohana time with parents and siblings.

3. Medical Treatments / Medicines for Resource Family needed as a Result of a Foster Child's:

Condition – Up to \$500 per incident or \$500 may be authorized when cleaning supplies or special immunizations, testing or treatment is needed to ensure the child and resource family's well-being.

4. Group Activity Fees for Organized Group Activities:

This includes organized group activities that are determined necessary for the child's growth and development (Scouts, YMCA, YWCA, Community Soccer, Community Baseball, Community Swimming, Boys and Girls Clubs).

5. Enhancement Fund:

Funds from Geist Foundation through Family Programs Hawai'i – limited to \$500/child/year (extracurricular, social activities, hobbies, camps, other enhancements, etc.).

6. Respite Care Funds:

Each Resource Family can receive up to 10 days of respite per foster child at \$25/day; Family Programs Hawai'i provides respite resources and supplemental funding.

7. Child Care:

Resource Care-givers (RC) may be eligible for child care subsidies for their foster children. BESSD does not include RC's income in the child care eligibility determination for foster children. [HAR 17-798.2-9 (b) (1) (A)]

8. Limited Liability Insurance:

Bodily Injury & Property Damage; Defense Payments.

9. Completion Awards:

\$100 gift cards for completion of Unconditional Licensure and Unconditional Renewal Licensures (which includes mandatory ongoing training requirements).

10. Support Groups:

Free Statewide Support Groups for Resource Families and Post-Permanency Families through DHS contractor, various foster care coalitions partially funded by DHS, community-based providers, etc., Child Care and Meals/Snacks are often provided.

11. Trainings:

Free Statewide trainings for Resource Families and Post-Permanency Families through DHS contractor, various foster care coalitions partially funded by DHS, community-based providers, etc. Child Care and Meals/Snacks are often provided.

12. Family Events:

Free Statewide Events for Resource Families and Post Permanency Families through DHS contractor, various foster care coalitions partially funded by DHS, community-based providers, through collaborative funding – community, businesses, foundations, etc. These events are often connected with National Foster Care Month, National Adoption Month, Recognition of Resource Families, Holiday Parties, Summer Picnics, etc.

13. Warm Line, Resource Referrals, Newsletters, Care To Share:

DHS contractor provides these additional support services to resource families.

14. Additional costs covered for services and care provided to foster children:

Medical; Free school lunch; Free Bus Transportation; Free Summer Program, Free A+ after school program at public schools.

As mentioned previously, the majority of states use an age-tiered methodology for determining their board rate.

Most states use one rate for children between the ages of 0-6, then increase the board stipend for youth 7-12 years old, and then increase the amount again at age 13.

This age classification varies a little among the states, as some increase their rate at age 3 years old and again at 12, but the pattern of age-tiering is common across the states with most states increasing the rates as the age of the child increases.

It is important to note that unlike many other states, Hawai'i offers care providers a separate clothing allowance for children when they enter care and then a yearly as a maintenance clothing allowance. Presently, the state provides a clothing allowance on an aged-tiered basis. For children entering care who are between the ages of 0-5, an initial, a one time ceiling amount of \$200 is provided; for children 6-11, \$300; and for youth over 12, \$400. Subsequently, these amounts for continuing care are \$300, \$400 and \$500 for the different age groups and these are annual ceiling amounts. This session, the

Legislature increased the monthly allotment for clothing by \$100.00 to a maximum of \$600.00 annually for children 12 and over. Resource families may also apply for a maximum \$125.00 to be used for a special event (i.e. proms, sports uniforms, etc.).

Currently approximately 25% of foster children receive a difficulty of care stipend which is capped at \$570.00 per month. This amount is for a child who requires more care and supervision as documented by treating professional because of the child's physical, emotional, psychological and/or behavioral needs requires assistance over and above the average assistance needed for a child. The maximum along with board is \$1,099.00 a month. Resource families may receive adoption assistance payments or permanency assistance payments if so classified and some youth receive a higher education payment. These are also currently \$529.00 a month. Some families may be eligible for the Supplemental Nutrition Assistance Program (formerly known as Food Stamps), or other benefits, such as child care, if the parent is working out of the home. However, Hawai'i requires that resource care-givers must be "self sufficient" to be licensed. This is to insure that resource families are not using board payments to cover their basic cost of living and are able to provide for a foster child.

POLICY OPTIONS

Table 1 displays the current cost for Room and Board using the flat rate of \$529.00 a month. This includes food, shelter, utilities, personal essentials, reading and educational materials, recreational and community activities, transportation, medicine supplies, baby supplies and equipment. It does NOT include the difficulty of care payments which may increase over the next few years, as children with more complex needs enter the foster care system.

Table 1: Costs for Room and Board*At the Current Flat Rate of \$529 a month SFY 14 Estimate

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per Category
Room and Board	\$529	1191	\$630,039
Adoption Assistance	\$529	3560	\$1,883,240
Permanency Assistance	\$529	823	\$435,367
Higher Education	\$529	300	\$158,700
Difficulty of Care**	\$570	1612	\$918,840
Voluntary 18-21	\$529	135	\$ 71,415.
TOTALS*		6,009	\$3,178,761

* DOC not included

Table 2 displays the cost if the board rate was increased by 14% for all foster youth.

The US Expenditures of Children and Families estimated the cost of raising a child to be \$606 a month for children between the ages of 0-5. This table displays a 14% increase for this group of youth and what it would cost to do this for all foster children, with no difference for the cost of raising older children.

Table 2: Costs for Room and Board* Estimates at the Flat Rate of \$604.00 a month (\$75.00 increase; 14%)

SFY 14 Estimates

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per Category
Room and Board	\$604	1191	\$719,364
Adoption Assistance	\$604	3560	\$2,150,240
Permanency Assistance	\$604	823	\$497,092
Higher Education	\$604	300	\$181,200
Difficulty of Care*	\$570	1612	\$918,840
Voluntary 18-21	\$604	135	\$ 81,540
TOTALS*		6,009	\$3,629,436

* DOC not included in total

The increase in total cost if the rate was increased for all youth by \$75.00 is estimated to be \$3,629,436. This includes the estimated 135 youth beyond the age of 18 who may choose to stay in foster care until the age of 21. The Legislature gave the department \$1 million dollars to defray these costs.

However, as discussed previously, the vast majority of states provide resource families with differing rates that increase the allotment **based on the age of the child**. Most states set one rate for infants, babies and very young children between the ages of 0-5; another rate is for youngsters between the ages of 6-12; and then the highest rate for young adults 13 and older. Hawai'i will be implementing its new voluntary foster youth program to 21 years of age so new cost estimates include this new group of youth.

Table 3 displays the cost of increasing the board rate by \$75.00 for just the youth between the ages of 0-5.

Table 3: Youth 0-5 Years of Age Cost for Room and Board Estimates at the Rate of \$604.00 a month (\$75.00; 14 % increase)

SFY14 Estimates

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per Category
Room and Board	\$604	535	\$323,140
Adoption Assistance	\$604	320	\$193,280
Permanency Assistance	\$604	32	\$19,328
Difficulty of Care*	\$570	239	\$136,230
TOTALS*		887	\$535,748

** DOC not included in total*

The US Expenditures of Children and Families estimated the cost of raising a child between the ages of 6-11 to be \$684 a month. Table 4 displays the cost of increasing the board rate by \$90.00 for youth between the ages of 6-12. This is a 17% increase and is \$65.00 less than the US Report estimated costs. Also, please note that the age groupings are slightly different.

Table 4: Youth 6-12 years of age Costs for Room and Board estimates at the rate of \$619.00 a month (\$90.00 increase 17%)

SFY14 Estimates

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per Category
Room and Board	\$619	369	\$228,411
Adoption Assistance	\$619	1815	\$1,123,485
Permanency Assistance	\$619	296	\$183,224
Difficulty of Care*	\$570	725	\$413,250
TOTALS*		2480	\$1,535,120

** DOC not included in total*

Table 5 displays the costs of increasing the board rate by \$100.00 for youth over the age of 13. This is \$17.00 more than the costs estimated by the U.S. Report, but it includes young people 18-21 who are now eligible to voluntarily continue to receive board payments.

Table 5 Youth 13+ years of age Costs for Room and Board estimates at the rate of \$629.00 a month (\$100.00 increase, (19%))

Type of Payments	Average Monthly Amount	Number of youth	Total Cost per Category
Room and Board	\$629	285	\$179,265
Adoption Assistance	\$629	1424	\$895,696
Permanency Assistance	\$629	493	\$310,097
Higher Education	\$629	300	\$188,700
Difficulty of Care*	\$570	646	\$368,220
Voluntary 18-21	\$629	135	\$84,915
TOTALS		2,637	\$1,658,673

* DOC not included in total

Of course there are many variables that could alter this predication. The number of children entering care has been increasing lately, after a significant decrease in the number of children entering care over the last few years. This trend may or may not continue. Only about 25% of the children are eligible to receive difficulty of care payments, but these costs may increase as more challenging children enter the system. The new group of youth 18 and over who may choose to remain in foster care (or go out and then in again) will be hard to predict in the early years.

It should be remembered that some resource families may also receive reimbursements for transportation costs (school bus fares, travel to `ohana time, special meetings, costs for medical care/therapy, etc.); medical treatment; group activities; special enhancement activities; respite care; child care; support groups; attending trainings and other activities approved in the rules, as well as a clothing allowance.

POLICY RECOMENDATION

Establish a board payment from a flat rate to three age-tiered categories: 0-5, 6-12 and youth 13 and older. Increase the rates by 14%, 17% and 19% respectively based on data from the estimated annual expenditures on a child in the urban west in 2011 and the increase in the cost of living in Honolulu.

Appendix 1

Indiana's Final Rules

Foster Care Rate Rule Summary

I. How did this Process Begin

- a. DCS announced a 10% reduction in foster care per diems in late Fall 2009 (from \$25 per day to \$22.50)
- b. ACLU filed a class action lawsuit on behalf of DCS foster parents
- c. The court issued a ruling temporarily barring DCS from implementing rate reductions. The court indicated DCS did not have a clear methodology for establishing the rates and therefore couldn't demonstrate the rate covered the reasonable Title IV-E costs of raising a foster child.
- d. DCS drafted rate rules outlining a clear methodology and hired an independent university to establish a precise method for calculating the costs of care
 - i. Rate rules drafted during Summer 2010
 - ii. Public Hearings on the methodology outlined in the rules held in September 2010
 - iii. DCS entered into a legal settlement agreement in early 2011:
 1. Locking the foster care per diems at \$25 in 2011 until the methodology was introduced to set rates effective January 1, 2012
 2. Agreeing that DCS would set future rates through implementation of the methodology outlined in the rules

II. Main Changes as a Result of the Rate Rules

- a. Rules now establish procedures DCS will use to set per diem payments to foster parents
 - i. The independent expert (BSU) established a method for DCS to use in determining foster care per diem payment rates
- b. Foster Care Per Diem
 - i. Rates vary by age of child and child's category of need
 - ii. Foster care rate is no longer determined based on the license category of the foster parent (regular, special needs, therapeutic) -- the rate will be determined based on the specific needs of the child and not the license type of the foster parent
 - iii. Foster parents who take assessed higher need children will received an enhanced supervision payment (higher rate)
 1. The rate a foster parent receives will be determined based on age of child and CANS level with input from the Child and Family Team
 2. DCS must assess the child's level of need (CANS) when determining placement
 3. Child must be reassessed every 180 days or at critical case junctures
 4. Foster parents may request a review of the child's category of supervision

Appendix 2

Washington, D.C.

Case Management and Family Based Foster Care Services.....Attachment J.1.2
CFSA-10-H-0016



ATTACHMENT J.1.2

Foster Care Rates Effective January 1, 2010

Children age 11 and Under

Level	Daily	30 Day Month	31 Day Month
I - Regular	\$30.66	\$919.80	\$950.46
II - Special	\$31.26	\$937.80	\$969.06
III - Handicapped	\$33.23	\$996.90	\$1,030.13
IV - Multi-handicap	\$38.99	\$1,169.70	\$1,208.69

Children age 12 and over

Level	Daily	30 Day Month	31 Day Month
I - Regular	\$34.15	\$1,024.50	\$1,058.65
II - Special	\$35.39	\$1,061.70	\$1,097.09
III - Handicapped	\$37.83	\$1,134.90	\$1,172.73
IV - Multi-handicap	\$44.58	\$1,337.40	\$1,381.98

Foster Care Rates Effective January 1, 2009 – December 31, 2009

Children age 11 and Under

Level	Daily	30 Day Month	31 Day Month
I - Regular	\$30.66	\$919.80	\$950.46
II - Special	\$31.26	\$937.80	\$969.06
III - Handicapped	\$33.23	\$996.90	\$1,030.13
IV - Multi-handicap	\$38.99	\$1,169.70	\$1,208.69

Children age 12 and over

I - Regular	\$32.97	\$989.10	\$1,022.07
II - Special	\$34.17	\$1,025.10	\$1,059.27
III - Handicapped	\$36.52	\$1,095.60	\$1,132.12
IV - Multi-handicap	\$43.04	\$1,291.20	\$1,334.24

Page 1 of 2

Methodology

Each year, the department will raise the Level 1 board rate to reflect the USDA report on the cost of raising a child in the urban south. The daily rate is calculated by using the middle income level as follows:

- 1) Compute the average total expenses for children 11 years of age or under
- 2) Divide the number by 365 to give the daily rate for Level I board rate
- 3) Using that number, calculate the % increase over the previous year
- 4) Apply the present increase to level II, III and IV daily board rates
- 5) Multiply the daily board rates by 30 and 31 (according to the days in the month) respectively
- 6) Repeat steps 1-5 for children age 12 and over.

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.R. NO. 209

HOUSE RESOLUTION

REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO DETERMINE THE
FEASIBILITY OF INCREASING THE BOARD PAYMENT RATE FOR FOSTER
BOARDING HOME PARENTS, GROUP HOMES, AND CHILD CARING
INSTITUTIONS.

1 WHEREAS, the current board payment rate for foster boarding
2 home parents, group homes, and child caring institutions in
3 Hawaii was last set in 1990 and has not been adjusted even as
4 the total rate of inflation since then has risen sixty-six per
5 cent; and
6

7 WHEREAS, the current monthly board payment rate of \$529 for
8 each child regardless of age is insufficient to raise a child
9 because costs for food, housing, utilities, clothing, and other
10 necessities have increased; and
11

12 WHEREAS, a 2007 report published by the University of
13 Maryland's School of Social Work concluded that most states,
14 including Hawaii, pay foster parents far less than what middle
15 income families customarily spend to raise their children; and
16

17 WHEREAS, the University of Maryland report further
18 indicated that Hawaii's standard foster board payment rate,
19 undifferentiated by age, is lower by nineteen per cent, thirty-
20 six per cent, and forty-nine per cent than the minimum adequate
21 rate for children advocated by the Foster Parent Association for
22 children aged two, nine, and sixteen, respectively; and
23

24 WHEREAS, Hawaii continues to experience a shortage of
25 families willing and able to provide foster care for the
26 approximately seventeen hundred children requiring foster care
27 in the State; and
28

29 WHEREAS, the low standard foster board payment rate,
30 undifferentiated by age, for providing foster care has made it
31 difficult to attract and retain foster parents; and
32

HR LRB 09-2936.doc



H.R. NO. 209

1 WHEREAS, Hawaii's reimbursement from the federal government
2 for foster care payments under Title IV-E of the Social Security
3 Act with regard to the Adoption Assistance Program has not been
4 maximized and represents an underutilized resource; now,
5 therefore,
6

7 BE IT RESOLVED by the House of Representatives of the
8 Twenty-fifth Legislature of the State of Hawaii, Regular Session
9 of 2009, that the Director of Human Services is requested to
10 determine the feasibility of gradually increasing the board
11 payment rate for foster boarding home parents, group homes, and
12 child caring institutions in the State over a period of five
13 years; and
14

15 BE IT FURTHER RESOLVED that the Director of Human Services,
16 in determining the feasibility of increasing the board payment
17 rate, is requested to consider establishing a scaled schedule of
18 board payment rates that take into account varying levels of
19 difficulty in providing care to foster children of different
20 ages within the following age ranges:
21

22 (1) From birth to age five;
23

24 (2) From age six to age twelve; and
25

26 (3) From age thirteen to time of termination from foster
27 care; and
28

29 BE IT FURTHER RESOLVED that the Director of Human Services
30 is also requested to determine the feasibility of linking future
31 board payment rate increases to various inflation index
32 measures, such as the Consumer Price Index; and
33

34 BE IT FURTHER RESOLVED that the Director of Human Services
35 is further requested to submit findings and recommendations
36 regarding board payment rate increases, including any necessary
37 proposed legislation, to this body no later than November 1,
38 2009; and
39



Page 3

H.R. NO. 209

1 BE IT FURTHER RESOLVED that a certified copy of this
2 Resolution be transmitted to the Director of Human Services.
3
4
5



OFFERED BY:

Mike Canale

John M. [Signature]
Don Brown

May Stee

MAR 18 2009



HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.C.R. NO. 240

HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO DETERMINE THE
FEASIBILITY OF INCREASING THE BOARD PAYMENT RATE FOR FOSTER
BOARDING HOME PARENTS, GROUP HOMES, AND CHILD CARING
INSTITUTIONS.

1 WHEREAS, the current board payment rate for foster boarding
2 home parents, group homes, and child caring institutions in
3 Hawaii was last set in 1990 and has not been adjusted even as
4 the total rate of inflation since then has risen sixty-six per
5 cent; and
6

7 WHEREAS, the current monthly board payment rate of \$529 for
8 each child regardless of age is insufficient to raise a child
9 because costs for food, housing, utilities, clothing, and other
10 necessities have increased; and
11

12 WHEREAS, a 2007 report published by the University of
13 Maryland's School of Social Work concluded that most states,
14 including Hawaii, pay foster parents far less than what middle
15 income families customarily spend to raise their children; and
16

17 WHEREAS, the University of Maryland report further
18 indicated that Hawaii's standard foster board payment rate,
19 undifferentiated by age, is lower by nineteen per cent, thirty-
20 six per cent, and forty-nine per cent than the minimum adequate
21 rate for children advocated by the Foster Parent Association for
22 children aged two, nine, and sixteen, respectively; and
23

24 WHEREAS, Hawaii continues to experience a shortage of
25 families willing and able to provide foster care for the
26 approximately seventeen hundred children requiring foster care
27 in the State; and
28



1 WHEREAS, the low standard foster board payment rate,
2 undifferentiated by age, for providing foster care has made it
3 difficult to attract and retain foster parents; and
4

5 WHEREAS, Hawaii's reimbursement from the federal government
6 for foster care payments under Title IV-E of the Social Security
7 Act with regard to the Adoption Assistance Program has not been
8 maximized and represents an underutilized resource; now,
9 therefore,
10

11 BE IT RESOLVED by the House of Representatives of the
12 Twenty-fifth Legislature of the State of Hawaii, Regular Session
13 of 2009, the Senate concurring, that the Director of Human
14 Services is requested to determine the feasibility of gradually
15 increasing the board payment rate for foster boarding home
16 parents, group homes, and child caring institutions in the State
17 over a period of five years; and
18

19 BE IT FURTHER RESOLVED that the Director of Human Services,
20 in determining the feasibility of increasing the board payment
21 rate, is requested to consider establishing a scaled schedule of
22 board payment rates that take into account varying levels of
23 difficulty in providing care to foster children of different
24 ages within the following age ranges:
25

26 (1) From birth to age five;
27

28 (2) From age six to age twelve; and
29

30 (3) From age thirteen to time of termination from foster
31 care; and
32

33 BE IT FURTHER RESOLVED that the Director of Human Services
34 is also requested to determine the feasibility of linking future
35 board payment rate increases to various inflation index
36 measures, such as the Consumer Price Index; and
37

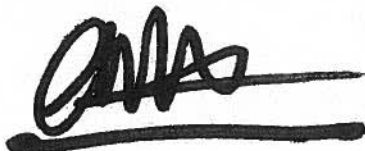
38 BE IT FURTHER RESOLVED that the Director of Human Services
39 is further requested to submit findings and recommendations
40 regarding board payment rate increases, including any necessary
41 proposed legislation, to the Legislature no later than November
42 1, 2009; and
43



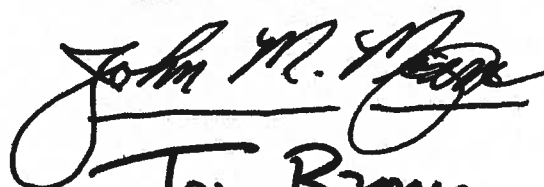
Page 3

H.C.R. NO. 240

1 BE IT FURTHER RESOLVED that a certified copy of this
2 Concurrent Resolution be transmitted to the Director of Human
3 Services.
4
5
6



OFFERED BY:



MAR 18 2009



2009 Archives

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HR209

Measure Title: REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO DETERMINE THE FEASIBILITY OF INCREASING THE BOARD PAYMENT RATE FOR FOSTER BOARDING HOME PARENTS, GROUP HOMES, AND CHILD CARING INSTITUTIONS.

Report Title: Increase Foster Board Payment Rates; DHS Feasibility Study

Description:

Companion: [HCR240](#)

Package: None

Current Referral: HUS, FIN

Introducer(s): CARROLL, BROWER, MCKELVEY, MIZUNO, M. Lee

Sort by Date **Status Text**



3/18/2009	H	Offered
3/20/2009	H	Referred to HUS, FIN, referral sheet 36
3/20/2009	H	Resolution scheduled to be heard by HUS on Monday, 03-23-09 8:30am in conference room 329.
3/23/2009	H	The committees on HUS recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 6 Ayes: Representative(s) Mizuno, Brower, Bertram, Nishimoto, Shimabukuro, Ward; Ayes with reservations: none; Noes: none; and 3 Excused: Representative(s) Belatti, Carroll, Yamane.
4/1/2009	H	Reported from HUS (Stand. Com. Rep. No. 1396), recommending referral to FIN.
4/2/2009	H	Report adopted; referred to the committee(s) on FIN with none voting no and Takai excused.

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

HR209

All Versions of this Measure

Measure	Category	
HR209_HSCR1396	Comm Reports	
HR209	Bills	

Testimony

No testimony at this time

Hearing Notices

Comm	Room	Date/Time	Notice
HUS	329	3/23/2009 8:30 AM	View

SOH 05452

2009 Archives

You are viewing archived information from 2009

HCR240

Measure Title: REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO DETERMINE THE FEASIBILITY OF INCREASING THE BOARD PAYMENT RATE FOR FOSTER BOARDING HOME PARENTS, GROUP HOMES, AND CHILD CARING INSTITUTIONS.

Report Title: Increase Foster Board Payment Rates; DHS Feasibility Study

Description:

Companion: [HR209](#)

Package: None

Current Referral: HUS, FIN

Introducer(s): CARROLL, BROWER, M. LEE, MCKELVEY, MIZUNO

Sort by Date Status Text



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4/1/2009	H	Reported from HUS (Stand. Com. Rep. No. 1397), recommending referral to FIN.
4/2/2009	H	Report adopted; referred to the committee(s) on FIN with none voting no and Takai excused.

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

HCR240

All Versions of this Measure

Measure	Category	
HCR240 HSCR1397	Comm Reports	
HCR240	Bills	

Testimony

No testimony at this time

Hearing Notices

Comm	Room	Date/Time	Notice
HUS	329	3/23/2009 8:30 AM	View

SOH 05453



FAMILY PROGRAMS HAWAII

TO: Representative Mele Carroll, Chair
Representative Bertrand Kobayashi, Vice Chair
Committee on Human Services

HEARING: Thursday, January 30, 2014
10:00 am
Conference Room 329

FROM: Judith Wilhoite
Family Programs Hawai'i

RE: HB 1576 – Relating to Foster Care Services

Thank you for the opportunity to testify. I am the Family Advocate for Family Program Hawaii's It Takes An 'Ohana (ITAO) program and a resource caregiver, formerly referred to as foster parent. I, along with my Advisory Committee, strongly support this bill.

In return for the federal reimbursement to the states for a portion of foster care costs, Title IV-E of the Social Security Act requires states to reimburse resource caregivers, formerly known as foster parents, for their foster child's cost of food, clothing, shelter, daily supervision, school supplies, personal incidentals and childcare.

The \$529 per month reimbursement rate that Hawaii resource caregivers receive to cover their foster children's costs has not been changed since 1990. Per the Hawai'i State Data Center, the cost for a basket of food to be prepared at home in 1990 was \$24.71. In 2011, the cost for that same basket of food was \$53.75. That cost alone has risen 100% while the reimbursement has not budged.

In hard economic times like we are in now, this can prevent good families from becoming resource caregivers and at the same time, force good resource caregivers out of the system.

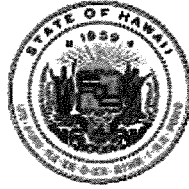
I strongly support this bill to adjust the foster care reimbursement rate so that it adequately covers the needs of our children in foster care.

From: KRosenfeld@dhs.hawaii.gov [mailto:KRosenfeld@dhs.hawaii.gov]

Sent: Wednesday, July 23, 2014 12:48 PM

Cc: KRosenfeld@dhs.hawaii.gov

Subject: DHS Press Release - Resource Caregivers Receive Increased Board Payments



DEPARTMENT OF HUMAN SERVICES

NEIL ABERCROMBIE
GOVERNOR

PATRICIA MCMANAMAN
DIRECTOR

Resource Caregivers Receive Increased Board Payments *Effective July 2014*

FOR IMMEDIATE RELEASE: July 23, 2014

Families that care for children placed with the Department of Human Services (DHS) Child Welfare Service (CWS) Branch will receive a foster board pay increase, effective July 1, 2014. Called resource caregivers, families will receive their first increased payment in August.

To ensure that resource caregivers receive the funds necessary to provide safe, healthy, and nurturing environments for children awaiting permanent placement, the DHS requested a legislative appropriation of \$8,502,936 in 2014. The budget request was passed in its entirety as part of Governor Neil Abercrombie's 2014 executive budget package.

"Hawaii's rate increase is based on the DHS' review of foster care rates and practices in 46 other states," explained DHS Director Patricia McManaman, "and the benefits that Hawaii resource families currently receive in addition to tax-free monthly foster care payments."

Children enter and exit the foster care system throughout the year. They can remain in resource family homes for days, months, or years in some cases. While siblings are often placed together, resource families also may care for two or more unrelated children. In 2013, the average number of children per month in resource homes was 1,096. In June 2014, a total of 1,156 children were in foster care across the State.

Representative Mele Carroll, Chair of the House Committee on Human Services, was a strong supporter of increasing foster board payments. "The bill is a huge step forward to help support the foster families that are integral members of our communities." Her Senate counterpart, Senator Suzanne Chun Oakland agreed. "I am very happy with the passage of this legislation and am grateful to the Department of Human Services, Governor, Legislature, advocates and foster families for this team effort!"

The increase in basic board payment also applies to families eligible for adoption assistance, permanency assistance, youth receiving higher education board allowance payments, and to young adults who choose to enroll in DHS' new program of extended voluntary care to age 21.

Foster board payment rates vary across the nation. Hawaii based its new rates on an age-tiered system indexed to documented costs contained in the United States Department of Agriculture's Expenditures on Children by Families annual report. The monthly per child payment to Hawaii resources caregivers has been increased from a base rate of \$529 to \$575 for 0-5 year olds, \$650 for 6-11 year olds, and \$676 for children aged 12 and above.

Similar to other states, Hawaii's resource caregivers also receive QUEST health insurance benefits for their foster children, difficulty of care payments, and a clothing allowance. Difficulty of care payments are provided to resource caregivers that support children who require more intensive physical, emotional, psychological or behavioral care and supervision, as determined by a treating professional.

Resource families also are eligible to receive special circumstances or events payments, designated transportation costs (school bus fare or private car mileage, local bus fare) that effect child placement or promote family reunification, and \$500 per child per year for extracurricular activities, social activities, hobbies, and camp funds.

Reimbursable costs include attendance at authorized meetings, respite care and child care coverage, limited liability insurance training, and enhancements necessary for the child's growth and development (e.g. Scouts, YMCA, YWCA, community soccer, community baseball, community swimming, Boys and Girls Clubs).

To learn more about becoming a resource care giver or attending one of the statewide informational briefings, please visit the DHS website www.humanservices.hawaii.gov/ssd/home/child-welfare-services/foster-and-adoptive-care/.

Media Contact:
Kayla Rosenfeld, Public Information Officer
586-4892; krosenfeld@dhs.hawaii.gov
www.humanservices.hawaii.gov

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Mona Maehara/SSD/DHS
08/30/2013 09:54 AM

To Ricky Higashide/DHS@dhs
cc Barbara Yamashita/DHS@DHS, chandler@hawaii.edu,
Kayle Perez/SSD/DHS@DHS, Lisa Nakao/SSD/DHS@DHS,
Lynne Kazama/SSD/DHS@DHS
bcc
Subject Re: Foster Care Rates - CPI

Thanks Ricky!

Ricky Higashide/DHS



Ricky Higashide/DHS
08/30/2013 07:52 AM

To Lisa Nakao/SSD/DHS@DHS, Barbara
Yamashita/DHS@DHS, chandler@hawaii.edu, Kayle
Perez/SSD/DHS@DHS, Lynne Kazama/SSD/DHS@dhs,
Mona Maehara/SSD/DHS@dhs
cc
Subject Foster Care Rates - CPI

Hi Folks,

I misspoke during the Foster Care Board Rate meeting yesterday concerning the CPI. I was correct in stating that the sum of the "Percent change from previous year" over a time period will underestimate the overall change rate for the period because of the compounding effect. However, when I stated that I previously saw a doubling of the CPI, I was referring to the 1989-2012 time period.

The change rate between 1994 and 2012 CPIs is 52% for All Urban Consumers in Honolulu.

	Average Annual CPI	Yr2-Yr1	% Change
1994	164.5		
2012	249.474	84.974	0.516559271

Susan: I get the revised tables to you later today.

Thanks,

Ricky Higashide
Research Staff Supervisor
Audit, Quality Control and Research Office (AQCRO)
State of Hawaii - Dept. of Human Services
Telephone: (808) 586-5109
FAX: (808) 586-4810
email: rhigashide@dhs.hawaii.gov

CB-496: Foster Care Financial Report

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES Children's Bureau			OMB APPROVED Control No: 0970-0205 Expires 8/31/2016
FORM CB-496: TITLE IV-E PROGRAMS QUARTERLY FINANCIAL REPORT PART 1: EXPENDITURES, ESTIMATES (Including Caseload Data)			
State/Tribe: Hawaii	Current (Claiming) Quarter Ended: 06/30/2014	Next (Estimating) Quarter Ending 12/31/2014	Report Type: New
Current Quarter FMAP Rate = 0.518500		Next Quarter FMAP Rate = 0.522300	

Section A: Foster Care Program

50% FFP rate for all cost categories, except where noted	Current Quarter Claims Total (A)	Current Quarter Claims Fed Share (B)	Prior Quarter Adjustments Total (C)	Prior Quarter Adjustments Fed Share (D)	Next Quarter Estimates Total (E)	Next Quarter Estimates Fed Share (F)
1. Maintenance Assistance Payments (FMAP rate)	\$1,173,337	\$608,375	\$116,555	\$60,429	\$1,633,872	\$853,371
2. Tribal-State Agreement Maint. Assist. Payments (Applicable FMAP Rate)	\$0	\$0	\$0	\$0	\$0	\$0
3. Federal Share of Child Support Collections - From Form OCSE-34		\$44,156				\$45,481
4. Net Maintenance Assistance Payments		\$564,219		\$60,429		\$807,890
5. In-Placement Administrative Costs - Case Planning and Management	\$3,914,012	\$1,957,006	\$993,024	\$496,513		
6. In-Placement Administrative Costs - Eligibility Determinations	\$291,826	\$145,913	\$0	\$0		
7. In-Placement Administrative Costs - Provider Management	\$827,867	\$413,934	\$164,458	\$82,230		
8. In-Placement Administrative Costs - Agency Management	\$560,497	\$280,249	\$67,313	\$33,657		
9. Total In-Placement Administrative Costs	\$5,594,202	\$2,797,102	\$1,224,795	\$612,400	\$6,221,121	\$3,110,561
10. Candidate Administrative Costs - Pre Placement Activities	\$604,035	\$302,018	\$244,850	\$122,426	\$634,237	\$317,119
11. SACWIS Operational Costs	\$0	\$0	\$0	\$0	\$0	\$0
12. SACWIS Developmental Costs: Project 1 - APD Required	\$0	\$0	\$0	\$0	\$0	\$0
13. SACWIS Developmental Costs: Project 2 - APD Required	\$0	\$0	\$0	\$0	\$0	\$0
14. SACWIS Developmental Costs - No APD Required	\$0	\$0	\$0	\$0	\$0	\$0
15. Training Costs - Staff and Provider (75% FFP Rate)	\$323,229	\$242,422	\$46,460	\$34,846	\$421,225	\$315,919
16. Training Costs - Professional Partner (Transitional FFP Rate)	\$0	\$0	\$0	\$0	\$0	\$0
17. Demonstration Project Costs - From Part 3	\$0	\$0	\$0	\$0	\$0	\$0
18. Total Costs	\$7,694,803	\$3,905,761	\$1,632,660	\$830,101	\$8,910,455	\$4,551,489

Non-Federal (State or Tribe)

	Current Quarter Claims Total (A)	Current Quarter Claims Fed Share (B)	Prior Quarter Adjustments Total (C)	Prior Quarter Adjustments Fed Share (D)	Next Quarter Estimates Total (E)	Next Quarter Estimates Fed Share (F)
19. Non-Federal (State or Tribal) Share of Total Costs		\$3,789,042		\$802,559		\$4,358,966
20. Tribal Share of Costs from Third Party In-Kind Sources		\$0		\$0		\$0

Section D: Average Monthly Number of Children Assisted

	Actual Count Current Quarter	Estimated Count Next Quarter
41. Number of Children: In-Placement - Title IV-E Maintenance Assistance Payments	568	628
42. Number of Children: In-Placement - Title IV-E Funded Administrative Costs	587	648
43. Number of Children: In-Placement - Any Payments or Administrative Costs	1,131	1,193
44. Number of Children: Pre-Placement & Title IV-E Funded Candidate Administrative Costs	257	250

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES Children's Bureau	OMB APPROVED Control No: 0970-0205 Expires 8/31/2016
FORM CB-496: TITLE IV-E PROGRAMS QUARTERLY FINANCIAL REPORT PART 2: PRIOR QUARTER EXPENDITURE ADJUSTMENTS	

SECTION A: Increasing Adjustments

SECTION A: Increasing Adjustments	Funding Category (A)	Applicable to Fiscal Quarter Ended (B)	Total Computable Adjustment (C)	Federal Share of Adjustments (D)	Adjustment Identification and Explanation (E)
Increasing Adjustments 1	FPY	03/31/2014	\$84,054	\$43,582	Home is now licensed and/or Eligibility was determined
Increasing Adjustments 2	FPY	12/31/2013	\$38,668	\$20,049	Home is now licensed and/or Eligibility was determined
Increasing Adjustments 3	FPY	09/30/2013	\$32,687	\$16,951	Worker error in entering the licensing information or in entering the client's eligibility
Increasing Adjustments 4	FPY	06/30/2013	\$17,726	\$9,193	Worker error in entering the licensing information or in entering the client's eligibility
Increasing Adjustments 5	FPY	03/31/2013	\$13,442	\$6,971	Worker error in entering the licensing information or in entering the client's eligibility
Increasing Adjustments 6	FPY	12/31/2012	\$10,428	\$5,408	Worker error in entering the licensing information or in entering the client's eligibility
Increasing Adjustments 7	FPY	09/30/2012	\$2,321	\$1,172	Worker error in entering the licensing information or in entering the client's eligibility
Increasing Adjustments 8	FAC	12/31/2013	\$840,827	\$420,414	Increase in PR
Increasing Adjustments 9	FAC	09/30/2012	\$152,197	\$76,099	Increase in PR
Increasing Adjustments 10	FAM	12/31/2013	\$143,893	\$71,947	Increase in PR
Increasing Adjustments 11	FAM	09/30/2012	\$20,565	\$10,283	Increase in PR
Increasing Adjustments 12	FAA	12/31/2013	\$11,879	\$5,940	Increase in PR
Increasing Adjustments 13	FAA	09/30/2012	\$55,434	\$27,717	Increase in PR
Increasing Adjustments 14	FCP	12/31/2013	\$235,987	\$117,994	Increase in PR
Increasing Adjustments 15	FCP	09/30/2012	\$8,863	\$4,432	Increase in PR
Increasing Adjustments 16	FTS	12/31/2013	\$28,722	\$21,542	Increase in PR
Increasing Adjustments 17	FTS	09/30/2012	\$17,738	\$13,304	Increase in PR
SubTotal Increasing Adjustments			\$1,715,431	\$872,998	

SECTION B: Decreasing Adjustments

SECTION B: Decreasing Adjustments	Funding Category (A)	Applicable to Fiscal Quarter Ended (B)	Total Computable Adjustment (C)	Federal Share of Adjustments (D)	Adjustment Identification and Explanation (E)
Decreasing Adjustments 1	FPY	03/31/2014	\$17,127	\$8,880	Child either went home, aged out or coding error
Decreasing Adjustments 2	FPY	12/31/2013	\$19,518	\$10,120	Child either went home, aged out or coding error
Decreasing Adjustments 3	FPY	09/30/2013	\$21,231	\$11,010	Child either went home, aged out or coding error
Decreasing Adjustments 4	FPY	06/30/2013	\$11,297	\$5,859	Worker error in entering the licensing information or in entering the client's eligibility
Decreasing Adjustments 5	FPY	03/31/2013	\$8,930	\$4,631	Worker error in entering the licensing information or in entering the client's eligibility

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Decreasing Adjustments 6	FPY	12/31/2012	\$2,896	\$1,502	Worker error in entering the licensing information or in entering the client's eligibility
Decreasing Adjustments 7	FPY	09/30/2012	\$1,772	\$895	Worker error in entering the licensing information or in entering the client's eligibility
SubTotal Decreasing Adjustments			\$82,771	\$42,897	

PART 2 - Net Adjustments

Net Adjustments			Total Computable Adjustment (C)	Federal Share of Adjustments (D)	
Net			\$1,632,660	\$830,101	

Signature Information

This is to certify that all information on all parts of this form is accurate and true to the best of my knowledge and belief. This also certifies that the States share of expenditures reported in Part 1 is or will be available to meet the non-Federal share of expenditures as required by law.

Signature of Approving Official 	Approving Agency Name Hawaii	Approving Official Name Derek Oshiro
Approving Official Title	Official Approval Date 08/14/2014	Submit Date:08/14/2014

* Funding Categories: (with equivalent line numbers from Part 1):			
FPY	Maintenance Assistance Payments - Agency (Part 1, Line 1)	FPA	Maintenance Assistance Payments - w/Agreement (Part 1, Line 2)
FAC	In-Placement Administration - Case Planning and Mgmt. (Part 1, Line 5)	FAE	In-Placement Administration - Eligibility Determination (Part 1, Line 6)
FAP (formerly FAM)	In-Placement Administration - Provider Management (Part 1, Line 7)	FAA	In-Placement Administration - Agency Management (Part 1, Line 8)
FCP	Candidate Administration - Pre-Placement (Part 1, Line 10)	FSO	SACWIS - Operational Costs (Part 1, Line 11)
FS1	SACWIS Development Project 1 Costs (Part 1, Line 12)	FS2	SACWIS Development Project 2 Costs (Part 1, Line 13)
FSN	SACWIS Development Non-APD Costs (Part 1, Line 14)	FTS	Training Costs - Staff and Provider (Part 1, Line 15)
FTP	Training Costs - Professional Partners (Part 1, Line 16)	FDA	Demonstration Project 50% FFP Rate Operational Costs (Part 3, Lines 1b, 2b, 5b, 5c, 5d and 6b)
FDD	Demonstration Project Developmental Costs (Part 3, Lines 3 and 7)	FDV	Demonstration Project Evaluation Costs (Part 3, Lines 4 and 8)
FDP	Demonstration Project FMAP Rate Operational Costs (Part 3, Lines 1a, 2a, 5a and 6a)	*FDE	Foster Care Demo Project Costs (Line 17) * This code remains available only for reporting prior quarter adjustments for periods in FY 2013 or prior. All foster care demonstration project costs for periods in FY 2014 or later must be identified using the available funding code that specifically covers the cost category being reported (i.e. FDD, FDV, FDP, FDA, FDT).
FDT	Demonstration Project 75% FFP Rate Operational Costs (Part 3, Lines 5e and 6c)		

Form CB- 496 [Part 1 - Page 1 of 2] (10/01/2013) Replaces 10/01/2010 version.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES Children's Bureau			OMB APPROVED Control No: 0970-0205 Expires 8/31/2013
FORM CB-496: TITLE IV-E PROGRAMS QUARTERLY FINANCIAL REPORT PART 1: EXPENDITURES and ESTIMATES			
State/Tribe: Hawaii	Current (Claiming) Quarter Ended: 06/30/2014	Next (Estimating) Quarter Ending 12/31/2014	Report Type: New
Current Quarter FMAP Rate = 0.518500		Next Quarter FMAP Rate = 0.522300	

Section B: Adoption Assistance Program

50% FFP rate for all cost categories, except where noted	Current Quarter Claims Total (A)	Current Quarter Claims Fed Share (B)	Prior Quarter Adjustments Total (C)	Prior Quarter Adjustments Fed Share (D)	Next Quarter Estimates Total (E)	Next Quarter Estimates Fed Share (F)
21. Adoption Assistance Payments (FMAP Rate)	\$6,061,683	\$3,142,983	-\$47,686	-\$24,726	\$7,333,286	\$3,830,175
22. Tribal/State Agreement Adopt Assist Payments (Applicable FMAP Rate)	\$0	\$0	\$0	\$0	\$0	\$0
23. Administrative Costs - Agency	\$199,643	\$99,822	\$0	\$0	\$286,428	\$143,214
24. Administrative Costs - Non-Recurring	\$19,232	\$9,616	\$0	\$0	\$20,194	\$10,097
25. Training Costs - Staff and Provider (75% FFP Rate)	\$0	\$0	\$0	\$0	\$33,427	\$25,070
26. Training Costs - Professional Partner (Transitional FFP Rate)	\$0	\$0	\$0	\$0	\$0	\$0
27. Demonstration Project Costs - From Part 3	\$0	\$0	\$0	\$0	\$0	\$0
28. Total Costs	\$6,280,558	\$3,252,421	-\$47,686	-\$24,726	\$7,673,335	\$4,008,556

Non-Federal (State or Tribe)

	Current Quarter Claims Total (A)	Current Quarter Claims Fed Share (B)	Prior Quarter Adjustments Total (C)	Prior Quarter Adjustments Fed Share (D)	Next Quarter Estimates Total (E)	Next Quarter Estimates Fed Share (F)
29. Non-Federal (State or Tribal) Share of Total Costs		\$3,028,137		-\$22,960		\$3,664,779
30. Tribal Share of Costs from Third Party In-Kind Contribution						

Section D: Average Monthly Number of Children Assisted

	Actual Count Current Quarter	Estimated Count Next Quarter
45. Number of Children - Title IV-E Assistance Payments	2,759	2,748
46. Number of Children - Any Assistance Payments	3,379	3,375
47. Number of Children - Title IV-E Non-Recurring Administrative Costs Payments	11	10

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES Children's Bureau			OMB APPROVED Control No: 0970-0205 Expires 8/31/2013
FORM CB-496: TITLE IV-E PROGRAMS QUARTERLY FINANCIAL REPORT PART 2: PRIOR QUARTER EXPENDITURE ADJUSTMENTS			

Increasing Adjustments

SECTION A: Increasing Adjustments	(A) Funding Category	(B) Applicable to Fiscal Quarter Ended	(C) Total Computable Adjustment	(D) Federal Share of Adjustments	(E) Audit No (If applicable), Other Comments
Increasing Adjustments 1	APY	03/31/2014	\$6,471	\$3,355	Eligibility code was entered into CPSS on QE 03/14.
Increasing Adjustments 2	APY	12/31/2013	\$7,000	\$3,629	Eligibility code was entered into CPSS on QE 12/13.
Increasing Adjustments 3	APY	09/30/2013	\$5,942	\$3,082	Eligibility code was entered into CPSS on QE 12/13.
Increasing Adjustments 4	APY	06/30/2013	\$6,471	\$3,356	Worker error in entering the licensing information or in entering the client's eligibility

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Increasing Adjustments 5	APY	03/31/2013		\$3,356	Worker error in entering the licensing information or in entering the client's eligibility
Increasing Adjustments 6	APY	12/31/2012	\$7,570	\$3,926	Worker error in entering the licensing information or in entering the client's eligibility
Increasing Adjustments 7	APY	09/30/2012	\$6,471	\$3,267	Worker error in entering the licensing information or in entering the client's eligibility
SubTotal Increasing Adjustments			\$46,396	\$23,971	

Decreasing Adjustments


SECTION B: Decreasing Adjustments	(A) Funding Category	(B) Applicable to Fiscal Quarter Ended	(C) Total Computable Adjustment	(D) Federal Share of Adjustments	(E) Audit No (If applicable), Other Comments
Decreasing Adjustments 1	APY	03/31/2014	\$35,150	\$18,225	Eligibility were determined in this quarter
Decreasing Adjustments 2	APY	12/31/2013	\$16,462	\$8,536	Worker error in entering the licensing information or in entering the client's eligibility
Decreasing Adjustments 3	APY	09/30/2013	\$9,471	\$4,912	Worker error in entering the licensing information or in entering the client's eligibility
Decreasing Adjustments 4	APY	06/30/2013	\$10,859	\$5,631	Worker error in entering the licensing information or in entering the client's eligibility
Decreasing Adjustments 5	APY	03/31/2013	\$9,198	\$4,770	Worker error in entering the licensing information or in entering the client's eligibility
Decreasing Adjustments 6	APY	12/31/2012	\$6,471	\$3,356	Worker error in entering the licensing information or in entering the client's eligibility
Decreasing Adjustments 7	APY	09/30/2012	\$6,471	\$3,267	Worker error in entering the licensing information or in entering the client's eligibility
SubTotal Decreasing Adjustments			\$94,082	\$48,697	

Net Adjustments

PART 2 - Net Adjustments			Total Adjustment	Federal Share of Adjustments	
Net			-\$47,686	-\$24,726	

Signature Information

This is to certify that all information on all parts of this form is accurate and true to the best of my knowledge and belief. This also certifies that the States share of expenditures reported in Part 1 is, or will be, available to meet the non-Federal share of expenditures as required by law.

Signature of Approving Official 	Approving Agency Name	Approving Official Name Derek Oshiro
Approving Official Title	Official Approval Date 07/30/2014	Submit Date: 07/30/2014

* Funding Categories: (with equivalent line numbers from Part 1):			
APY	Maintenance Assistance Payments - Agency (Part 1, Line 21)	APA	Maintenance Assistance Payments - w/Agreement (Part 1, Line 22)
AAD	Administration - Agency (Part 1, Line 23)	AAN	Administration - Non-Recurring (Part 1, Line 24)
ATS	Training Costs - Staff and Provider (Part 1, Line 25)	ATP	Training Costs - Professional Partners (Part 1, Line 26)
ADD	Demonstration Project Developmental Costs (Part 3, Lines 3 and 7)	ADV	Demonstration Project Evaluation Costs (Part 3, Lines 4 and 8)
ADP	Demonstration Project FMAP Rate Operational Costs (Part 3, Lines 1a, 2a, 5a and 6a)	ADA	Demonstration Project 50% FFP Rate Operational Costs (Part 3, Lines 1b, 2b, 5b, 5c, 5d and 6b)
ADT	Demonstration Project 75% FFP Rate Operational Costs (Part 3, Lines 5e and 6c)	ADE	Adoption Demo Project Costs (Line 27)

Form CB- 496 [Part 1 - Page 1 of 2] (10/01/2013) Replaces 10/01/2010 version.

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES
Children's Bureau

OMB APPROVED
Control No: 0970-0205
Expires 8/31/2013

FORM CB-496: TITLE IV-E PROGRAMS QUARTERLY FINANCIAL REPORT
PART 1: EXPENDITURES and ESTIMATES

Reporting Period

State/Tribe Hawaii	Current (Claiming) Quarter Ended: 06/30/2014	Next (Estimating) Quarter Ending: 12/31/2014	Report Type: New
Current Quarter FMAP Rate = 0.518500		Next Quarter FMAP Rate = 0.522300	

Section C: Guardianship Assistance Program

50% FFP rate for all cost categories, except where noted	Current Quarter Claims Total (A)	Current Quarter Claims Fed Share (B)	Prior Quarter Adjustments Total (C)	Prior Quarter Adjustments Fed Share (D)	Next Quarter Estimates Total (E)	Next Quarter Estimates Fed Share (F)
31. Guardianship Assistance Payments (FMAP rate)	\$479,766	\$248,759	\$33,084	\$17,089	\$672,827	\$351,418
32. Tribal/State Agreement Guard Assist Payments (Applicable FMAP Rate)	\$0	\$0	\$0	\$0	\$0	\$0
33. Administrative Costs - Agency	\$84,487	\$42,244	\$0	\$0	\$132,915	\$66,458
34. Administrative Costs - Non-Recurring	\$6,215	\$3,108	\$0	\$0	\$6,000	\$3,000
35. Training Costs - Staff and Provider (75% FFP Rate)	\$1,242	\$932	\$0	\$0	\$2,708	\$2,031
36. Train. Costs - Relative Guardian and Pro Partner (Transitional FFP Rate)	\$0	\$0	\$0	\$0	\$0	\$0
37a. Demonstration Project Costs - From Part 3	\$0	\$0	\$0	\$0	\$0	\$0
37b. Post Demonstration Guardianship Assistance and Services Costs	\$0	\$0	\$0	\$0	\$0	\$0
38. Total Costs	\$571,710	\$295,043	\$33,084	\$17,089	\$814,450	\$422,907

Non-Federal (State or Tribe)

	Current Quarter Claims Total (A)	Current Quarter Claims Fed Share (B)	Prior Quarter Adjustments Total (C)	Prior Quarter Adjustments Fed Share (D)	Next Quarter Estimates Total (E)	Next Quarter Estimates Fed Share (F)
39. Non-Federal (State or Tribal) Share of Total Costs		\$276,667		\$15,995		\$391,543
40. Tribal Share of Costs from Third Party In-Kind Sources						

Section D: Average Monthly Number of Children Assisted

Average Monthly Number of Children Assisted	Actual Count Current Quarter	Estimated Count Next Quarter
48. Number of Children: Title IV-E Assistance Payments	219	249
49. Number of Children: Any Assistance Payments	760	777
50. Number of Children: Title IV-E Non-Recurring Administrative Cost Payments	6	7
51. Number of Children: Title IV-E Post Demonstration Assistance or Services		

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES
Children's Bureau

OMB APPROVED
Control No: 0970-0205
Expires 8/31/2013

FORM CB-496: TITLE IV-E PROGRAMS QUARTERLY FINANCIAL REPORT
PART 2: PRIOR QUARTER EXPENDITURE ADJUSTMENTS

SECTION A: Increasing Adjustments

SECTION A: Increasing Adjustments	Funding Category (A)	Applicable to Fiscal Quarter Ended (B)	Total Computable Adjustment (C)	Federal Share of Adjustments (D)	Audit No (If applicable), Other Comments, (E)
Increasing Adjustments 1	GPY	03/31/2014	\$4,884	\$2,532	Eligibility was determined in March quarter for two clients
Increasing Adjustments 2	GPY	12/31/2013	\$4,884	\$2,532	Worker error in entering the licensing information for the same two clients as mentioned above

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Increasing Adjustments 3	GPY	09/30/2013	1323	\$4,884	\$2,533	Worker error in entering the licensing information for the same two clients as mentioned above
Increasing Adjustments 4	GPY	06/30/2013		\$4,884	\$2,533	Worker error in entering the licensing information for the same two clients as mentioned above
Increasing Adjustments 5	GPY	03/31/2013		\$4,884	\$2,533	Worker error in entering the licensing information for the same two clients as mentioned above
Increasing Adjustments 6	GPY	12/31/2012		\$4,884	\$2,533	Worker error in entering the licensing information for the same two clients as mentioned above
Increasing Adjustments 7	GPY	09/30/2012		\$4,884	\$2,465	Worker error in entering the licensing information for the same two clients as mentioned above
SubTotal Increasing Adjustments				\$34,188	\$17,661	

SECTION B: Decreasing Adjustments


SECTION B: Decreasing Adjustments	Funding Category (A)	Applicable to Fiscal Quarter Ended (B)	Total Computable Adjustment (C)	Federal Share of Adjustments (D)	Audit No (If applicable), Other Comments (E)
Decreasing Adjustments 1	GPY	03/31/2014	\$1,104	\$572	Worker error in entering the client's eligibility.
SubTotal Decreasing Adjustments			\$1,104	\$572	

PART 2 - Net Adjustments

Net Adjustments			Total Computable Adjustment (C)	Federal Share of Adjustments (D)	
Net			\$33,084	\$17,089	

Signature Information

This is to certify that all information on all parts of this form is accurate and true to the best of my knowledge and belief. This also certifies that the States share of expenditures reported in Part 1 is or will be available to meet the non-Federal share of expenditures as required by law.

Signature of Approving Official 	Approving Agency Name Hawaii (Eff 4-2011)	Approving Official Name Derek Oshiro
Approving Official Title	Official Approval Date 07/30/2014	Submit Date: 07/30/2014

* Funding Categories: (with equivalent line numbers from Part 1):

GPY	Maintenance Assistance Payments - Agency (Part 1, Line 31)	GPA	Maintenance Assistance Payments - w/Agreement (Part 1, Line 32)
GAD	Administration - Agency (Part 1, Line 33)	GAN	Administration - Non-Recurring (Part 1, Line 34)
GTS	Training Costs - Staff and Provider (Part 1, Line 35)	GTP	Training Costs - Professional Partners (Part 1, Line 36)
GPD	Post-Demonstration Guardianship Assistance and Services Costs (Part 1, Line 37b)	GDD	Demonstration Project Developmental Costs (Part 3, Lines 3 and 7)
GDV	Demonstration Project Evaluation Costs (Part 3, Lines 4 and 8)	GDP	Demonstration Project FMAP Rate Operational Costs (Part 3, Lines 1a, 2a, 5a and 6a)
GDA	Demonstration Project 50% FFP Rate Operational Costs (Part 3, Lines 1b, 2b, 5b, 5c, 5d and 6b)	GDT	Demonstration Project 75% FFP Rate Operational Costs (Part 3, Lines 5e and 6c)

Form CB- 496 [Part 1 - Page 1 of 2] (10/01/2013) Replaces 10/01/2010 version.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK
SHEEHEY, RAYNETTE AH CHONG,
individually and on behalf of the class
of licensed foster care providers residing
in the state of Hawai'i;

Plaintiffs,

vs.

RACHAEL WONG, in her official
capacity as the Director of the Hawai'i
Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that, on the date and by the method of service noted below, a true and correct copy of the foregoing document was served on the following at their last known address:

Served Electronically through CM/ECF on April 23, 2015:

Caron M. Inagaki, Esq.:
Donna H. Kalama, Esq.:
Dana A. Barbata, Esq.:

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Dated: April 23, 2015

Respectfully submitted,

By: /s/ Claire Wong Black
VICTOR GEMINIANI
GAVIN THORNTON
PAUL ALSTON
J. BLAINE ROGERS
CLAIRE WONG BLACK
ALAN COPE JOHNSTON
JOSEPH K. KANADA

Attorneys for Plaintiffs