

Issue Paper

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Senate Fiscal Agency

Kids, Kin, and Foster Care: Fiscal Issues Related to the Increasing Role of Relatives in Foster Care

by

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Intern

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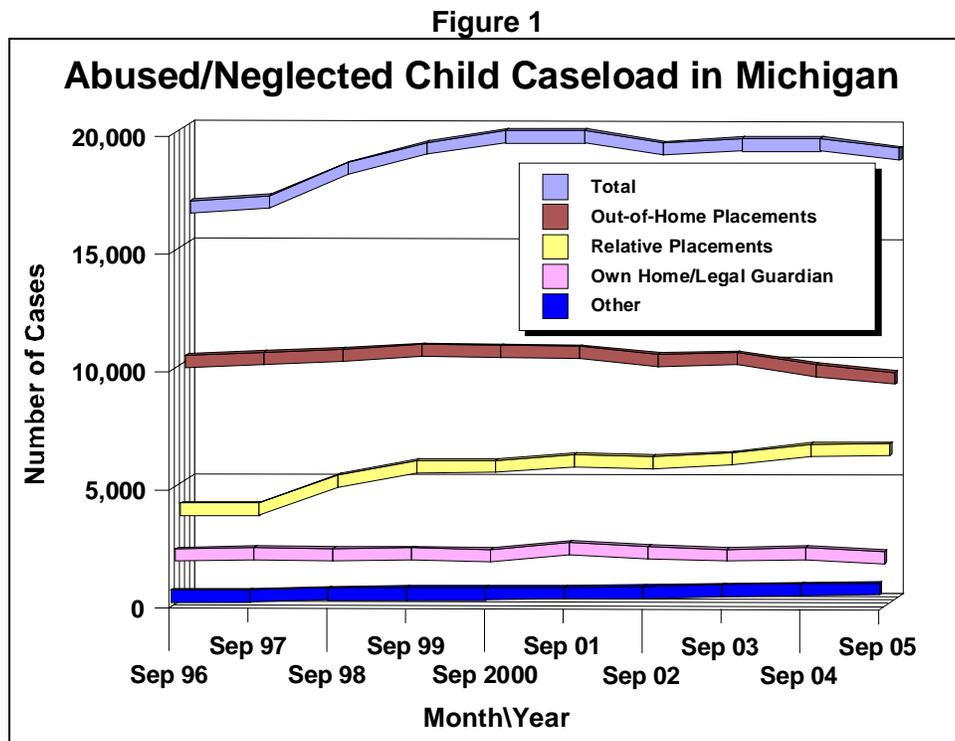
INTRODUCTION

Foster care in Michigan has undergone substantial changes in regard to the need for and composition of foster care providers over the past two decades. While these changes have been interdependent, the most noticeable trend has been the unprecedented rise in relatives' serving as foster care-givers. Initially, the Federal government provided little guidance as to how relatives should be incorporated into the child welfare system. Many states, including Michigan, relaxed existing foster care requirements for relatives, while still providing them with foster care payments.

More recently, the Federal government has tightened regulations for the receipt of Federal foster care funds. Michigan has had to update the State's licensing procedures to comply with the more stringent guidelines. The revised Federal regulations led to a decline in the number of foster children eligible for Federal money and left Michigan to devise other ways to subsidize these foster children. This paper explores the State's decisions and their fiscal consequences.

FOSTER CARE TRENDS IN MICHIGAN

Over the last 10 years, Michigan has experienced a 14.0% increase in the caseload of abused and/or neglected children.¹ As [Figure 1](#) demonstrates, the largest increases occurred at the end of the 1990s. The rise translated into 2,307 more abused and/or neglected cases in 2005 compared with 1996.



Source: Michigan Department of Human Services

The Department of Human Services (DHS) prefers that abused and/or neglected children remain in their own home whenever possible. Child welfare workers are required to try to prevent the removal of children from their home. While recent foster care initiatives have focused on keeping at-risk families together, the number of children remaining in their own home or with a legal guardian has declined 1.5% over the last 10 years. When the DHS cannot ensure the safety of a

¹ Budget and Policy Analysis Division, Budget, Analysis, and Financial Management (BAFM), Michigan Department of Human Services, 2006.

child in his or her own home, the Department has the authority to remove the child and place him or her in foster care.

The high number of children entering foster care is not a problem unique to Michigan. Rather, it mirrors a nationwide trend. Various social ills have been blamed for increasing the number of foster children. These include increased homelessness, a rise in juvenile delinquency, increased drug and alcohol abuse, and AIDS.² The "crack" cocaine epidemic of the early '90s severely compromised the ability of many parents and directly contributed to the rising number of foster children. The rise in methamphetamine use has had a similar impact.

In most cases, children are assigned to traditional out-of-home placements. Such placements include licensed foster homes, private agency foster homes, group homes, public shelters, residential care centers, detention, jail, private institutions, training schools, camps, mental health facilities, court treatment facilities, and out-of-State placements. Most children are placed in licensed foster homes. These are the least expensive out-of-home placement option. The number of licensed foster homes in Michigan, however, not only has failed to keep pace with the increasing number of children entering foster care, but has been declining in absolute numbers. In June 2004, Michigan had 8,313 licensed foster care providers; a year later, the State had only 7,882. By June 2006, the number had fallen further to 7,326.³ Over the last 10 years, all traditional out-of-home placements declined by 6.4%, with the decline being most substantial in recent years.

Observers suggest several reasons why foster care has developed a negative public image that inhibits the recruitment of new foster parents. More foster children now suffer from behavioral and/or mental problems, or have other special needs (often a result of prenatal drug and alcohol exposure).⁴ These children require above-normal amounts of care and many potential care-givers are reluctant to take on such added responsibility. High "burnout" rates for licensed foster care-givers have made maintaining the number of licensed foster care-givers a constant challenge. In addition, State budget cuts have reduced funds to recruit new foster parents. The Michigan Foster and Adoptive Parents Association was scheduled to receive \$2.7 million in fiscal year (FY) 2002-03 to help recruit, train, and mentor foster parents, but budget cuts reduced the amount to \$1.8 million.

As traditional out-of-home placements have declined, child welfare workers have turned to relatives and people with special emotional connections to a child to provide safe out-of-home placements. Over the past 10 years, the number of children placed with relatives has increased 67.1%.⁵ According to the DHS, a relative is defined as any person related through blood, marriage, or adoption who is not legally responsible for the child. These include grandparents, brothers, sisters, aunts, uncles, cousins, and nieces. Michigan also allows nonrelatives who are known and trusted by the child to serve as foster care-givers. In June 2006, these unrelated foster care-givers represented less than 1.0% of all out-of-home placements.⁶ Relatives and nonrelated people with close connections to the child who serve as foster care-givers are often referred to as kinship care providers. In Michigan, child welfare workers are required to seek out kinship care-givers whenever appropriate, and this type of placement is preferred to the licensed foster home of someone who is not kin.

The Adoption and Child Welfare Act of 1980, the backbone of Federal foster care policy, was enacted when there existed strong social stigmas against relatives' serving as foster care-givers. The dominant social theory argued that abusive and neglectful parents learned their poor parenting

² U.S. Department of Health and Human Services Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, 1997.

³ Comparing three point-in-time data figures is clearly problematic and does not control adequately for short-term fluctuation. However, these were the only data currently available and are sufficient to highlight that the numbers have been declining.

⁴ Op Cit – Note²

⁵ Op Cit – Note¹

⁶ Michigan Department of Human Services, 2006

habits from other dysfunctional family members.⁷ The notion of intergenerational abuse created a bias against relatives because they were considered likely to display similar abusive behavior. Popular opinion now accepts the view that there are many complex circumstances that lead parents to become abusive and neglectful. Bad parenting techniques are no longer seen as necessarily the fault of family members.⁸ In general, child welfare agencies have become more family-orientated and increasingly focused on the benefits of placing foster children with kin.

Recent research supports these views. Studies have found that when children are placed with someone they know, they maintain a stronger sense of family identity, social status, and overall self-esteem.⁹ Children placed with kin tend to be closer to their original community.¹⁰ Allowing foster children to maintain former connections helps them to develop a sense of security and adjust more easily to their new situation. The vast majority of children in kinship care report feeling more loved and happy with their living arrangement, compared with children in nonkinship care.¹¹ Overall, placing a child with a familiar care-giver appears to minimize the child's sense of trauma.¹²

CHANGES IN FEDERAL REGULATIONS

Initially, the Federal government provided few direct guidelines for the incorporation of kinship care-givers into the foster care system. Most states extended existing Federal regulations for nonkin licensed foster parents directly to kinship care providers. However, states often relaxed licensing standards and waived requirements not related to safety. Michigan was one of 22 states that provided kin with foster care payments even if they did not meet all of the licensing requirements. The Federal government has since strengthened the requirements to receive Title-IV funds, the largest Federal foster care funding source. The Adoption and Safe Families Act of 1997 (ASFA) clarified the eligibility requirements under Title IV-E of the Social Security Act.

Title IV-E is an uncapped Federal matching program, with 50% state money and 50% Federal. In order to receive Title IV-E funding, children must meet the income eligibility standards as set by the Aid to Families with Dependent Children (AFDC) Act 1996. Legislation has since repealed this act and replaced AFDC with Temporary Assistance for Needy Families (TANF). These income eligibility standards do not include an annual inflation adjustment and, as a result, they lose real value each year. In addition to meeting income eligibility criteria, children must have been physically removed from their home. This can happen through a court determination that remaining in the home is contrary to the well-being of the child, or through a voluntary placement agreement. A reasonable effort must be made by child welfare workers to prevent the removal. Finally, the child must be placed in a facility or home that has been licensed by the state and the state must retain responsibility for the child.

The Adoption and Safe Families Act slightly expanded the circumstances under which a child may remain with a relative following a court-ordered removal and still be eligible for Federal foster care benefits. Before ASFA was enacted, if a child was placed under legal custody of the state but continued to live with a relative, the child was considered not to have been removed from his or her home. As a result, the relative was ineligible for Title IV-E funding. Under current law, children may live with a relative up to six months before the initiation of court proceedings and still be eligible for Federal funding. Even though these nonremoval cases affect a small percentage of the caseload, they are not uncommon.

⁷ Michigan Department of Human Services, June 2006

⁸ Berrick, 1998

⁹ Op Cit – Note²

¹⁰ Geen, R. (2004). *The Evolution of Kinship Care Policy and Practice. The Future of Children.*

¹¹ Geen, 2004

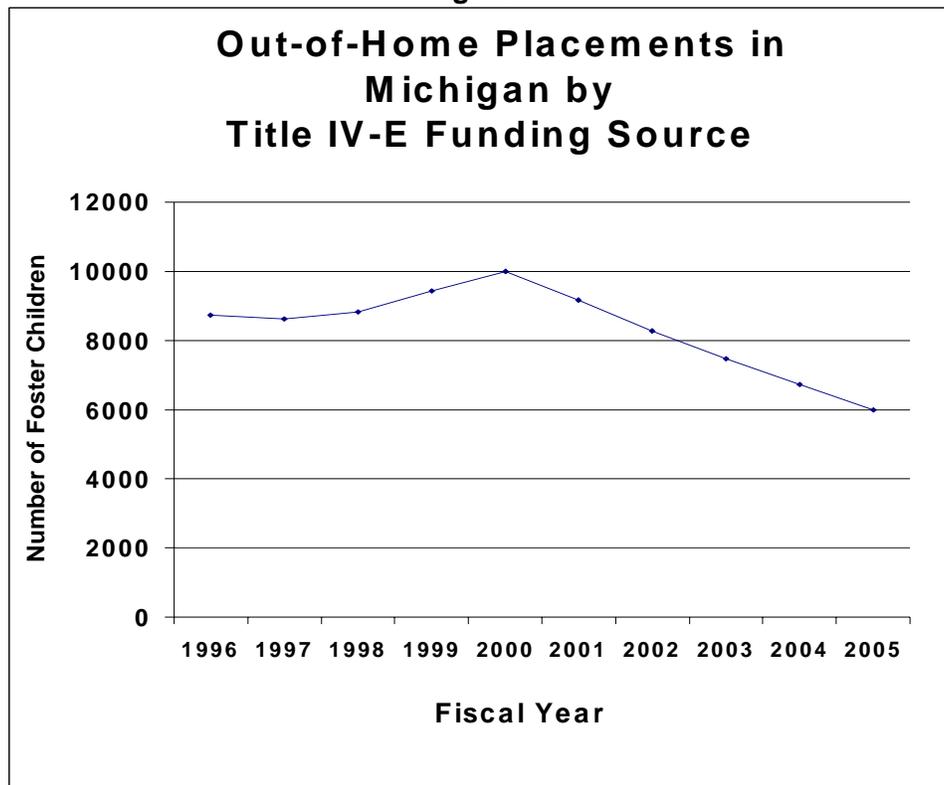
¹² Op Cit – Note²

Under ASFA, the term "foster family home" means "a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing".¹³ The interpretation of this statute by the U.S. Department of Health and Human Services is that there are no distinctions between kin and nonkin foster care providers. Both must be fully licensed in order to receive Federal funding. Kin, as a group, cannot be excluded from any requirements.

MICHIGAN'S REACTION

The Federal requirement that kinship care-givers be fully licensed to receive Federal funding has had a substantial impact in Michigan. Before the implementation of the ASFA final ruling, Michigan waived licensing requirements for kin. That practice is no longer acceptable and the State's licensing procedures became stricter to comply with the Federal regulations. Michigan Public Act 116 of 1973, commonly known as the Child Care Organization Licensing Act, sets the standards for foster care placements. In January 2001, Michigan updated these requirements. Previous licensing procedures had been in effect since 1980. The changes required all licensed foster care providers to meet the minimum State guidelines. The changes also strengthened the requirements to include more orientation and in-service training. As can be observed in Figure 2, there has been a 40.0% decline statewide in the number of foster children receiving Title IV-E funding since FY 1999-2000, which arguably can be attributed in part to these changes.

Figure 2



Source: Michigan Department of Human Services, Budget and Policy Analysis Division. (2006) Services Program Trends: Out-of-home Placements (By Funding Source), Adoption Subsidy, Foster Care, Juvenile Justice, Protective Services (Children and Adults), Home Help Services, & Adult Community.

¹³ Adoption and Safe Families Act of 1997, Sec. 472(c)(1)

Becoming licensed is not a viable option for some kinship care-givers. Many lack the required square footage in their homes or a separate bedroom for the child. Others do not have enough forewarning to complete the three- to six-month training process before assuming a custodial role. Studies have shown that placing children in a licensed home or in a shelter while relatives go through licensing procedures may further disrupt the child's life during an already difficult time.¹⁴ In recognition of these difficulties, Michigan has created a separate process to approve unlicensed kin as foster care providers. These policies are somewhat lenient compared with those of other states.

Unlicensed foster care providers still must pass Home Health and Safety Assessments (which require a home visit), criminal record checks, and Child Protective Services Registry checks. However, they are not required to attend training sessions and nonsafety requirements may be waived. Although the new licensing rules typically allow only relatives to serve as unlicensed foster care-givers, under limited circumstances people with special emotional connections to a child may become unlicensed care-givers. The court must determine that the placement is in the child's best interest and the county director or local office designee also must approve. Unlicensed kinship care providers are not monitored as strictly as licensed foster care-givers.¹⁵ Caseworkers are required to meet monthly with children in licensed foster care, but there is no specific visitation frequency for children in unlicensed kinship care.¹⁶ Caseworkers are required to list the activities they can perform for unlicensed care-givers and give them a pamphlet on available support and training resources.

Since Michigan's licensing process became stricter, kinship care-givers are more likely to remain unlicensed. The number of children placed with unlicensed relatives rose 75% statewide between 1995 and 2004, from 3,680 to 6,442 children.¹⁷ From FY 2000-01 to FY 2003-04, the number of children entering foster care placements in Wayne County with unlicensed kin rose over 350%, from 203 children to 935.¹⁸ The DHS has just begun to track licensed kin separately. The Department currently estimates that the number of licensed relatives is relatively small.¹⁹

FORMS OF FINANCIAL ASSISTANCE AVAILABLE TO FOSTER CHILDREN

Changes in licensing procedures have had a direct effect on how foster care-givers are financially compensated. All licensed foster homes, with foster children who meet Federal eligibility requirements, can receive Title IV-E funding. In 1979, the U.S. Supreme Court ruled in *Miller v. Youakim* that states are obligated to pay licensed kinship care-givers of Title IV-E eligible children the same as nonkin foster care-givers (440 U.S. 125). Since the ruling was based on language in the Social Security Act, the decision does not apply to unlicensed kin or to kin caring for children not eligible for Title IV-E funding. A number of state courts have found that there are no constitutional issues, such as equal protection or due process, that mandate equal support for kinship care-givers of foster children not eligible under Title IV-E.²⁰ These rulings have left the states with broad discretion to create public policy for foster children who are not eligible for Title IV-E funding.

In Michigan, the level of funding available to unlicensed kinship care providers is dependent on a child's legal status. All unlicensed homes are automatically ineligible for Federal Title IV-E funding. A child also can be ineligible for Title IV-E if the child's family did not qualify based on the AFDC income standards. Foster children who are ineligible for Federal money can apply for other forms of payments.

¹⁴ Geen, 2004

¹⁵ Wells, Agathen, 1999

¹⁶ Ibid

¹⁷ Michigan Advisory Committee on the Overrepresentation of Children of Color in Child Welfare, 2006.

¹⁸ Ibid

¹⁹ Op Cit – Note²

²⁰ Op Cit – Note² In *King v. McMahon*, the California Court of Appeals ruled that the Constitution does not oblige the states to support all public kinship families involved within the foster care system. In *Lipscomb v. Simmons*, the Circuit Court in Oregon ruled that the state is not obligated to pay kinship care-givers of noneligible Title IV-E children foster care payments. Each decision cited the state's policies as efficient and rational distributions of limited public funds.

If individuals' parental rights are terminated, their children become wards of the State until they are adopted. State wards, ineligible for Title IV-E funding, can apply for State Ward Board and Care foster care payments.²¹ These are 100% State funds.

Children who are temporary wards of the court can apply for Child Care Funds if they are not eligible under Title IV-E.²² The Child Care Fund is a collaboration between the State and county governments to support abused and neglected youths in Michigan. The Child Care Fund supports a variety of out-of-home placements including foster homes, county-operated detention facilities, and a wide range of private child caring institutions. In recent years, it also has been used to fund a variety of in-home care services focused on allowing at-risk children to remain in their own homes. The services are paid for by county funds and then submitted for a 50% State reimbursement. The State also has been able to divert TANF money to the Child Care Fund.

The Child Care Fund can be divided into the court and DHS sub-account. The DHS sub-account is typically used only under several circumstances. The Juvenile Division of the Family Court may assign responsibility for court wards to the foster care system. A Friend of the Court may request Child Care Fund money for a child ordered into foster care by the Family Court after divorce proceedings. Temporary funding is also available for children placed in voluntary foster care. These agreements may not last for more than 90 days and no consecutive 90-day agreements are permitted.

While counties may choose to provide temporary wards with Child Care Fund dollars, most do not. Instead, relatives are referred to Family Independence Program (FIP) child-only grants. According to a DHS pamphlet, *Relative Caregivers Resources and Responsibilities*, FIP grants are the only financial assistance listed for unlicensed kin. These assistance payments are covered through the State's TANF block grant. Recipients of child-only grants are not required to meet work requirements or face time limits. Between January 2002 and May 2006, the number of child-only grants increased by 3%.²³ While there are several circumstances under which a child-only grant may be awarded, Michigan reports that most child-only cases were in households with no parent present.²⁴ It cannot be determined how many of these child-only payments were to relatives caring for foster children, since Michigan reports no collaboration between the foster care and welfare systems.²⁵

THE FISCAL IMPACT OF MICHIGAN'S FOSTER CARE POLICY

The effect of stronger Federal requirements and Michigan's policy allowing kin to be approved through a separate approval process has led to a drop in Federal foster care funds. Federal foster care expenditures in FY 2004-05 represented a 38.1% drop from FY 1999-2000. Overall State expenditures during that period decreased 17.3%, while county expenditures decreased less than 1.0%. [Figure 3](#) provides a breakdown of foster care expenditures between FY 1999-2000 and FY 2004-05. [Figure 4](#) shows the percentage of gross expenditures on foster care in FY 2004-05 that was covered by Federal, State, local, and private donations. It should be noted that Child Care Fund dollars are not included in these foster care expenditures. Rather, they are tracked separately. Gross expenditures from the Child Care Fund increased by 89.5% from FY 1999-2000 to FY 2004-05. Gross expenditures in FY 2004-05 were \$166,037,900.²⁶ Michigan has been able to spend TANF funds on the Child Care Fund, and TANF funds accounted for 48.9% of the Child Care Fund in FY 2004-05.

²¹ Op Cit – Note⁶

²² There is also a small percentage of foster children who are not wards but are in an agency-supervised placement. These children are not eligible for Title IV-E funds, although they may apply for Child Care Fund money or emergency foster care funds. Emergency funding resources are very limited.

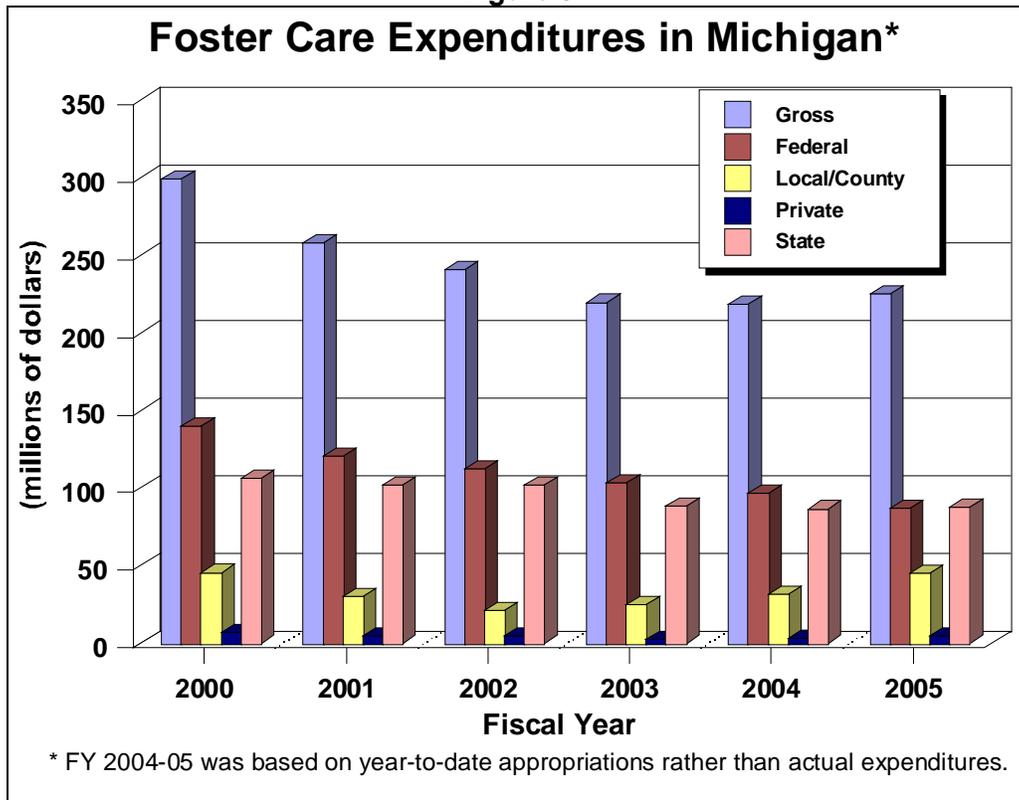
²³ Op Cit – Note¹

²⁴ Gibbs, Kasten, Bir, Hoover, Duncan, Mitchel, 2004

²⁵ Ibid

²⁶ Senate Fiscal Agency, 2005

Figure 3



Source: Senate Fiscal Agency

Michigan's policy to allow relatives to be unlicensed means that there are foster children who do not receive Title IV-E funding solely because they live in an unlicensed home. The DHS estimates that statewide there are 1,648 wards receiving Child Care Fund money who would be eligible under Title IV-E if their relative care-givers were licensed.²⁷ Another 1,217 wards receiving State Ward Board and Care funding would be eligible if their relatives were licensed. Wayne County has 534 children receiving Child Care Fund dollars and 579 wards receiving State Ward Board and Care funding who have been identified as being eligible if their care-givers become licensed.²⁸ Instead of being funded partially by the Federal government, these foster children are funded exclusively with State and county money (Figure 4).

There are also unlicensed care-givers receiving TANF funds who would qualify under Title IV-E if they were licensed. The number of care-givers who might qualify is unknown. If these foster children were to receive foster care payments, the shift would require State funding, but would free up TANF funds. Since the State receives its full TANF grant regardless of the number of people requiring income assistance, this money could be used to fund other programs.

Federal welfare reforms in 1996 substantially altered the nation's public assistance system. Instead of a matching program, the system provides each state with a yearly, predetermined TANF block grant. Michigan experienced an unanticipated drop in cash assistance caseloads and a surplus of TANF funds after the changes. In FY 2001-02, Michigan had a \$50.6 million balance carryover, as well as a \$19.8 million bonus for reducing out-of-wedlock births.²⁹ These accumulated funds, added to the yearly TANF block grant, made switching foster care funding to TANF an attractive option. In

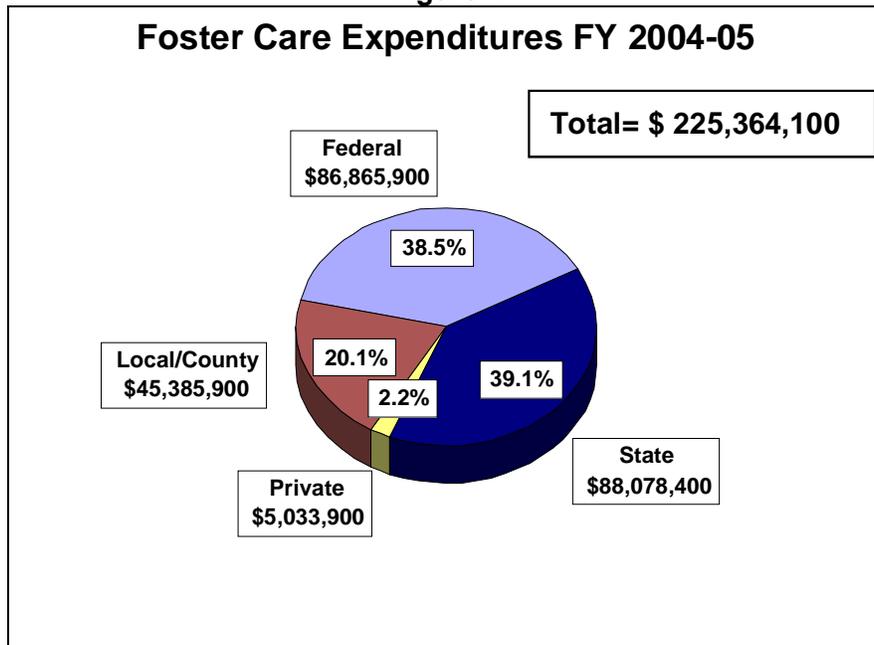
²⁷ Michigan Department of Human Services: Webi query: All placement elig 13 Living Arrangement 2 by county fund source.

²⁸ Ibid

²⁹ Beougher, J.E., 2001

FY 2002-03, Michigan shifted nearly \$30.0 million of the TANF funding to the Child Care Fund.³⁰ Stricter licensing requirements also were responsible for FIP child-only grants' becoming the only financial aid available to some kinship care-givers. One effect of funding foster care with FIP grants is that foster care providers receive less financial aid. Child-only payments average about \$137 per month.³¹ As of May 2006, the child-only payment is \$157 per month. In contrast, licensed foster care providers receive nearly \$400 monthly (for children under 12).³²

Figure 4



Source: Senate Fiscal Agency

Michigan's TANF carryover funds will soon be exhausted. The DHS predicts that there will be no carryover from FY 2005-06 to FY 2006-07.³³ This will leave Michigan with no cushion of Federal funds for expenditures over the yearly TANF grant. Getting relatives licensed could provide a way to reduce overall State expenditures by increasing Federal revenue. One national study reported in 1997 that if states switched the financing of kinship care from TANF to Title IV-E, they would free up an estimated \$0.90 in TANF funds for every additional state dollar spent. Twenty-seven states would free up more than a dollar in TANF funds for each state dollar invested in foster care, while eight states would free up more than \$2.³⁴ The shift also would benefit care-givers whose payments would increase by an average of \$219 per month per child.³⁵ The shift would come at a huge financial cost to the Federal government. If all states were able to shift their entire caseload of TANF child-only grants with no parent in the household to Title IV-E, the total one-year cost to the Federal government was estimated to exceed \$1.4 billion.³⁶

Overall, it is difficult to estimate accurately the potential fiscal impact of shifting kinship care costs from TANF to Title IV-E. In 2002, the Congressional Budget Office estimated that it would cost the states \$45.0 million to shift TANF child-only grants to foster care payments. The combination of unknown costs to licensed relatives and the unknown effect of freeing up more TANF funding

³⁰ Kresnak, 2003

³¹ Geen, 2004

³² Op Cit – Note¹⁷

³³ Udow, 2006

³⁴ Geen, Boots, 1997

³⁵ Ibid

³⁶ Ibid

makes it impossible to draw conclusions about the financial impact of the switch. This should be explored, however, to ensure that the State has adopted the most efficient allocation of funds.

ADDRESSING PROBLEMS WITHIN THE CHILD WELFARE SYSTEM

Michigan's foster care system faces serious challenges in the future. In March 2004, a Federal Title IV-E review examined 80 randomly selected cases. Michigan was allowed to submit additional information on cases deemed in error or missing information at the conclusion of the on-site review. Based on the on-site review and additional information, 12 of the 80 cases were found in error because of incorrectly completed court forms, licensing problems, or insufficient paperwork. The State had to have eight or fewer cases in error to be in compliance with Federal regulations. The Federal government assessed Michigan a \$283,223.89 penalty for the errors, as well as for two cases that had overpayments.³⁷ Michigan has since repaid this amount. The review was followed by a more complete State audit, which reviewed 5,335 cases and found 452 in error.³⁸ Such errors and the uncertainties of Federal payment need to be addressed. Especially during tight budget times, the State and counties will find it difficult to cover unanticipated drops in Federal foster care funding or to pay penalties for not complying with Federal regulations.

Along with ensuring that Michigan is in compliance with Federal policy, the DHS must ensure that the services it provides are in compliance with the provisions of State law. A 2005 State audit found that the DHS and its contacted agencies failed to meet such requirements. The audit found that during FY 2002-03, the DHS contracted with 87 agencies to provide foster care services. They spent a total of \$137.7 million. As of January 2004, only 38% of children in foster care had received services from a contracted agency.³⁹ The DHS also did not require updates on the criminal history of licensed foster care-givers, unlicensed providers, or adult household members residing in a foster home (AHMs). The DHS was unable to identify AHMs living with nonlicensed relative care-givers. From the information that the DHS could provide, the audit identified 321 foster care providers and 32 AHMs with potentially disqualifying criminal convictions. Failure to monitor and deliver efficient services to foster children places the safety of those children at risk.

CONCLUSION

Foster care provides an invaluable service to at-risk children in Michigan. The State has increasingly turned to kin to provide safe out-of-home placements. Kinship care-givers have become especially important as traditional out-of-home placements continue to decline. This alteration in the composition of foster care providers has prompted changes at the Federal and State levels. Stricter Federal foster care policies have forced Michigan to strengthen licensing procedures and allocate other forms of financial aid for foster children who no longer qualify under Title IV-E. The result has been a rise in the number of unlicensed relatives and a decline in the number of foster children receiving Title IV-E funding.

Michigan should examine current foster care policies to ensure that funds are allocated most efficiently. The DHS needs to ensure that the State is meeting Title IV-E requirements. It is also essential that foster children receive proper services and that foster homes are correctly monitored to ensure the children's safety. Michigan should explore the possible fiscal impact of getting more relative care-givers to meet Title IV-E requirements. The DHS faces many challenges that must be overcome in order to protect and provide for Michigan's foster children.

³⁷ Michigan Department of Human Services, April 2006

³⁸ Feighan, 2006

³⁹ Michigan Office of the Auditor General, 2005

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