



May 6, 2013

The Honorable Donna Mercado Kim
President of the Senate
State Capitol, Room 409
Honolulu, Hawaii'i 96813

The Honorable Joseph M. Souki
Speaker of the House of Representatives
State Capitol, Room 431
Honolulu, Hawaii'i 96813

Dear Madam President and Mr. Speaker:

This letter responds to House Concurrent Resolution No. 165 (HCR 165), of the 2010 legislation session, which requests the Auditor to conduct a program audit of the efficiency and effectiveness of Child Welfare Services in processing and investigating complaints of child abuse and neglect and misuse of child support.

Child Welfare Services (CWS) is a branch within the Department of Human Services' Social Services Division. The concurrent resolution makes a two-fold request; that is, to conduct a program audit of CWS regarding its receipt and assessment of complaints about 1) child abuse and neglect, and 2) alleged misuse of child support. After completing our preliminary research, which included extensive discussion with representatives of CWS, and review of departmental, statutory, and other pertinent documents, we determined the requested audit is problematic and cannot be performed for the following reasons:

1. The Department of Human Services' process for receiving and assessing child abuse complaints and its overall performance in ensuring the quality of its child welfare services are subject to ongoing federal reviews and regulations. Therefore, efforts by our office to audit these areas would be duplicative of existing federal reviews.
2. Statutory responsibility for child support payments does not reside with the Department of Human Services' CWS, but with the Department of the Attorney General's Child Support Enforcement Agency (CSEA). Because CWS is not responsible for obtaining and enforcing child support payments, we are unable to fulfill the request as drafted. Furthermore, lack of federal and state guidance on the misuse of child support may raise a policy concern, rendering the area unauditible.

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The following is a brief summary supporting our conclusions.

1. Department of Human Services and its Child Welfare Services Branch are subject to ongoing federal review

The concurrent resolution requests, in part, a program audit of the efficiency and effectiveness of Child Welfare Services in processing and investigating complaints of child abuse and neglect. We found that requirements established in federal regulations apply to all state child and family services programs, including CWS, and that the agency's overall performance in providing child welfare services is subject to a federally mandated review.

In January 2000, the U.S. Department of Health and Human Services (U.S. DHHS) published a final rule in the *Federal Register* establishing a new review system of state child welfare policies and practices. The rule went into effect on March 27, 2000, and responded, in part, to federal legislation requiring the U.S. DHHS to reform its approach to monitoring state compliance with federal child welfare requirements and to put into action regulations for reviews of state child and family service programs.

The review is administered by the U.S. DHHS' Children's Bureau, Administration for Children and Families. The review—called the Child and Family Services Review (CFSR)—is a federal-state collaborative effort. This joint review process is designed to identify strengths and weaknesses in state programs; ensure accountability by withholding federal funds to states that fail to make improvements; and promote on-going state self-evaluation of programs.

The goal of the CFSR is to help states improve child welfare services and achieve positive outcomes in three areas or domains: safety of the child; permanency and stability in the child's living situation; and provision of services to meet the child's educational and physical needs and for families to have enhanced capacity to provide for their child's needs. The review enables the Children's Bureau to: 1) ensure conformity with federal child welfare requirements; 2) determine what is actually happening to children and families as they are engaged in child welfare services; and 3) assist states to enhance their capacity to help children and families achieve positive outcomes.

As part of the CFSR process, review teams assess states' child protective services, foster care, adoption, family preservation and family support, and independent living services. In essence, the federal review process covers Child Welfare Services' major operational areas—intake, investigation and assessment, case management, and permanency.

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Federal review process includes on-site visits

The federal review involves a statewide assessment conducted by each state's child welfare agency and federal Children's Bureau staff. It includes an on-site visit by a federal team to examine case records and conduct interviews with stakeholders to obtain qualitative information which compliments quantitative information obtained through the statewide assessment. Once an on-site review is completed, an assessment is made of a state's performance based on national standards and the percentage of cases reviewed that substantially achieved the desired outcomes (the accepted percentage is 95 percent).

Child welfare services agencies must address weaknesses or lose federal funding

Assessments may require states to develop a Program Improvement Plan (PIP) to address areas in which they were found to be out of conformity. The U.S. DHHS considers the PIP the most important component of the CFSR, as it provides an opportunity for state child welfare service agencies to develop a plan to make short- and long-term changes to improve outcomes. The PIP should provide measurable action steps toward improvement and not suggestions for further study. Federal regulations provide that if a state is not operating in substantial conformity, the U.S. DHHS Administration for Children and Families may withhold federal funds. States have the chance to develop and complete their PIP before any funds are withheld. However, if a state fails to submit status reports on its PIP or is determined to not be making satisfactory progress, withholding of funds begins.

Hawai'i's CWS has fulfilled its improvement plan so far

Our research found that the state Department of Human Services was required to develop a PIP following the results of its 2003 CFSR. The department completed its PIP in March 2009 and averted an estimated \$1.9 million penalty.

In the department's subsequent 2009 CFSR, however, the federal government stated that while the department had demonstrated notable improvement, it needed to develop a second PIP to address other performance shortcomings. The second PIP was developed by the department and approved by the U.S. DHHS in 2010. At the time of our research, the department had been given a deadline to implement its second PIP by December 2013 or risk a minimum penalty of \$623,000.

Federal regulations have altered the approach to child abuse and neglect complaints

According to the Children's Bureau, many child welfare administrators have become increasingly concerned that an investigative response to a report of child maltreatment was inflexible, adversarial, and did not provide sufficient services to meet family needs. Many state and local child protective services systems have thus moved toward a differential response. A

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central belief of differential response is that children and families in child protective service systems are better served using a collaborative and supportive approach that is free of the constraints and stigma of an investigation.

Reauthorization of the federal Child Abuse and Treatment Act (CAPTA) in 2003 called for child protective services agencies to develop triage procedures that determine which reports of child abuse and neglect require intensive intervention and those that require voluntary referral to community organizations or voluntary preventive services.

According to the director of the National Resource Center for Child Protective Services, Hawai'i's differential response system (DRS) meets the CAPTA requirement. The National Resource Center for Child Protective Services is funded by the U.S. DHHS and provides expert consultation, technical assistance, and training in the area of child protective services. Its specific focus is to develop and integrate policies and practices that improve the prevention, reporting, assessment, and treatment of child abuse and neglect.

Hawai'i's CWS implemented its differential response system in 2005

In 2005, Hawai'i implemented its differential response system statewide. The National Resource Center for Child Protective Services and CWS worked together to develop Hawai'i's DRS, which assesses each report CWS receives to determine the most appropriate, effective, and least intrusive response that can be provided.

When a report is received by CWS, an intake worker assesses whether the report or case situation presents a safety concern that places a child at risk of imminent or substantial harm. This assessment triggers an investigation by CWS. On the other hand, reports identified as presenting low to moderate risk factors and no safety concerns, are referred to either family strengthening services or volunteer case management services. These services are performed by state-contracted providers such as Catholic Charities and Child and Family Services. State intake workers also consider protective factors and family strengths when assessing the overall risk for a case to make the most appropriate referral for services.

National Resource Center for Child Protective Services reviews Hawai'i's DRS

The National Resource Center for Child Protective Services director told us her agency conducts quality assurance reviews of Hawai'i's DRS process to ensure decisions and assessments made by CWS are the "right decisions." We reviewed CWS' 2006 and 2008 quality assurance reports. The quality assurance process involves on-site visits by members of the National Resource Center for Child Protective Services and case reviews. Both reports found that, in general, intake reports were appropriately assigned to each response level, using the intake assessment tool. Just as we sought to avoid duplicating work done in the CFSR on CWS' conformity with child

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welfare requirements, we also sought to avoid duplicating the National Resource Center for Child Protective Services' efforts to ascertain the effectiveness of Hawai'i's DRS process of assessing complaints.

2. Child support payments are the responsibility of the Department of the Attorney General's Child Support Enforcement Agency

Our research found that the agency responsible for enforcing state laws on child support payments is not the Department of Human Services' CWS, as stated in the concurrent resolution, but the Child Support Enforcement Agency (CSEA), which is under the Department of the Attorney General pursuant to Chapter 576D, Hawai'i Revised Statutes.

In March 2010, the then-director of human services testified to this fact before the House Committee on Human Services and during an April 2010 hearing before the House Committee on Legislative Management. Further, CSEA's administrator told us that while CSEA is responsible for collecting child support from non-custodial parents and disbursing collected amounts to the custodial parents, it is the responsibility of custodial parents to take care of and provide for the child. The CSEA does not investigate allegations of misuse of child support.

Moreover, according to CSEA administrators, there are no federal or state regulations or guidelines that determine the proper use of child support; define misuse of child support; or authorize the agency to investigate allegations of such misuse. Given this information, we conclude that misuse of child support may raise a policy issue not currently addressed in federal or state law, rendering it unauditabile.

Therefore, we determined the requested audit of Child Welfare Services and the misuse of child support could not be performed, as jurisdiction for child support payments resides in CSEA, Department of the Attorney General. In addition, we question what constitutes misuse of child support and whether CSEA is authorized to investigate complaints in this area.

Conclusion

The audit requested in HCR 165, as drafted, is problematic and cannot be completed. Firstly, because efficiency and effectiveness of CWS in processing and investigating complaints are evaluated by the federal CFRS process and quality reviews are conducted by the National Resource Center for Child Protective Services we yield oversight jurisdiction to those relevant federal agencies and avoid duplication of effort. Secondly, a lack of federal and state guidance on what constitutes misuse of child support renders the topic unauditabile.

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Please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Jan K. Yamane". The signature is written in a cursive, flowing style.

Jan K. Yamane
Acting State Auditor