Subsidized Adoption & Guardianship: Is it Time to Revisit?

Emily Putnam-Hornstein | UNC Chapel Hill

1 Significant (and growing) $$ spent

2 Moral hazards driven by financial incentives

3 Limited accountability for children’s outcomes or fraud ← Does not need to be large, to be a big deal

My questions…

- The aim is to reduce children's care in state "custody". But once the state has intervened what longer-term oversight should we have for the child's outcomes? When is shifting our responsibility to private (but subsidized) families in the best interest of the child?

- No other federal entitlement program relies exclusively on "self-report" to avoid fraud. This is a cash assistance program that can last 17+ years. How is this possible?

- States are incentivized to exit children into adoptive placements, even when those placements are marginal and it is unclear if the family has the resources to care for the child. Aren't we concerned about moral hazards?

My questions…

- Our current funding structure shifts the pool of adoptive parents. Why aren't we recruiting families who can provide long-term care for a child without government support? We are distorting the market.
- For those families who do need ongoing support given the exceptional complexity of the child's needs, what should that look like and how should it be provided?
- Significant and recurring cost to the public. No means-testing. Are those expenditures necessary and justified?

Spending

1 Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272)

Federal funds to subsidize adoption costs, special needs, AFDC look-back

2 Adoption and Safe Families Act of 1997 (P.L. 105-89)

TPR timelines, permanency outcomes

3 Fostering Connections and Increasing Adoptions Act of 2008 (P.L. 110-351)

Guardianship Assistance Program, extends IV-E subsidies up to age 21, phases out AFDC look-back for adoption

Foster Care **Adoption**

No IV-E Match

(-) CFSR Performance

Costs of oversight

IV-E Match

+ CFSR Performance

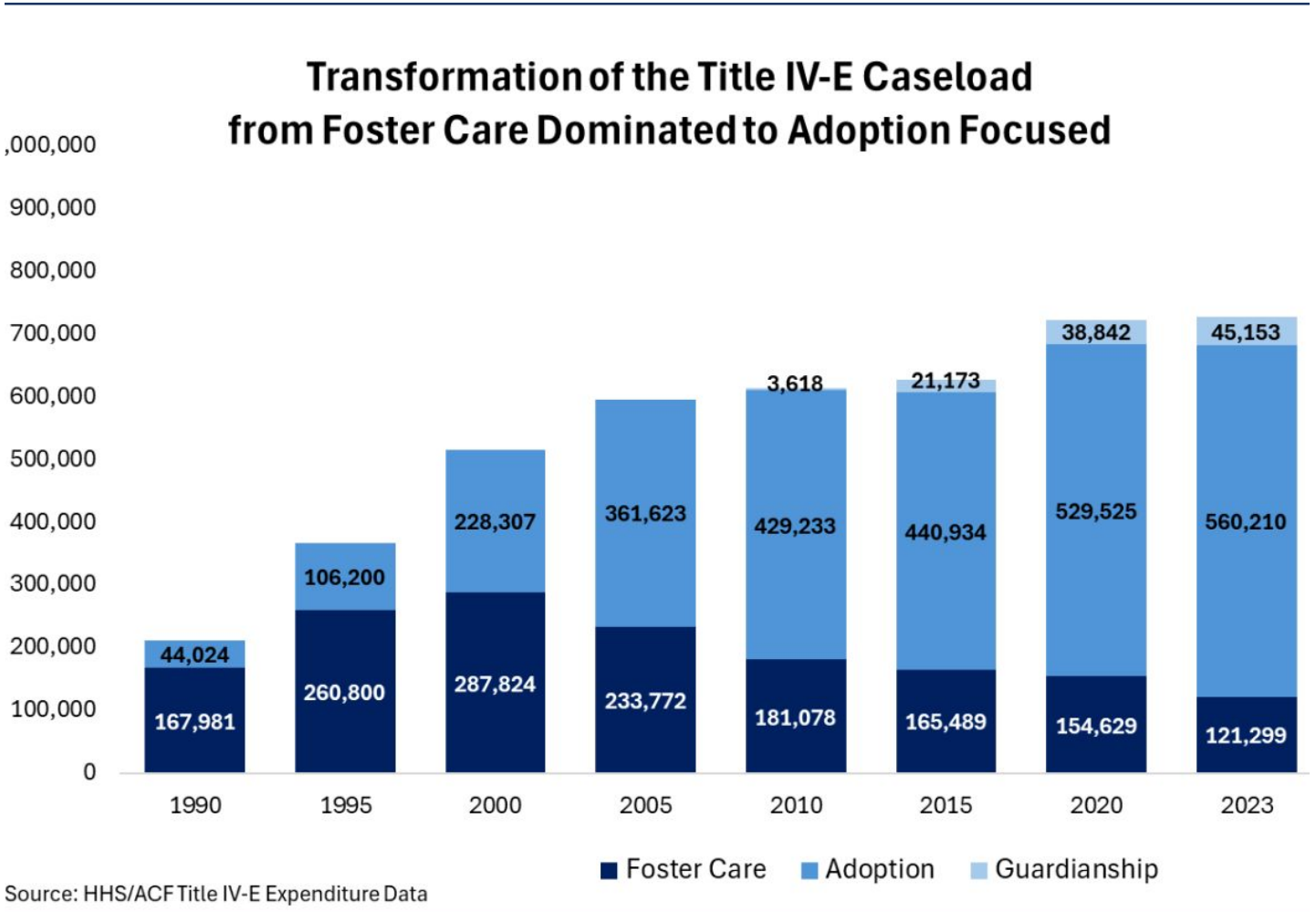
No oversight

Adoption incentive payment

I take for granted that as much as $$ and performance metrics are influencing practice, we are already prioritizing reunifications when possible…

The vast majority of IV-E program beneficiaries are children in adoptive homes.

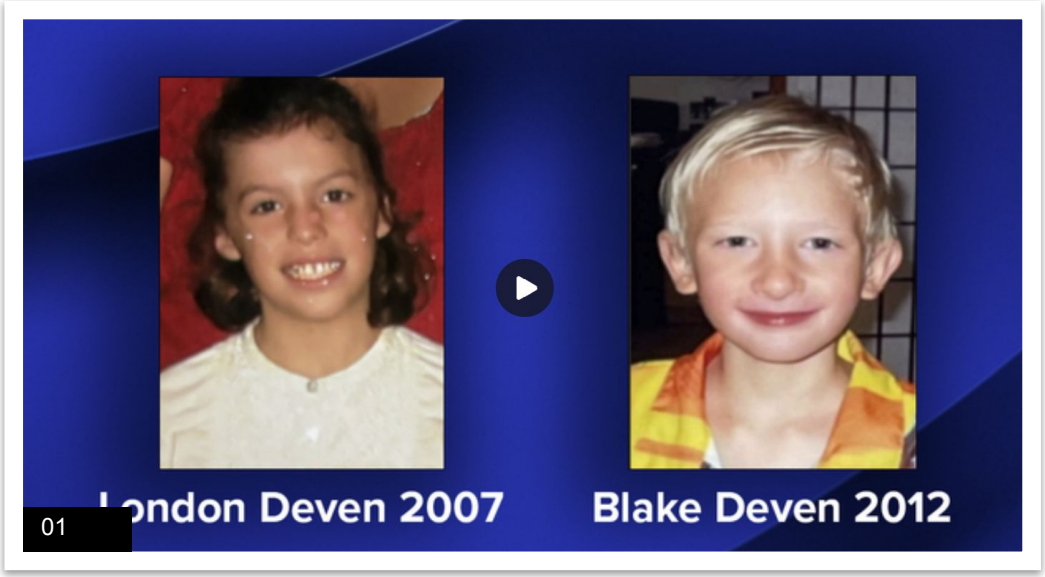
Guardianship spending will absolutely keep growing…



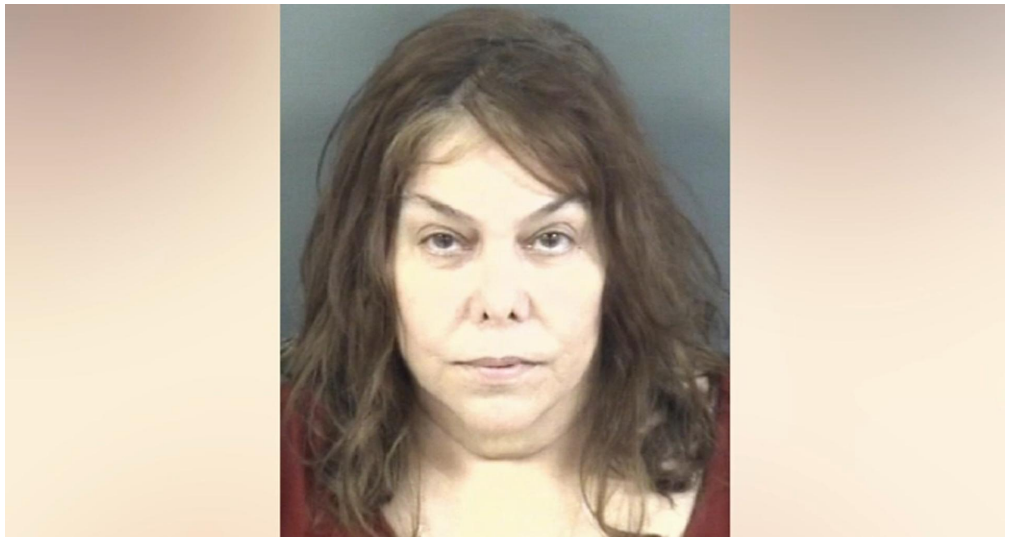
"Title Vi-E's Quiet Makeover: From Foster Care to Permanency. Laura Radel

Moral Hazards

Five unrelated children adopted by Avantae from three different counties in NC. Special needs. Two were killed.



“There was no oversight of her. Nothing! She took them out of schools. Took them out of doctors. Everything.”



Avantae Deven: two counts of first-degree murder, kidnapping, concealment of death and felony child abuse. The children were starved, beaten, killed, and dismembered.

- $750 * 5 children = $3,750 per month
  + special needs supplements (??)

  = (minimum) $45,000 per year

  = $675,000 assuming 15 years of care

§ 108A-49.1. Foster care and adoption assistance payment rates.

(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

(1) $702.00 per child per month for children from birth through five years of age
(2) $742.00 per child per month for children six through 12 years of age.
(3) $810.00 per child per month for children at least 13 but less than 21 years o age.

(b) The maximum rates for the State adoption assistance program are established consistent with the foster care rates as follows:

(1) $702.00 per child per month for children from birth through five years of age
(2) $742.00 per child per month for children six through 12 years of age.
(3) $810.00 per child per month for children at least 13 but less than 21 years o age.

(c) The maximum rates for the State participation in human immunodeficiency virus (HIV) foster care and adoption assistance are established on a graduated scale as follows:

(1) $800.00 per child per month with indeterminate HIV status.
(2) $1,000 per child per month with confirmed HIV infection, asymptomatic.
(3) $1,200 per child per month with confirmed HIV infection, symptomatic.
(4) $1,600 per child per month when the child is terminally ill with complex care needs.

In addition to providing board payments to foster and adoptive families of HIV-infected children, any additional funds remaining that are appropriated for purposes described in this subsection shall be used to provide medical training in avoiding HIV transmission in the home.

(d) The State and a county participating in foster care and adoption assistance shall eacl

Examples of monthly subsidies…

State	Adoption Subsidy	Notes
California	$1,258	Flat (base) rate
Colorado	$1,954	Older children
New York	$1,319	Standard rate in NYC metro area
Washington	$2,915	Complex needs

Accountability

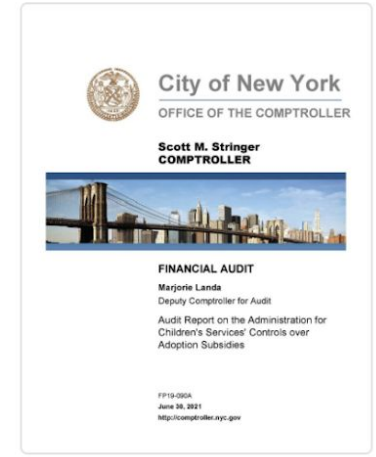
Audit & Investigation | Administration For Children's Services

Audit Report on the Administration for Children's Services' Controls over Adoption Subsidies

June 30, 2021 | FP19-090A

Executive Summary

Download The Report


City of New York
OFFICE OF THE COMPTROLLER
Scott M. Stringer
COMPTROLLER
FINANCIAL AUDIT
Marjorie Landa
Deputy Comptroller for Audit
Audit Report on the Administration for Children's Services' Controls over Adoption Subsidies
FP19-090A
June 30, 2021
http://comptroller.nyc.gov

Audits

Focused on easily identified fraud (e.g., payments after death)

The Federal Role

Federal statutes 42 U.S.C. § 673 and 42 U.S.C. § 675 mandate that states terminate adoption assistance payments when any one of three events takes place:

- The child ages out of the program by turning 18, if healthy—although states may, at their option, extend the program adoption assistance program to age 19, 20, or 21—or 21 if handicapped;
- The state determines that the adoptive parent is no longer legally responsible for supporting the child; or
- The state determines that the adoptive parent is no longer actually supporting the child.

BUT the sole provision in the statute is for self-reporting on the part of the adoptive parent:

Persons "*who have been receiving adoption assistance payments . . . shall keep the State . . . informed of circumstances which would, pursuant to this subsection make them ineligible for the payments, or eligible for the payments in a different amount*" (42 U.S.C. § 673(a)(4)(B)).

8.2 TITLE IV-E, Adoption Assistance Program

1. Question: May a title IV-E agency suspend or reduce a title IV-E adoption assistance subsidy solely because the adoptive parents fail to renew or recertify the adoption assistance agreement?

Answer: No. It is incumbent upon adoptive parents to keep the title IV-E agency informed of material changes that might impact the parent's support, but a title IV-E agency cannot reduce or suspend adoption assistance solely because the adoptive parents fail to reply to the its request for information, renewal or recertification of the agreement. Once an eligible child is receiving title IV-E adoption assistance pursuant to an agreement, adoption assistance continues until either the adoptive parents concur to a change or one of the statutory conditions are met for termination of the assistance (section 473(a)(4) of the Social Security Act and Child Welfare Policy Manual Section 8.2B.9 Q/A #2). Therefore, suspensions or reductions in a title IV-E adoption assistance payment are not permitted without the concurrence of the adoptive parents under section 473(a)(3) of the Act unless the agency suspends the payment in accordance with Child Welfare Policy Manual Section 8.2A and 8.2D.

Guardianship

On [redacted] received a CPS referral alleging *Causing Serious Physical Neglect of a Child*, type: *Failure to Provide Medical Treatment/Care*. Mother was listed as the alleged perpetrator and these allegations were **indicated**. It was alleged that [redacted] was found by a nurse *"face down in fecal matter in her bed"* while Mother was asleep, that [redacted] had recently been hospitalized for an infection, and that she is losing weight. Additionally, it was alleged that Mother had no electricity. Upon investigation, it was discovered that [redacted] *had been hospitalized for infections and medical neglect in October 2018, July 2019, January 2020, July 2020, and August 2020".* CPS spoke to [redacted] medical team, and it was noted that her *"...infections are likely cause from environmental contamination..."* and *"...they have tried interventions of family education on how to care for the dressing ... but this had not stopped the repeated hospitalizations and reports that these infections are life-threatening, serious, and concern for medical neglect."* Mother denied all allegations. CPS investigation revealed that Mother's failure to follow the *"...trained medical and safety procedures has led to infections that can be life threatening,* [and] *... the lack of consistent and proper home maintenance presents a safety threat to the children".* [redacted] were removed from Mother's care and placed with their maternal aunt, [redacted] The referral was accepted for services.

→ While child was in foster care with the aunt, repeated violations of supervised visit orders and new hospitalizations.

[redacted] requires G tube feeds every night for 12 hours. **She has not had a delivery of the formula in over 6 months. So, she hasn't been getting it.** This leads to poor weight gain, poor bowel health, and risk of life threatening complications such as this admission.

[redacted] requires TPN every night. **Her pump has been turned on 4 times in the month of January**. (expected 31 times). The previous 5 months show similar use. **So, she hasn't been receiving TPN.** This leads to poor weight gain, electrolyte imbalance and risk of serious complication, such as this admission.

[redacted] has a very large clot that should be managed with weekly or daily injections. The clot isn't improved and can be life threatening, leading to stroke and other complications. **She hasn't had the prescription filled in months.** So, she wasn't getting the medication.

[redacted] has not gained weight in a year. She isn't being given nutrition as stated above. **Her worsening medical crises when she came in on [redacted] is likely a result of her body being in a long term state of starvation** - a lack of calories/electrolytes and when her body actually was given the medication - it caused such a transition (think of it as a tidal wave) that she became very very ill. She is now stabilizing.

This is abuse. This is neglect of her basic needs. While her needs are complicated, daily attention, daily medications, daily tube feeds and daily TPN keep her alive and give her a chance to thrive.

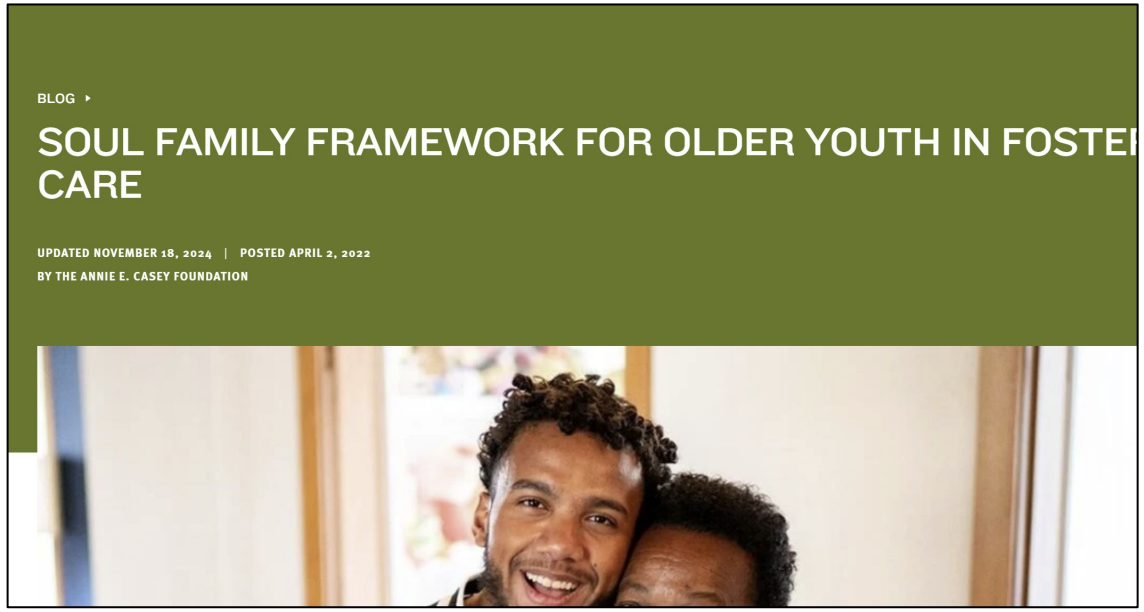
Of note, this child has disclosed violence in her home and being called names. This should be explored with this vulnerable child when she is in a better state of health and fully evaluated.

At any point, this medically fragile girl could have a very serious medical event that could result in a fatality. She hasn't been adequately medically treated at home for a very long time. It is unclear if there is any adult in her life who has dependably provided her home care. Her growth and development have suffered and she remains in a tight space of balance at this time.

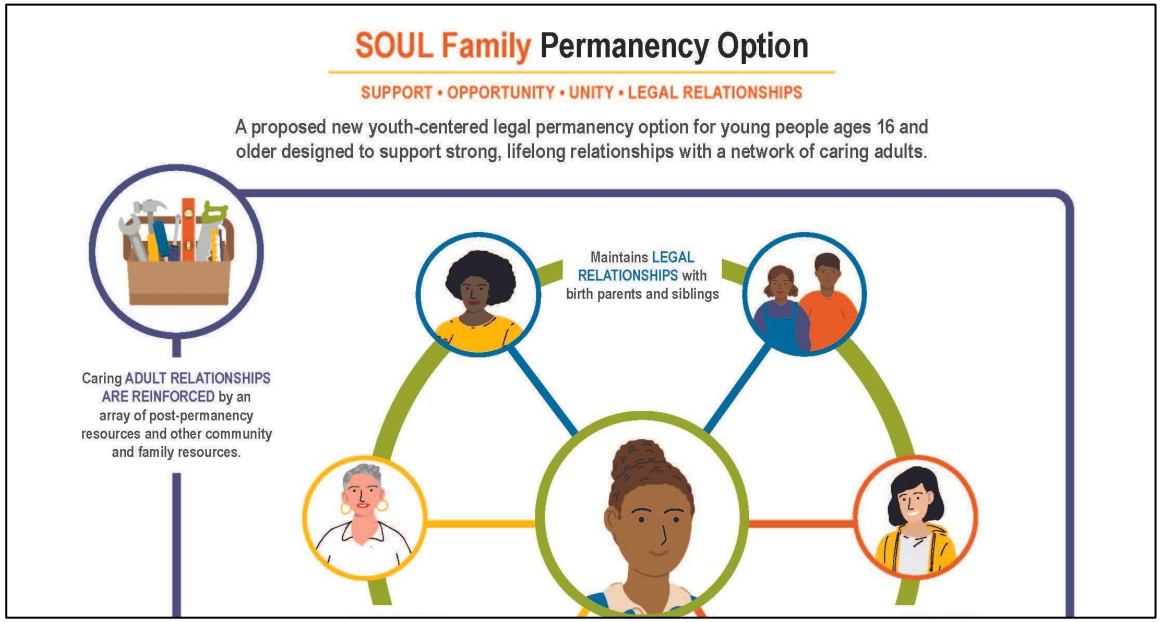
Case was closed by the courts in 2023 with a transfer to the aunt (subsidized legal permanent guardianship).

Aunt continued to receive monthly payments and certify / self-report that the child was in her physical custody for more than a year.

Child ended up as a multi-day stay in the hospital as near-fatality due to starvation.



ME: This is just a federal benefits workaround, dressed up with some "youth-led" language



- Bizarre co-guardianship option where the youth leaves foster care as a minor to live with their chosen ”family”…which may be several different adults living in different places.

- Only one SOUL family adult has legal authority, but another chosen adult may be the person who “provides housing”. ***Not hard to imagine all the ways this could get sketchy very quickly…***

- The youth keeps all benefits they were entitled to had they aged out. The child welfare agency closes the case and gets to claim success for having helped them to achieve permanency.

- My most skeptical interpretation? Well-intentioned lawyers and advocates know these kids are leaving to go back home to live with an abusive bio parent or abusive adult boyfriend, but they still want them to have resources down the road. So, they made up a fake guardianship exit type.

- Based on the bill hearing from 2024, sounds as if they are still waiting to get federal approval to recognize this as a legitimate form of permanent guardianship…

Questions?

eph@unc.edu
917.282.7861