

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

CASA FOR CHILDREN, INC., an Oregon  
not-for-profit organization,

Plaintiff,

v.

STATE OF OREGON by and through its  
DEPARTMENT OF HUMAN SERVICES;  
FARIBORZ PAKSERESHT, in his official  
capacity as Director of the Oregon  
Department of Human Services; and  
REBECCA JONES GASTON, in her official  
capacity as Director of Child Welfare,  
Oregon Department of Human Services,

Defendants.

Arbitration Arising from Agreement Settling  
Case No. 3:15-cv-01895-YY

**ORDER**

MCSHANE, Judge:

Plaintiff CASA for Children, Inc. (“CASA”) instigated an enforcement proceeding pursuant to section VI.E of the Settlement Agreement signed February 26, 2018 (“Agreement”). Based on the record, including the parties’ arbitration memoranda and testimony and arguments presented December 6, 2019, the Court finds that Defendants are not in substantial compliance with the Agreement.

Accordingly, IT IS HEREBY ORDERED:

(1) Defendants are not in substantial compliance with the Agreement.

(2) DHS must identify current Oregon foster children and young adults (collectively “children”) at highest risk of “temporary lodging” as defined in the Agreement and pro-actively prevent temporary lodging of such children, as follows:

- a. As soon as possible, Defendants will assess every child’s risk of temporary lodging using the predictive tool developed by DHS’ Office of Reporting, Research, Analytics and Implementation (“ORRAI”).
- b. Employ, or contract for, a dedicated Resource Management Director to assist DHS in compliance with section III. I. of the Settlement Agreement:

DHS will only temporarily lodge a foster child or young adult after determining there is no possibility of supporting the foster child or young adult in a family member’s home with appropriate safety planning or in the current placement with services and supports, and no safe and appropriate certified regular, relative, special, (including with kith or person with a caregiver relationship with the foster child or young adult) expedited or emergency foster home or licensed residential placement is available for the foster child or young adult. DHS’ efforts to avoid temporarily lodging a foster child or young adult may include but are not limited to the provision of a DHS caseworker making daily visits to, and/or a contracted provider staying overnight in, the foster child’s or young adult’s current placement or parent’s home, so long as these efforts are intended to ensure the foster child’s or young adult’s safety. DHS must consider services and supports despite the costs, unless those costs exceed the amount of money it would otherwise spend to provide temporary lodging.<sup>1</sup>

- c. Before any child is lodged, the Resource Management Director must authorize the lodging. As part of this pre-authorization, the Resource Management Director

---

<sup>1</sup> For purposes of this Order and the Agreement, the amount that would otherwise be spent daily to provide temporary lodging is \$2,179.89.

shall communicate with the child's caseworker before authorizing the lodging.

Before authorizing the lodging of any child, the Resource Management Director must confirm that the agency attempted to avoid lodging by utilizing the services and supports outlined in Section III. I of the Agreement. The Resource Management Director shall document this process in the report outlined in Section (3) c below.

- d. By April 22, 2020, Defendants shall ensure that every DHS caseworker has access to and training on: the requirements of section III.I of the Agreement; a list of available preventative services in their service area; instructions for accessing, paying for, and requesting additional preventative services in their service area; and contact information for the Resource Management Director.

**(3) Compliance.** The Court intends for this Order to bring defendants back to substantial compliance with the Agreement. With that in mind, Defendants shall:

- a. Submit to the Arbitrator and Governor's Children's Cabinet, as well as plaintiffs' counsel, the report required by section IV.A. of the Settlement Agreement.
- b. Submit to the Arbitrator and Governor's Children's Cabinet, as well as plaintiffs' counsel, on a monthly basis, a progress report on the following DHS initiatives:
  - i. Development and utilization of analytical tools to identify children and young adults at risk of temporary lodging;
  - ii. Analyzing resource needs and building capacity for services and placements used to avoid temporary lodging; and
  - iii. Child Welfare Strategic Plan work streams.

- c. Ensure that the Resource Management Director submit to the Arbitrator, Governor's Children's Cabinet and plaintiffs' counsel, on a bi-weekly basis, a report regarding each child and young adult in temporary lodging summarizing:
  - i. Which resources and services were made available in an effort to avoid temporary lodging;
  - ii. When those resources and services were made available; and
  - iii. Which resources and services necessary to avoid temporary lodging were unavailable and why.
- d. Ensure that the Resource Management Director submit to the Arbitrator, Governor's Children's Cabinet and plaintiffs' counsel, a report outlining the date defendants will be in substantial compliance with Sections III.C(4)-(5) of the Agreement. The Resource Management Director shall submit this report as soon as possible, but no later than March 31, 2020.

(4) CASA is the prevailing party in the enforcement proceeding and is awarded its reasonable attorney fees and costs pursuant to Section VI.I of the Agreement. CASA may move the Court for attorney fees and costs in accordance with Section IX. H. of the Agreement.

IT IS SO ORDERED.

DATED this 10th day of January 2020.

/s/ Michael McShane  
Michael McShane  
United States District Judge