



**Department of
Job and Family Services**

Mike DeWine, Governor
Jon Husted, Lt. Governor
Matt Damschroder, Interim Director

A stylized map of the state of Ohio, filled with a pattern of small, light-colored circles.

**Office of Families
and Children**

Peer-to-Peer Adoption Assistance Community Resource Information Series

Session 1:

Bureau of State Hearing (BSH)
Elizabeth Foster, Michael Cummings, and
Andrea Breakwell
July 6, 2021

Agenda

- Introduction
- BSH Presentation
- Wrap Up



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Introduction

- Facilitators
- Housekeeping
- Intro of Speakers

Disclaimer: These webinars will be recorded. To prevent any inadvertent disclosures of recipient information, specific case questions will not be addressed by facilitators during the live event.

AA Subsidy Mediation: The County Side

July 6, 2021

Andrea Breakwell, Mediator

Mike Cummings, Mediator

Elizabeth Foster, Chief Hearing Officer

Agenda

- 1 Refresh**
 - Dispute Background
 - State Hearings
- 2 Mediation Overview**
 - Process
 - Mediator Role
 - Outcomes
- 3 County Perspective**
 - Approach
 - Common Missteps
 - Best Practices
- 4 Conclusion**
 - Key Takeaways
 - Q + A
 - Contact Information

Refresh

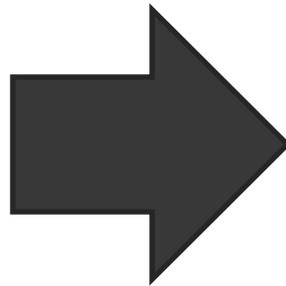
- Dispute Background
- State Hearings

Refresh: Dispute Background

- Children adopted out of the state's custody are often IV-E eligible. This means the adopting parent has the right to apply for an adoption assistance subsidy.
 - State IV-B/IV-E agencies are required to actively seek ways to promote the adoption assistance program. *ACYF-CB-PA-01-01*
- Determination of Subsidy is a unique benefit:
 - “The monthly amount . . . is determined **by negotiation and mutual agreement** between the adoptive parent(s) and the public children services agency (PCSA).” *Ohio Administrative Code §5101:2-49-05(A)*.
- Further explained (or complicated):
 - “The monthly AA payment amount should combine with the adoptive parent(s) resources and circumstances of the adoptive family and shall provide for the special and anticipated needs of the child projected over an extended period of time.” *Ohio Administrative Code §5101:2-49-05(D)*. See also *Section 8.2D.4 Child Welfare Policy Manual*.

Refresh: Dispute Background

Perfect World Outcome



Refresh: Dispute Background

More Realistic Outcome



Refresh: State Hearings

- Adversarial by Nature
 - No cooperation
 - Winner take all
- May not Produce a Final Outcome
 - Decision vs. Evaluation
 - Cannot establish final amount of AA
 - May only order further negotiations
- Detrimental to Family County Relationship
 - Can create or increase negative feelings
 - Puts child in the middle



Disclaimer: State Hearings can be still be useful; can set parameters for further negotiations. Use them to your advantage—not as a threat or replacement for negotiations.

Mediation Overview

- Process
- Mediator Role
- Outcomes

Mediation: Process

State Hearings

- **Adversarial by Nature**
 - No cooperation
 - Winner take all
- **May not Produce a Final Outcome**
 - Decision vs. Evaluation
 - Cannot establish final amount of AA
 - May only order further negotiations
- **Detrimental to Family County Relationship**
 - Can create or increase negative feelings
 - Puts child in the middle

Mediation

- **Cooperative by Nature**
 - Exchange of information vs. presentation of information
 - Working towards same goal
- **More Likely to Reach Final Outcome**
 - Mutual agreement
 - More control
 - Final hurdle
- **Maintains Family County Relationship**
 - Future negotiations
 - Future foster care or adoptions
 - Sense of community

Mediation Overview: Process



- Evaluation
- Scheduling
- Mediation
- Enforcement

Mediation Overview: Preparation

Prior to Mediation

- BSH Forms
 - Agency AA Form
 - Agreement to Mediate
 - Confidentiality Form
- County Subsidy Tool/Form
- Correspondence with Family
- Supporting Documentation
- Other Potential Forms of Assistance
 - SSDI
 - PASSS
 - County Board Services

Mediation

- Case Specific
 - Mediator Guided
 - “Positive” Documentation
- Range of Settlement
 - New Offer?
- All Documentation Considered
- Other Assistance Evidence

State Hearing

- County Subsidy Tool/Form
 - Documentation Considered
 - Documentation not available
- Correspondence with Family
- Other Assistance Evidence

Mediation Overview: Mediator Role

- One Goal – Settlement
 - Poke and prod
 - Outcome exploration
 - Questions
- Neutral
 - Offer perspective
 - Level-set expectations
 - Answer questions
 - Confidential
- Filter – “PR”
 - Communication
 - Be “the bad guy”
 - Ask difficult questions

Mediation Overview: Outcomes

All Possible Outcomes through June 16, 2021

Outcome	Percentage
Agreement reached at mediation conference	45.10%
Agreement reached prior to mediation conference with assistance of mediator	11.30%
Mediation unsuccessful; parties proceed to SH	7.70%
Family withdrew from mediation	10.60%
Parties elected to bypass mediation and proceed to SH	14.80%
Family elected not to proceed with adoption	2.80%
Family did not return mediation packet or contact lost with family	7%
Child removed by PCSA	0.70%

Note: 142 completed cases since 2016, 40 different counties

Mediation Overview: Outcomes

Statistics for 1-1-2016 through 6-15-2021

- Out of 142 requests for mediation for this period, 91 cases went through the mediation process = 64%
- Out of those 91 cases, the mediation process reached a successful agreement = 87.9%
 - This includes cases where an agreement was reached in preparation for the mediation
 - That success percentage is over 90% since CY 2019.
- The percentage of cases that go to mediation and still end up in a state hearing = 7.7%

Thank You!

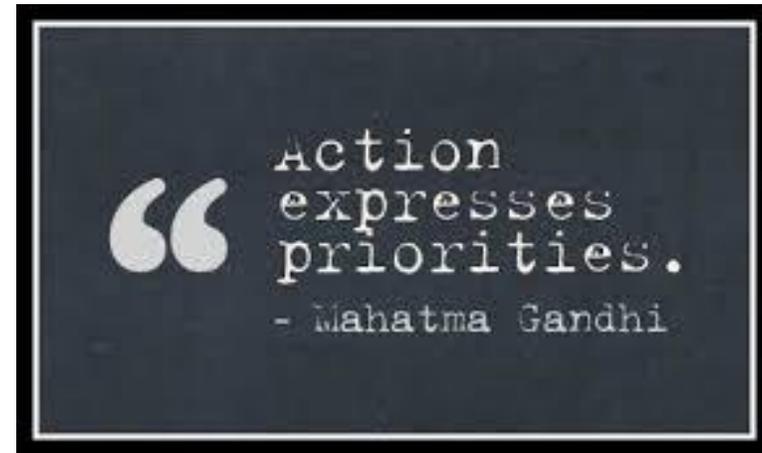
County Perspective

- Approach
- Common Missteps
- Best Practices
- Examples

County Perspective: Approach

Priorities

- 1) Permanency
 - BIG STEP -
- 2) Fiscal Responsibility
 - Another good size step -
- 3) Adhering to
System/Consistency
- 4) Maintain Relationships
- 5) Other



County Perspective: Common Missteps

- **Focus Only on Special Needs**
 - Special needs ≠ only medical needs not covered by Medicaid
 - Ordinary needs are included
 - Failure to consider family circumstances

County Perspective: Common Missteps

Policy Consideration

- *“Consideration of the circumstances of the adopting parents has been interpreted by the Department to pertain to the adopting family's capacity to incorporate the child into their household in relation to their lifestyle, standard of living and future plans, as well as their overall capacity to meet the immediate and future needs (including educational) of the child. This means considering the overall ability of the family to incorporate an individual child into their household.”*
- *“The payment that is agreed upon should combine with the parents' resources to cover the ordinary and special needs of the child projected over an extended period of time and should cover anticipated needs, e.g., child care.”*

ACYF-CB-PA-01-01 (1/23/01)

County Perspective: Common Missteps

- Approach to Program/Families
 - Frustration with family position or negotiation position
 - Ultimatums/“take it or leave it” offers
 - Negative attitude towards hearing or mediation
 - Reminders of county funds or limitations
 - Lack of communication or organizational cohesion

County Perspective: Common Missteps

Failure to See the Fiscal Forest Through the Trees



Example:

Joey Votto, D.O.B. 7/6/2013
Months until 18: 120
Current FCM: \$1200
County's last AA offer: \$400
Family's last AA request: \$1000

Scenario #1

County Stands Pat, Family Elects not
Proceed with Adoption

- One more year of FCM (\$14,400)
- New family agrees at \$400 (\$6,156)
- **Total: \$20,556**

OR

- Two more years of FCM (\$28,800)
- New family agrees at \$400 (\$5,472)
- **Total: \$34,272**

OR

- Ten more years of FCM: **\$144,000**

Priority Check

- 1) Permanency
- 2) Fiscal Responsibility
- 3) Adhering to
System/Consistency
- 4) Maintain Relationships

Example:

Joey Votto, D.O.B. 7/6/2013
Months until 18: 120
Current FCM: \$1200
County's last AA offer: \$400
Family's last AA request: \$1000

Scenario #2

County Agrees at Mediation
(or Independently!)

- Agreement for \$700

- **Total: \$20,520**

OR

- Agreement for \$800

- **Total: \$25,508**

OR

- Agreement for \$1000

- **Total: \$34,200**

Priority Check

- 1) Permanency
- 2) Fiscal Responsibility
- 3) Adhering to
System/Consistency
- 4) Maintain Relationships

County Perspective: Best Practices

- 1) Offers
- 2) Approach
- 3) Communication at all steps
- 4) Gather information
- 5) Avoid discussing constraints

Conclusion

- Key Takeaways
- Q + A
- Contact Information

Conclusion: Key Takeaways

Priorities Over Process

Big Picture
Avoid Failed Adoption

Gather Information

Ask Questions
Talk Directly to Families

Communication

Unified
Thorough

Stay Flexible

Don't Rule Out Options
Avoid Ultimatums

Stay Positive

Reassurance
Commitment

Questions

Thank You

Please do not hesitate to contact us for any questions you may have about this presentation or more generally about the mediation and state hearing process.

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Elizabeth Foster – elizabeth.foster@jfs.ohio.gov



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Wrap Up

Next Session:

Date: 7/13/21

Session Title: AA Peer-to-Peer ODJFS/ODM Medicaid Training Event

Time: 10:00 am – 11:00 am

Contact Information:

Title IV-E Policy Developers:

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