



DEPARTMENT OF HEALTH & HUMAN SERVICES

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ADMINISTRATION FOR CHILDREN AND FAMILIES  
Administration on Children, Youth and Families  
1250 Maryland Avenue, S.W.  
Washington, D.C. 20024

OCT 16 2009

Donald R. Thompson  
Executive Director  
Department of Human Services  
P.O. Box 352  
Jackson, Mississippi 39205

Dear Mr. Thompson:

This letter is in reference to the Baltazar-Cruz case involving an infant in foster care in Jackson County. The case came to our attention and raised a variety of concerns regarding compliance with Federal law and regulations under titles IV-E and IV-B of the Social Security Act (the Act). As a result, a review of the Mississippi Department of Human Services (MDHS), Division of Family and Children Services (DFCS), Foster Care Program was conducted by representatives from the U.S. Department of Health and Human Services (DHHS), Office for Civil Rights (OCR) and regional and headquarter representatives from the Administration for Children and Families (ACF), Children's Bureau (CB). The onsite review was conducted August 17-19, 2009 and focused on the practices of the MDHS and statewide foster care and adoption policies and procedures. ACF's and OCR's investigation included a case-specific review of child welfare services provided to a limited English-proficient mother, Cirila Baltazar Cruz, and her infant daughter.

Concerns were noted regarding compliance with the following requirements under Federal law and regulations:

- Reasonable efforts must be made to prevent removal and to make it possible for a child to return home (section 471(a) (15) of the Act and implementing regulations at 45 CFR 1356.21(b); and the requirements for services programs designed to help prevent removal and to return home (section 422(b) (8) (a) (iii) and (iv) of the Act).

Findings: Reasonable efforts to prevent removal were not made. The agency social worker was unable to conduct a proper investigation due to the language barrier with the limited English-proficient mother and the agency failed to take reasonable steps to ensure effective communication with her. Spanish-speaking interpreters were used despite the clear indication that the mother's primary language was not Spanish. Agency's concerns were related to mother's housing arrangements; however, no efforts were made to assist her in acquiring more suitable/safe housing so that the child could remain with her.

No services were offered to mother at all.

- Development and implementation of a case plan, including a plan for assuring that services are provided to the parents to facilitate the return of the child to his own safe home (sections 471(a)(16), and 475(1)(B) of the Act; and implementing regulations at 45 CFR 1356.21(f) and (g).

Findings: A case plan was not developed or implemented within 60 days. Concerted efforts were not made to locate the father and as a result he was not involved in the case at all. The mother did not receive a case plan until April 24, 2009 – 5 months after the child had been removed. The case plan that was developed required that the mother complete a parenting class (the Agency reported that this is standard on all case plans), show proof of employment, and demonstrate stable housing by producing a signed lease agreement. No services were offered to the mother to assist with the employment or housing requirements. The mother was referred to a community-based organization to watch a two-hour parenting video that was presented in Spanish. The video did not address caring for a newborn.

When asked why there was such a delay in developing the case plan, the Agency responded that the mother was constantly moving and difficult to locate. It was determined that although the mother was present for all court hearings, and for supervised visitation with her child on February 25, 2009, April 7, 2009 and April 23, 2009, the Agency undertook no efforts to meet with the mother to develop a case plan.

- Requirements for a case review system (that in part ensures that a child's case plan is designed to achieve the least restrictive and most family-like setting) (sections 422(b) (8) (a) (ii), 471(a) (16) and 475(5) (a) of the Act).

Findings: A review hearing was held timely on May 13, 2009. However, based on noted concerns raised regarding impermissible ex parte communication between the Judge and the Agency and the foster parents, as well as the stated bias against the mother by the Guardian Ad Litem assigned to the case, it is questionable as to whether all of the requirements of the review outlined in section 475(5)(B) were met.

- The requirements for considering giving relatives preference when determining a placement for a child (section 471(a) (19) of the Act) and for exercising due diligence to locate and provide notice to adult relatives within 30 days of removal of a child (section 471(a) (29) of the Act).

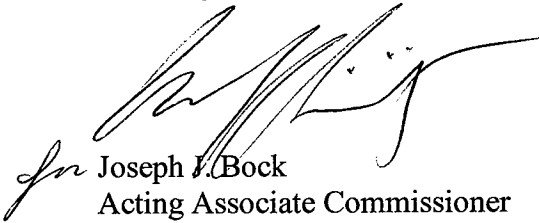
Findings: Reasonable efforts were not made to identify or contact relatives of Ms. Cruz to assess them as placement resources. Ms. Cruz' cousin who lives in Alabama was present during all of the agency's contact with Ms. Cruz, but no efforts to assess him as a placement resource were made until January 28, 2009. On that date, the court ordered the agency to begin processing the Interstate Compact on the Placement of Children (ICPC); however, the process was terminated by the Court's directive on February 25, 2009. The agency also failed to make efforts to contact family members who resided in Mexico and in other parts of the United States. There was also

no attempt to contact the father of the child or any of the paternal relatives. Language barriers and concerns about the presumed illegal status of family members were noted as barriers to exploring relative placement.

The MDHS staff interviewed did not see these issues as problematic. This leads us to conclude that this may be how business is conducted and that this is not an isolated incident. We have grave concerns regarding this case and would like to provide MDHS an opportunity to informally correct this impression prior to asking you to develop a Program Improvement Plan in accordance with the Code of Federal Regulations, 45 CFR, Section 1355.32(d)(4). We would like you to provide information regarding how the Agency will address these compliance issues and future issues of this nature by October 30, 2009.

If you have any questions regarding this or other related matters, please contact the Child Welfare Regional Program Manager, Ruth Walker at (404) 562-2901 or by e-mail at [ruth.walker@acf.hhs.gov](mailto:ruth.walker@acf.hhs.gov). You may also contact Harriet Epps at (404) 562-2909 or by e-mail at [harriet.epps@acf.hhs.gov](mailto:harriet.epps@acf.hhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Bock", written over the typed name and title.

Joseph V. Bock  
Acting Associate Commissioner  
Children's Bureau

cc: Lori Woodruff, Deputy, Division of Family and Children's Services, MDHS; Jackson, MS  
Carla Carter, SEOS, OCR, Region IV, Atlanta, GA  
Ruth Walker, Child Welfare Regional Program Manager; CB, Region IV; Atlanta, GA