

## For Immediate Release

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# Federal Court Strikes Down California's Reimbursements To Foster Parents, Rules That California Illegally Shortchanges Abused And Neglected Children

***First-in-the-nation ruling expected to increase family placements, adoptions, save taxpayers money, and avoid collapse of foster parenting statewide***

(December 8, 2008, San Francisco) – In a stunning victory for California's approximately 70,000 foster children and foster children nationally, a federal district court for the Northern District of California has for the first time decreed that a state's method of reimbursing foster parents for the expenses they incur caring for abused and neglected children is illegal, ruling that the reimbursements failed to consider and pay for the actual costs of raising foster children.

U.S. District Court Judge William Alsup ruling holds out the promise of an increase in reimbursements to Californians who volunteer their time to take in and care for abused and neglected children but who are entitled to be reimbursed for their out-of-pocket costs under federal law.

"This welcome ruling will quickly result in more abused and neglected children being placed in families instead of institutions and will result in more adoptions," said Regina Diehl, a foster parent and head of Legal Advocates for Permanent Parenting, one of the successful plaintiffs. "Every child deserves a family, especially abused and neglected children, and the federal court's ruling will mean more family meals, family holidays, and family birthdays for our abused children."

The federal Child Welfare Act requires the State "to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement." In exchange for a commitment to reimburse foster parents, the federal government picks up half the cost.

But, as Judge Alsup ruled: “The record in this case indicates that California’s rates are not based on the [federal] statutory criteria; in fact, it indicates that California has no mechanism in place to ensure that it is meeting that federal obligation. It does not track foster care costs; it does not analyze the adequacy of its rates; and it has no mechanism for making adjustments to rates that may be needed.”

“California was simply breaking its part of the deal,” observed Kim Van Voorhis, lead counsel on the case for Morrison & Foerster, LLC. “It was taking millions in federal dollars but not reimbursing foster parents as required by federal law.” Ms. Van Voorhis also stated: “Indeed, the State admitted in our case that it never even tried to figure out what adequate reimbursements would be. Instead, the State admitted that it paid whatever it felt like paying, regardless of federal law.”

California currently reimburses foster parents an average of about \$505 per month, less than the monthly average cost of kenneling a dog. According to a prior order of Judge Alsup’s, “plaintiffs’ evidence purports to establish that California’s foster parent rates have fallen 29 to 40 percent or more below the cost of providing for the enumerated items [.] Defendants do not challenge this evidence.”

“Judge Alsup’s ruling could not be more timely,” said Ed Howard, Senior Counsel for the Children’s Advocacy Institute and a counsel in the case. “Foster care placements are the most frequent source of adoptions for kids who don’t have families that can take them. But because California’s reimbursements have lagged so far behind what it actually costs to care for a child, the number of Californians financially able to be foster parents has plummeted, so abused children have for years needlessly been placed in far more costly group institutions instead.”

“With a recession looming, a catastrophic collapse of foster parenting will soon be on us if reimbursements are not hiked,” added Howard.

In noting the relationship between the plummeting number of placements of abused and neglected children with foster parents and the low reimbursements paid to such families, the court wrote that “[b]asic economic logic would predict this result.”

Likewise, according to the Court, “defendants offered no factual rebuttal” to the evidence showing that raising foster parent reimbursements, and thus increasing the supply of foster parent volunteers, will quickly **save the State money** because foster parenting is both the best placement for the child and the least expensive. When an abused and neglected child cannot be placed in an available foster home, the only remaining options are orders of magnitude more expensive for state taxpayers and potentially worse for the child.

Importantly, Judge Alsup rejected the State’s argument that the State was empowered to pay whatever it wanted under federal law: To accept defendants’ sweeping claim “would have meant that any foster care payments greater than zero dollars would satisfy the Act.”

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