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State taken back to court over foster care

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P-I REPORTER

The state is harming thousands of foster children by failing to conduct monthly visits and reduce heavy caseloads as required in a landmark settlement of a class-action lawsuit in 2004, attorneys for the youths argued in court papers filed Thursday.

The Department of Social and Health Services also falls short in facilitating visits between separated siblings and providing health and education screenings, according to a motion filed in Whatcom County Superior Court.

The filing was expected; lawyers had threatened for months to return to court if the state did not move more swiftly to make changes outlined in the agreement, which is known as the Braam settlement. Plaintiffs in that case accused the state of violating the constitutional rights of thousands of foster children by shuttling them between homes without adequate services.

"We have reached a point where we feel we have exhausted every other option," said Casey Trupin of Columbia Legal Services, one of the plaintiffs' attorneys.

DSHS has "lost the sense of urgency" in fulfilling the settlement, despite prodding within and outside the agency, he said.

State officials acknowledged that DSHS has not met the standards set in the settlement, but said it was making steady improvements, including monthly visits to particular categories of foster children.

"We're disappointed by (the plaintiffs') choice to take us back to court," said Cheryl Stephani, assistant secretary of the Children's Administration in DSHS. "It really ignores the state progress made in a number of areas, and has the potential to divert us from work in making that progress and keeping the kids safe."

With increased staffing -- the last 95 of 400 new caseworkers would be hired by late May if the Legislature approves Gov. Christine Gregoire's budget request -- and an updated database expected to be in place by the fall, she said, the state should be better positioned by September to meet visitation standards.

"This is really a timing thing," Stephani said. "We want the same thing the plaintiffs want."

Trupin said the plaintiffs have waited long enough. The motion was filed four days after the start of the 2008 legislative session because "we think the Legislature has the ability to address some of these issues as well," he said.

The motion asked the court to enforce four areas of the Braam settlement, contending that DSHS has:

- Failed to make required monthly caseworker visits to foster children -- less than 40 percent of the children are receiving them -- and refused to keep detailed information on the visits. The settlement required 75 percent of foster children to have been receiving monthly visits by June 30, 2006.
- Failed to reduce caseloads of foster care workers to accepted professional standards and not produced a viable plan for doing so. Trupin said the current statewide average caseload is about 25 cases, seven more than acceptable standards. (DSHS said the average caseload is 21 clients.)
- Failed to provide required twice-monthly visits between separated siblings. Less than half of siblings are receiving them.
- Failed to provide a comprehensive health, mental health and education screening within the required 30 days after a foster child is placed in a home. About 30 percent of children received the screening in a timely manner in the 2006 fiscal year, one-third the required rate.

Stephani said the state gives top priority to making monthly caseworker visits to foster children who are court-authorized to live at home with their parents, and to those who are younger than 6 and living with an unlicensed relative. About 70 to 80 percent of the children in both categories receive monthly visits, she said.

Those categories make up a minority of placements. The majority, 56 percent, are in categories given lowest priority by the state: children under 6 and older youths in non-relative foster care, according to the motion.

Nearly 75 percent of comprehensive screenings are conducted within 60 days of the time a child is placed in a foster home -- short of the 30-day requirement, but "we're making progress," Stephani said.

The motion asked the court to find the state in violation of the settlement and at odds with accepted professional standards, and to order the state to fully comply within 60 days of the court's order.

If the state does not do so within 90 days, the plaintiffs want the court to fine the state for each child that does not receive the required services.

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