



Date: August 1, 2018

To: Members of the Coalition of Residential Excellence

From: Don Forrester, Executive Director

Subject: July 2018 CORE Monthly Report

Regulatory – Department of Labor – Wage and Hour Division

I recently learned that a children’s home in North Carolina was surprised by findings made by the Department of Labor regarding their operation. The agency was found in violation of the Fair Labor Standards Act regarding houseparent staff. The agency does not meet the FLSA definition of being subject to provisions of the law under Enterprise Coverage, but their houseparent staff were found to be subject to FLSA under the Individual Coverage provisions because they were engaged in “Interstate Commerce”.

So what were houseparents doing that made them subject to Individual Coverage under FLSA? They were using an agency credit card to purchase fuel for agency vehicles and they were using an agency credit card to purchase groceries.

That is obviously a pretty broad interpretation of “interstate commerce” activity. The agency negotiated a “cease and desist” approach for a corrective

action plan and immediately changed their methodology for procuring fuel and groceries.

So is this broad interpretation of the law a regional interpretation or one supported by the Department of Labor to be applicable everywhere? I don't know the answer to the question and frankly, I'm afraid to inquire. If you're not sure you're going to like the answer, why ask the question? However, I think it is important that members of the Coalition of Residential Excellence be aware of the interpretation coming out of North Carolina.

Legislative Update

- **Modernization Of Houseparent Exemption [ie: "Family-oriented Consistent Appropriate Residential Environments for Youth Act" or the "Family-oriented CARE Act"]**

According to Congressman Fleischmann's office, the Education and Workforce Committee has given permission for the bill to be dropped. Since the nod of approval, Congressman Fleischmann's office has reached out to a number of other Representatives asking for their support. Reportedly, the summer break is not the most optimum time to be looking for co-sponsors. Recently, a Representative from Delaware has favorably responded. Congressman Fleischmann's office is still in the process of recruiting other Legislators to sign-on. Reportedly, the Bill will be dropped very soon.

Congressman Fleischman's bill is intended to amend the Fair Labor Standards Act of 1938 to modernize the houseparent exemption to certain wage and hour requirements, and for other purposes. The proposed amendment updates the houseparent exemption from wage and hour requirements filed

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by Senator Dent in the 1960s. The current exemption found in USC 213(b)(24) states the following:

“(24) any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children –
(A) who are orphans or one of whose natural parents is deceased, or
(B) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated on a cash basis, at an annual rate of not less than \$10,000;”

Congressman Fleischmann’s Bill will modernize the aforementioned wording to include both single and married house parents: *“any employee who is employed by a private non-profit institution (either as part of a married couple or as a single person) to serve as a substitute parent of children who reside at the residential facility of such institution and who are involved with the child welfare or juvenile justice system, enrolled in a school or educational program operated by the institution, or facing mental, behavioral, physical, or circumstantial hardship, and such employee –*

“(A) resides at the residential facility of such institution with such children for the purpose of creating a family-like setting, and such facility is the employee’s primary residence;

“(B) receives without cost, board and lodging from such institution; and

“(C) is compensated, on a cash basis, at an annual rate of not less than [\$20,000]”; and ...”

I will alert our membership when the bill is dropped and receives a reference number.

HR 4983 – Meadows - Caring Homes and Improved Lives for Dependents (CHILD) Act

HR 4983 is beginning to gain some traction. As I shared with you last month, Congressman Meadows appealed to his peers for support. Currently there are six co-signers on the bill: Rep. Mark Walker [R-NC-6], Rep. Lamar Smith [R-TX], Rep. Bradley Byrne [R-AL], Rep. Bruce Westerman [R-AR-4], Rep. Mike D. Rogers [R-AL-3] and Rep. Robert B. Aderholt [R-AL-4]. That represents 3 Representatives from Alabama, 1 from North Carolina, 1 from Texas and 1 from Arkansas.

HR 4983 is still being held in the Ways and Means Committee. Earlier today I emailed Congressman Meadow's office to ask what our membership could do that would be most helpful. He suggested reaching out to members of the Ways and Means Committee.

<https://waysandmeans.house.gov/subcommittee/full-committee/>

Families First Prevention Services Act Update

John Kelly, "Chronicles of Social Change", has done a comprehensive job of identifying the latest information concerning FFPSA in his article entitled: "FAMILY FIRST SERVICES ACT UPDATE: Federal Rules, Delay Deadlines, State Flexibility and More". I am attaching a link to that article. It is extremely well written and very informative.

<https://chronicleofsocialchange.org/youth-services-insider/family-first-update-federal-regs-delay-deadlines-definitions-and-more/31730>

**SAVE THE DATE – OVERVIEW OF FAMILIES FIRST PREVENTION SERVICES
ACT- SEPTEMBER 7, 2018 [CONFERENCE CALL AT 3:00 P.M. EST]**

Many of you responded with a favorably interest to participate in a conference call with Ryan T.F. Martin, Special Assistant-Senate Finance Committee. Mr. Martin along with others will provide an overview of provisions of the Family First Act.

Mr. Martin will make a power point presentation available to those participating in the call prior to the meeting. Consequently, we will have it as a resource to follow while the presentation is being made. There will be a time for questions.

Reframing the Future - 2018 CORE National Conference

Registration for the 2018 CORE National Conference is now available through the CORE website. In addition, program information concerning topics and presenters is also available for your review [www.core-dc.org]. The conference is scheduled for October 9 -11, 2018. Methodist Home in Waco, TX is hosting the conference.

In addition, the Hotel Indigo, located in downtown Waco, has reserved a block of rooms for CORE. It is within walking distance of the Magnolia Market Silos and conveniently located to our conference site.

NOTICE: There is currently an issue with online registrations.

When registering, the discounted rates are not being applied. The hotel is aware of the issue and, until they can work it out, are recommending that you either:

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1. Call the hotel directly at **254-754-7000** to request the CORE rate. **Please call between the hours of 9:00 am and 5:00 pm CST Monday-Friday, and ask to speak to a sales representative.**
2. Register online at online rate, and then call the hotel afterwards to get the rates updated.

We apologize for this inconvenience.

To book, call 254-754-7000 and ask for a sales representative. (M-F | 9-5)

It is anticipated that folks will need to arrive on the evening of Monday, October 8th since the conference is set to begin the following morning. A link to make reservations at the Hotel Indigo for the nights of October 8, 9, 10 and 11 can be accessed through the following link. In the event the link doesn't work properly, cut and past the link in your browser.

For folks desiring to stay the weekend, reservations for the weekend can be made by calling 1-800-439-4745 or go online to make separate reservations.

The conference rate for the hotel for Monday, Tuesday and Wednesday nights is \$139.00. The rate for Thursday night is \$179.00.

In addition, **The Courtyard**, a second conference hotel in downtown Waco, has been secured as a secondary site. The Courtyard will honor the same conference rates as the Indigo Hotel. Be sure to identify yourself as a member of the Coalition of Residential Education.

Federal Court: Religious Adoption Agency not Entitled to State Contract

I am attaching a link to an article written by Don Byrd dated 07/16/18 related to a religious liberty dispute. Catholic Social Services, a child-placing agency

in Philadelphia, was denied a contract with the City of Philadelphia after the contract was rescinded by the city over the religious group's refusal to place children with same-sex couples.

<http://bjconline.org/federal-court-religious-adoption-agency-not-entitled-to-state-contract-071618/>

Child Welfare Provider Inclusion Act (CWPIA) – H.R. 1881 -Adoption agency protection moves forward in Congress

According to a press release written by Tom Strode on July 20, 2018, *“Legislation to prohibit government from discriminating against adoption and foster care agencies over their religious or moral convictions has taken an initial step toward potential passage in Congress.*

“The House of Representatives Appropriations Committee included the Child Welfare Provider Inclusion Act (CWPIA) in a spending bill it approved July 11. The committee first passed the measure as an amendment to the Labor, Health and Human Services (HHS), and Education funding bill in a 29-23 vote. The panel then forwarded the amended version of the bill in a 30-22 roll call.

“The proposal, H.R. 1881, would bar the federal government -- as well as any state or local government that receives federal funds -- from discriminating against or taking action against a child welfare agency that refuses to provide services in a way that conflicts with its religious beliefs or moral convictions, such as placing children with same-sex couples. If enacted, the legislation would require HHS to withhold 15 percent of federal funds from a state or local government that violates its ban”.

H.R. 1881 reportedly has 105 co-sponsors. The sponsor of H.R. 1881 is Rep. Mike Kelly R-PA-3.

<http://www.bpnews.net/51303/adoption-agency-protection-moves-forward-in-congress>

Welcome to New Members of the Coalition of Residential Excellence

- **American Children's Home – Lexington, NC**

American Children's Home was established 90-years ago by the Junior Order of United American Mechanics. Initially, the home was founded as an orphanage. Obviously, across the years, program design and the circumstances surrounding placement have changed radically since the home's beginning. The program is licensed for 44 children, but normally serves 32 to 34 children.

All of the children served in the residential program are placed by the Department of Health and Human Services in North Carolina. In addition, the agency also provides foster care.

Each cottage is limited to the care of 6 children. The staffing pattern is one week on and one week off. The facility embraces the concept of trauma informed care.

Kathy (Kat) Berrier is the President/CEO. She has been an employee of the agency for ten-years and was promoted to her current role earlier this year. The agency is accredited by the Council on Accreditation.

- **The Methodist Home – Macon, GA**

The Methodist Home serves approximately 80 residents at their campus in Macon, GA. They also operate several other smaller campuses scattered throughout the state. The agency has a very close working relationship with the Department of Human Services in Georgia and provides training space for DHS to train their staff on their campus.

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The Council on Accreditation accredits the Methodist Home. In addition, they are also accredited as a faith-based entity by United Methodist Association EAGLE Accreditation.

The Methodist Home utilizes the Sanctuary model of care and they use the CALM behavior management system developed in Scotland.

The agency serves children from hard places with a myriad of high level needs. Consequently, they do not employ a live-in houseparent model. The staffing pattern is a shift-staffing arrangement.

Alison Evans is the President/CEO of the agency. In addition, other key staff members are seasoned professionals with years of experience at the agency. As a side note, Alison has been instrumental in promoting CORE membership with her colleagues across several states.