Center *for the* Study *of* Social Policy
Ideas into Action

Paul Vincent

Michelle H., *et al.* v. McMaster

PROGRESS REPORT: SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES

April 1-September 30, 2024

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I. Introduction

This report covers the progress of the South Carolina Department of Social Services (DSS) in meeting the requirements of the Final Settlement Agreement (FSA) entered in *Michelle H., et al. v. McMaster and Catone,* for the period April 1, 2024, through September 30, 2024.[1,2,3] Approved by the United States District Court on October 4, 2016, the FSA includes requirements for the care and treatment of over 3,000 children in foster care in South Carolina and incorporates provisions ordered in a September 2015 Consent Immediate Interim Relief Order (the Interim Order or IO).[4,5] The FSA outlines South Carolina's obligations to significantly improve the experiences of and outcomes for children removed from the care of their parent(s) or guardian(s) and placed in DSS's custody, and reflects an agreement by the state to address long-standing problems in the operation of its child welfare system. The report has been prepared by court-appointed independent Co-Monitors Paul Vincent and Judith Meltzer, with assistance from Shira Davidson, Molly Dunn, Lisa Mishraky-Javier, Gayle Samuels, and Rachel Paletta. It is presented to the Honorable Richard M. Gergel, U.S. District Court Judge; the Parties to the lawsuit (Governor McMaster, DSS, and Plaintiffs); and the public.[6]

[1] Final Settlement Agreement (October 4, 2016, Dkt. 32-1).
[2] *Michelle H., et al. v. McMaster and Catone*, 2:15-cv-00134, (D.S.C.) (formerly known as *Michelle H., et al. v. McMaster and Leach*). See Order directing DSS operations in Richland County (January 17, 2025, Dkt. 348) (listing Defendants as Henry Dargan McMaster, in his official capacity as Governor of South Carolina, and Tony Catone, as Acting State Director of the South Carolina Department of Social Services).
[3] FSA Section III.D. requires the Co-Monitors to issue reports approximately 120 days after the close of each reporting period, or after the state and/or DSS produces the necessary data to the Co-Monitors.
[4] The class of children covered by the FSA includes "all children who are involuntarily placed in DSS foster care in the physical or legal custody of DSS now or in the future" (FSA II.A.).
[5] Consent Immediate Interim Relief Order (September 28, 2015, Dkt. 29).
[6] As of January 2, 2025, DSS is led by Acting State Director Tony Catone. Mr. Catone was authorized by Governor McMaster to assume the role following the resignation of former DSS Director Michael Leach.

State leaders and Plaintiffs crafted the FSA to guide a multi-year reform effort on behalf of children in DSS's custody. The FSA includes specific provisions governing: the workloads of case managers and team leaders; visits between children in the Department's custody and their case managers; family time (visits between children in DSS custody and their parents and siblings); investigations of allegations of abuse and/or neglect of children in the state's custody by a caregiver; appropriate placements; and access to timely physical and mental health care. Since the development of the FSA, Implementation Plans for key bodies of work – which are also tracked by the Co-Monitors – have been approved and ordered by the Court.[7,8]

The Co-Monitors and their staff utilize a range of sources and activities to collect information for inclusion in this report, and to inform the overall assessment of the state's progress. These include, among other things, review of records in DSS's Child and Adult Protective Service System (CAPSS); analysis and validation of data provided by DSS and collected by DSS and Co-Monitor staff through structured reviews; discussions with case managers and other DSS staff, private providers, and community members; meetings with DSS and other state leaders; observations at Child and Family Team Meetings (CFTMs), and discussions with Plaintiffs' counsel.[9,10] Appendix A includes a list of specific activities the Co-Monitors used to assess DSS's progress during this period.

To make this report as useful as possible to the Court, the Parties, and the public, the Co-Monitors have also included information about developments beyond September 30, 2024 (the end of the monitoring period), including references to data DSS provided directly to the Court on October 11, 2024 (DSS's Data Submission to the

[7] In the FSA, the term "supervisor" refers to DSS staff who oversee case-carrying staff. As part of its Guiding Principles and Standards (GPS) Case Practice Model development and work to define enhanced job expectations, DSS now utilizes the term "team leader" for this role, effective May 2023.
[8] See Court Orders Approving Workload, Placement, and Health Care Plans (February 27, 2019, Dkt. 109) and Visitation Plan (April 3, 2019, Dkt. 115). To view Implementation Plans and Addendums for the *Michelle H.* Final Settlement Agreement, see: https://dss.sc.gov/child-welfare-reform/
[9] CAPSS is DSS's State Automated Child Welfare Information System (SACWIS).
[10] Child and Family Team Meetings (CFTMs) create opportunities to bring families, youth, formal and informal supports together to exchange information, discuss goals, identify strengths, assess progress, and create an action-driven plan that meets the family's individual and collective needs for safety, permanency, and well-being. For more information see: https://dss.sc.gov/media/2822/cftm-case-manager-flyer-final-revised-082020.pdf

Court) and activities of the Richland County Child Welfare Improvement Task Force formed at the Court's direction in late 2024.[11,12]

[11] Letter from J. Michael Montgomery Providing Information Prior to 10/18/2024 Status Conference (October 11, 2024, Dkt. 324).

[12] The Richland County Child Welfare Improvement Task Force was created pursuant to a Court Order directing the prompt creation of a task force to prepare and implement a plan to address issues relating to overnight stays in the Richland County DSS office (October 18, 2024, Dkt. 331).

II. Areas of Improvement and Areas of Challenge

This monitoring period (April 1, 2024, to September 30, 2024) and the weeks and months following it has been a time of significant leadership transition and challenge for DSS, given the departure of both Deputy State Director of Child Welfare Services Emily Medere (as of September 25, 2024) and Director Michael Leach (as of January 2, 2025). Under their guidance, DSS grew its capacity to address challenges and charted a course of steady progress toward meeting the requirements of the FSA. As new leaders Acting State Director Tony Catone and Interim Deputy State Director of Child Welfare Services Dawn Barton assume their responsibilities, it is essential that they build on prior successes and invest in continuing to grow the capacity of staff at all levels to ensure that prior gains are not lost and that progress toward meeting unmet commitments continues.[13]

Even through this period of transition, the Department demonstrated progress in some key areas:

- *Reduction in Foster Care Population:* The Department has emphasized efforts to prevent the separation of families, and as a result, the population of children in foster care continues to steadily decline. In December 2019, 4,298 children were in foster care, compared to 3,253 in December 2024, a 24 percent decrease.

- *Increase in Placement of Children in Family-Based Settings:* Overall, far more children are in family-based placements, and very young children are no longer in congregate care settings. On October 18, 2024, the Court granted Maintenance of Effort Status for FSA provision IV.E.3., requiring that 98 percent of Class Members twelve years old and under be placed outside of congregate care, and for FSA provision IV.D.2, requiring DSS to prevent, with exceptions, the placement of any Class Member aged six or under in any non-family group placement.[14]

[13] Dawn Barton most recently held the Director of Permanency Management position in the Child Welfare Services Division. Emily Medere resigned as Deputy Director of Child Welfare effective September 25, 2024, and Taron Davis served as the Interim Deputy Director from September 17, 2024, through December 16, 2024.

[14] Court Order finding DSS has met the performance standards of the FSA with respect to sections IV.D.2, IV.E.3, and Appendix B and granting Maintenance of Effort Status in those areas and granting Termination and Exit with Respect to Sections IV.C.2. and IV.C.4(d), (e), and (f) of the FSA and terminating jurisdiction over those sections [Hereinafter "Order on Motion for Miscellaneous Relief"] (October 18, 2024, Dkt.329).

- *Increase in Placement of Children with Kin:* Over the last five years, the Department has more than tripled the percentage of children placed with kin. Twenty-eight percent of children were placed with kin as of the last day of the monitoring period, compared to eight percent as of September 30, 2019. DSS is implementing strategies to offer payments to kinship caregivers, including supporting kin to become licensed. The number of licensed kin caregivers continues to steadily increase. Forty-seven percent of kin caregivers are now licensed, compared with 43 percent during the prior monitoring period. The workgroup established last year to move DSS toward a "kin-first culture" has completed its assessment of challenges and is now focusing on implementation of needed changes in policy, practice and communications about the importance of placing children with kin.

- *Improvement in Investigations of Allegations of Abuse or Neglect of Children in Foster Care:* The Department now more thoroughly investigates reports of allegations of abuse or neglect of children in its custody and more appropriately screens out allegations that do not rise to the level of abuse or neglect. On October 18, 2024, after previously achieving Maintenance of Effort status on four FSA Out of Home Abuse and Neglect (OHAN) measures related to appropriateness of decisions not to investigate, and to timely completion of investigations, the Court found that DSS had made sufficient improvement to terminate its jurisdiction.[15]

- *Improvement in Referrals for Developmental Assessments:* During the monitoring period, DSS continued to meet FSA targets for the timely referral of Class Members under 36 months of age for developmental assessments, and on October 18, 2024, the Court granted Maintenance of Efforts status for this measure.[16]

While these areas of success are significant, challenges remain:

- *Lack of Adequate Support for Maintaining Family Connections*: The FSA recognizes the importance of maintaining family connections for children experiencing foster care and includes requirements for family time (visits with parents and siblings), as well as requirements for the placement of children with their siblings. Despite some improvement in the rate of monthly visits between children and the person with whom there is a plan to reunify, and in the rate of monthly visits between siblings who are separated, performance remains unacceptably low. DSS also continues to fall far

[15] Ibid.
[16] Ibid.

short of FSA targets for placing siblings together, just barely surpassing half the target rate of applicable children placed with *all* their siblings (44% of the 80% target).

- *Declining Well-Child Visits:* DSS reported a small decline in the number of children of all ages who were up-to-date on their well-child visits as of September 2024, compared to March 2024, but reported a significant decline for children under six months of age. As determined by DSS, 13 percent of children under six months of age were up-to-date on their well-child visits as of September 2024, compared to 25 percent in March 2024. DSS continues to fall far short of the health care outcomes, included in the Health Care Improvement Plan and Health Care Addendum, approved by the Co-Monitors and the Court on August 23, 2018, and February 25, 2019, respectively.[17]

- *Very High Rates of Placement Instability:* Children in DSS custody continued to experience high rates of placement instability during the monitoring period, and the crisis reached an untenable level in Richland County. The annual statewide rate of placement moves (for the period of October 1, 2023, to September 30, 2024) increased to 6.64, meaning Class Members were moved an average of 6.64 times per 1,000 days in care.[18] This is the highest rate since the onset of the lawsuit. The state continues to use DSS offices and emergency placements at unacceptably high rates. During the most recent six-month monitoring period between April 1 and September 30, 2024, the total number of nights children spent in temporary placements (overnight office stays and emergency placements combined), increased to 11,166 nights, compared to 10,845 during the prior monitoring period and up from 7,486 during the October 1, 2022, to March 31, 2023, monitoring period. Richland County accounted for 50 percent of all overnight office stays and 28 percent of all emergency placement episodes (of any duration) during the monitoring period, while just 12 percent of children in foster care were from Richland County, as of September 30, 2024. This high rate of placement instability reflects the lack of appropriate placements and services to support children and caregivers across the state, and especially in Richland County.

[17] To see the Health Care Improvement Plan, go to: https://dss.sc.gov/media/1980/8-23-2018-final-approved- dss-health-care-implementation-plan.pdf. To see the Health Care Addendum, go to: https://dss.sc.gov/media/1962/2-25-2019-approved-health-plan-addendum.pdf.
[18] DSS reports the placement instability rate annually.

A significant driver of the high rate of placement instability is South Carolina's broad statutory authority allowing law enforcement officers to unilaterally remove children from their homes and the pattern of very short stays in foster care that results from it. During the monitoring period, 24 percent of children who entered care remained for 60 days or less and of those children, 14 percent were in care for seven days or less. Of those children who entered foster care and remained in care for seven days or less, 87 percent entered care due to a unilateral emergency removal by law enforcement. In many circumstances, emergency removals by law enforcement could be avoided and more appropriately addressed through close collaboration between DSS workers and law enforcement officers on the ground, and through the increased availability of crisis intervention and community-based mental health services. The separation of children from their families, even for a brief time, is highly traumatizing and can have long-lasting negative consequences for children, families, and communities. These brief and inappropriate entries into foster care are also costly and divert already limited support services and staff capacity from where they are most needed.

On October 18, 2024, the Court prompted important action by ordering DSS to create a task force and develop an improvement plan to urgently address the placement instability crisis in Richland County as well as problems in the physical conditions of the Richland County office as observed by both the Co-Monitors and the Court.[19] The resulting initial submission of the Richland County DSS Improvement Plan on December 23, 2024, included multiple efforts to address critical issues previously identified by the Co-Monitors.[20] After reviewing the plan, the Court found that "further refinements are necessary to meet the considerable challenges confronting DSS operations in Richland County," and ordered that a supplemental plan be submitted by April 17, 2025.[21] Addressing the placement instability crisis in Richland County and throughout the state requires immediate action by all of South Carolina's state agencies responsible for serving children and families. The steps taken by the Department of Health and Human Services (DHHS) and other DSS partners over the past year are encouraging, but additional time is required to build out the needed service and placement array — one that is comprehensive, collaborative, and part of

[19] Order directing the prompt creation of a task force to prepare and implement a plan to address issues relating to overnight stays in the Richland County DSS office (October 18, 2024, Dkt. 331).
[20] Letter from J. Michael Montgomery with Richland County DSS Improvement Plan, with Appendix A. Richland County Task Force Slide Deck (December 23,2024, Dkt.339).
[21] Order Directing DSS Operations in Richland County (January 17, 2025, Dkt. 348).

a longer-term effort to build a robust system of community-based, supportive care for South Carolina's children and families. Additionally, much work remains to be done in fostering dependable working relationships with law enforcement and schools to prevent the unnecessary separation of families, and with Medicaid and the behavioral health system to expand the availability of and access to services. South Carolina continues to lack investment in and connection to community-based services for children and families. The next three to six months are critically important for DSS to sustain the interest and commitment of its partners and to begin to move from identification of shared goals to implementation of strategies to reduce and eliminate the conditions and factors that underlie the high rate of placement instability in Richland County.

The high and unabated level of placement instability experienced by children in South Carolina, and in Richland County, causes harm to children and families, increases the burden on DSS staff, and negatively impacts kin, foster parents, group home staff, and private providers. The placement instability crisis is further intensified by slow progress in changing the Department's culture and practice to more fully implement its Guiding Principles and Standards (GPS) Practice Model of strength-based, family-centered, trauma-informed, and culturally responsive interventions.[22] This type of quality case practice requires intensive engagement with children, youth and families through teamwork, comprehensive assessments, and the crafting and resourcing of individualized case plans that address both immediate and ongoing needs.

[22] DSS's GPS Case Practice Model was designed in recognition of the need for a culture that "'engage[s], encourage[s], honor[s], and support[s] families.'" To view the GPS Case Practice Model, see: https://dss.sc.gov/media/2746/gps-practice-model-final.pdf

III. Background Information

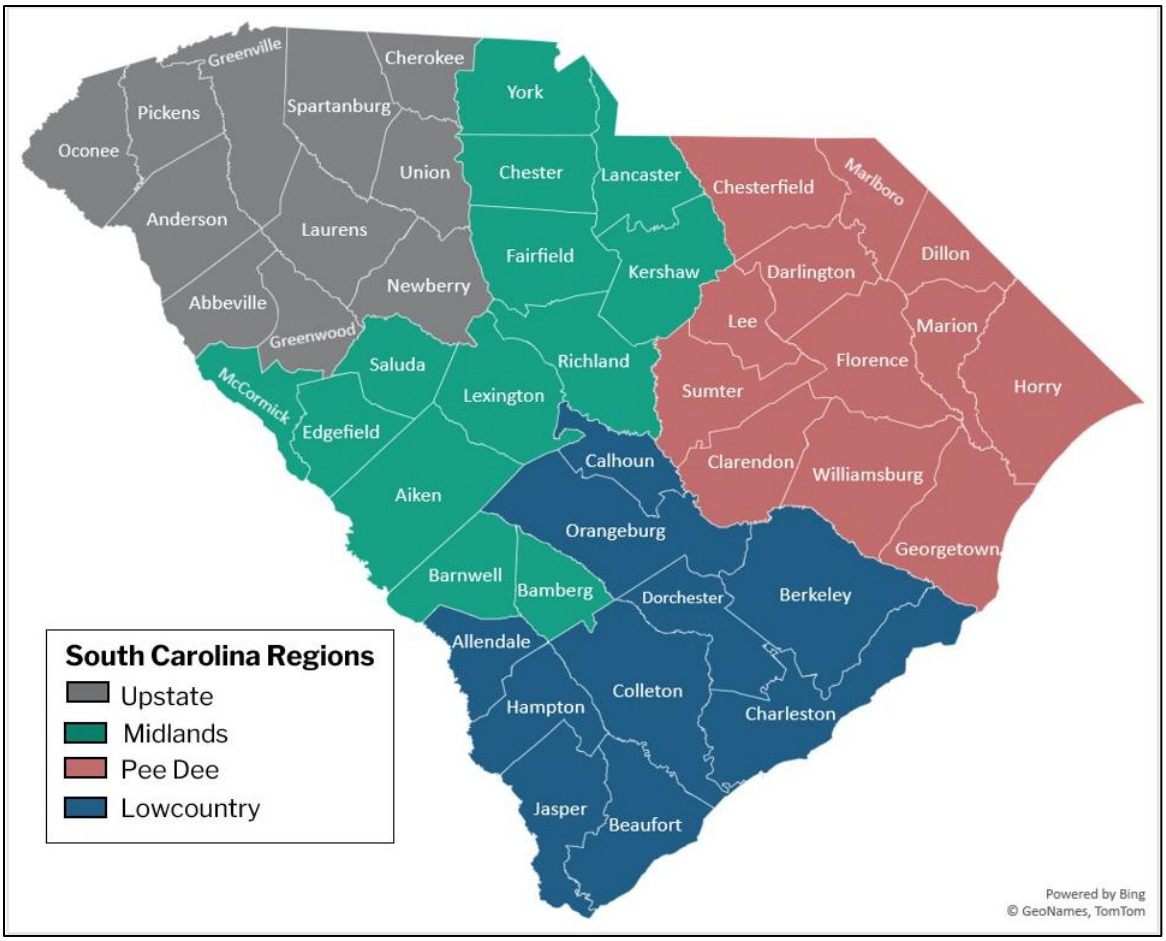
DSS is a cabinet-level agency that reports directly to the South Carolina Governor.[23] DSS State Director Michael Leach, who had served since April 18, 2019, resigned effective January 2, 2025. Tony Catone, formerly the agency's General Counsel, now leads the agency as the Acting State Director.

The FSA pertains to children who have been involuntarily removed from their parent(s) or guardian(s) due to a finding of abuse and/or neglect and taken into the custody of DSS. When this occurs, DSS is responsible for caring for children on a temporary basis, preferably while the children remain with their siblings and reside with family members, or someone else known to the family. During this time, DSS must ensure children remain in contact with their families, and engage and support parents and guardians as needed, so that children can be returned home safely and quickly ("reunified"). When reunification is deemed not possible, DSS must pursue another permanent, long-term plan, such as guardianship or adoption.

DSS is structured to deliver services through regional and county offices. As shown in Figure 1, the state's 46 counties are divided into four regions – Midlands, Upstate, Pee Dee, and Lowcountry. Some DSS functions are located regionally, including adoptions, child health and well-being, and foster care placement.

[23] A detailed summary of DSS' structure and mission can be found in prior monitoring reports; see: https://cssp.org/our-work/project/child-welfare-reform-through-class-action-litigation/#south-carolina-s-department-of-social-services.

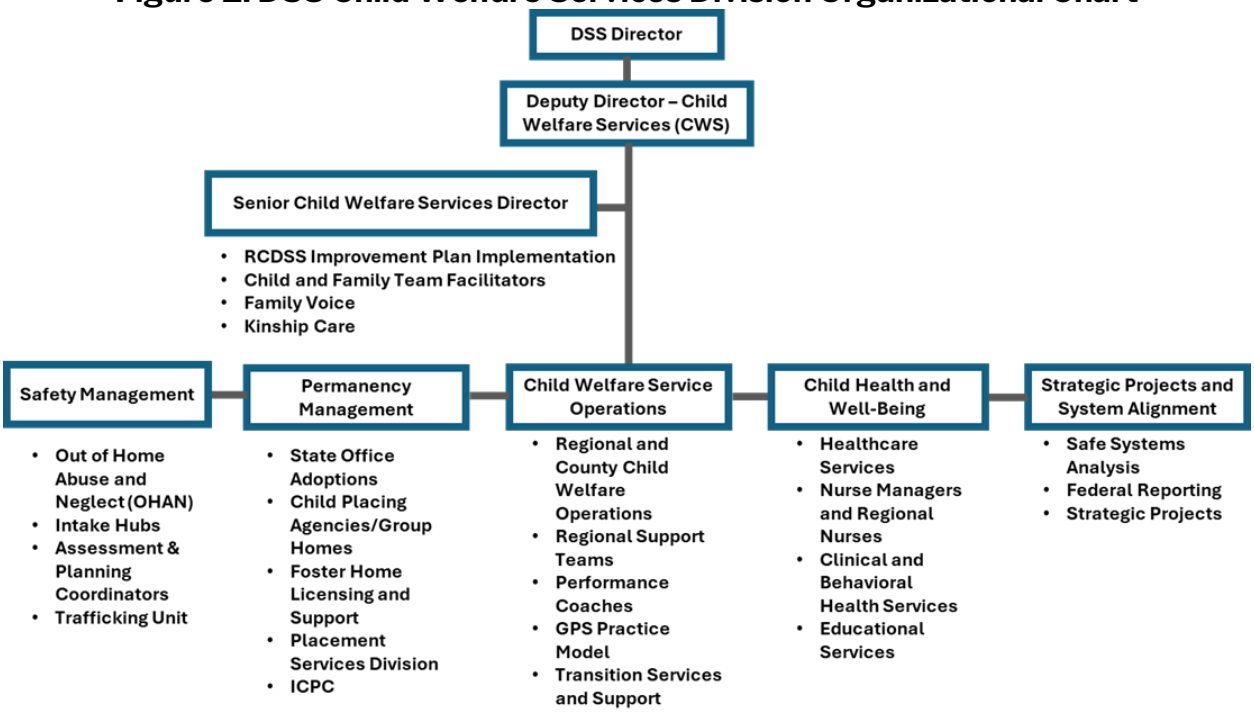
Figure 1: South Carolina Counties, by Region



DSS's Child Welfare Services Division is currently headed by Interim Deputy Director of Child Welfare, Dawn Barton as of December 17, 2024.[24] The Child Welfare Services Division is organized into five primary areas: Safety Management; Permanency Management; Child Welfare Service Operations; Child Health and Well-Being; and Strategic Projects and System Alignment. Figure 2 depicts this structure and the general responsibilities in each area of work.

[24] Dawn Barton most recently held the Director of Permanency Management position in the Child Welfare Services Division. Emily Medere resigned as Deputy Director of Child Welfare effective September 25, 2024, and Taron Davis served as the Interim Deputy Director from September 17, 2024, through December 16, 2024.

Figure 2: DSS Child Welfare Services Division Organizational Chart



Source: DSS, as of 3/3/2025

Foster Care Budget and Financing

The federal Children's Bureau, within the Administration for Children and Families, distributes funds to states for defined child welfare functions and services through mandatory spending programs. The largest of these programs is authorized under Title IV-E of the Social Security Act and operates as an "open-ended" matching fund source, meaning states are entitled to receive reimbursement for a portion of every dollar spent on a defined service on behalf of an "eligible" child.[25] The child's eligibility depends on a number of factors, including the income level of the parent(s) from whose custody the child was removed. Even when a child is found to be eligible for reimbursement pursuant to Title IV-E, reimbursement is only allowed for specific portions of certain eligible expenses.[26] Approximately 45 percent of children in foster

[25] The Title IV-E program was established by HR. 3434 Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272).
[26] Section 474(a)(3)(A),(B),(C),(D), and (E) of the Social Security Act.

care in South Carolina meet Title IV-E eligibility requirements (referred to as the state's Title IV-E penetration rate).[27]

Nearly all children in foster care are eligible for health insurance through Medicaid, another important source of federal revenue for state child welfare systems.[28] States authorizing payment for Medicaid services included in their federally approved state plans and waiver programs receive federal matching funds for state expenditures at a state's Federal Medical Assistance Percentage (FMAP) rate. In South Carolina, this rate for Federal Fiscal Year (FFY) 2025 is 69.67 percent.[29,30] This means that for each dollar South Carolina spends on a Medicaid-reimbursable service for a child or eligible family member in the current fiscal year, the federal government reimburses the state almost 70 cents. Medicaid reimbursement is applicable to all children and is not limited to services for children who meet the Title IV-E eligibility requirement. States that have responsibly maximized the use of federal Medicaid matching dollars have been able to increase – sometimes vastly – funding available for the support of children in foster care. Medicaid's Early, Periodic Diagnosis and Treatment (EPSDT) provisions require that children be provided all medical and treatment services that

[27] In February 2018, the federal Family First Prevention Services Act (FFPSA) was passed to promote placement of children in family foster care settings as opposed to congregate settings, and to allow states to use federal IV-E funding to provide evidence-based prevention services in the community to reduce the need for out-of-home placement. FFPSA prevents federal reimbursement of most congregate facilities beyond 14 days unless the facility meets the criteria for a Qualified Residential Treatment Program, which include: a trauma-informed treatment model, on-site registered or licensed nursing and clinical staff, inclusivity of family members in treatment planning, offering aftercare support six months post-discharge, and accreditation by a select group of bodies, or other specified settings. (Family First Prevention Services Act, Publ. L. No. 115-123, H.R.253. (2017)). Since the 14-day claiming limitation went into effect in October 2021, foster care maintenance payments made on behalf of children placed in a congregate care setting that would have previously been funded via Federal Title IV-E funds are no longer eligible for that funding due to the FFPSA restrictions. In February 2022, the Children's Bureau approved South Carolina's 5-year Family First Prevention Services plan. If statutory requirements are met, this will enable the state to access federal funding to help families stay together and prevent entry into foster care. DSS has been working with community and agency partners on developing implementation strategies. The agency has not yet begun to make IV-E claims under the FFPSA and is currently using 100% federal funding received through the Family First Transition Act grant. To view South Carolina's Family First Prevention Services plan, see: https://dss.sc.gov/media/ 3284/south-carolina-dss-title-iv-e-prevention-plan.pdf

[28] DSS reports that as of September 30, 2024, there were 17 children in its custody who were ineligible for full Medicaid due to their immigration status.

[29] The United States federal fiscal year runs from October 1st to September 30th.

[30] Kaiser Family Foundation. State Health Facts. Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier; see: https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Multiplier%22,%22sort%22:%22desc%22%7D

they need. Further, Medicaid can be used to cover non-direct medical care expenses, such as mental health services and services as part of therapeutic foster care. Medicaid can now also be used to address social determinants of health or associated health-related social needs (HRSNs), including housing, nutrition, and transportation.[31] Without a greater investment of funding from Medicaid, DSS will not be able to support the needs of the Class Members.

Details regarding DSS's budget that includes both federal revenue and state general fund revenue for State Fiscal Year (SFY) 2024-2025 are included in Section IV. *Fiscal Resources* of this report.[32,33]

Population of Children in Foster Care

Population and Demographics of Children in Foster Care

Between April 1 and September 30, 2024, 4,685 children were in DSS custody at some point. On September 30, 2024, the last day of the monitoring period, there were 3,345 children in DSS custody across the state.[34] The map in Figure 3 shows the number of children from each county in the Department's custody on that day.

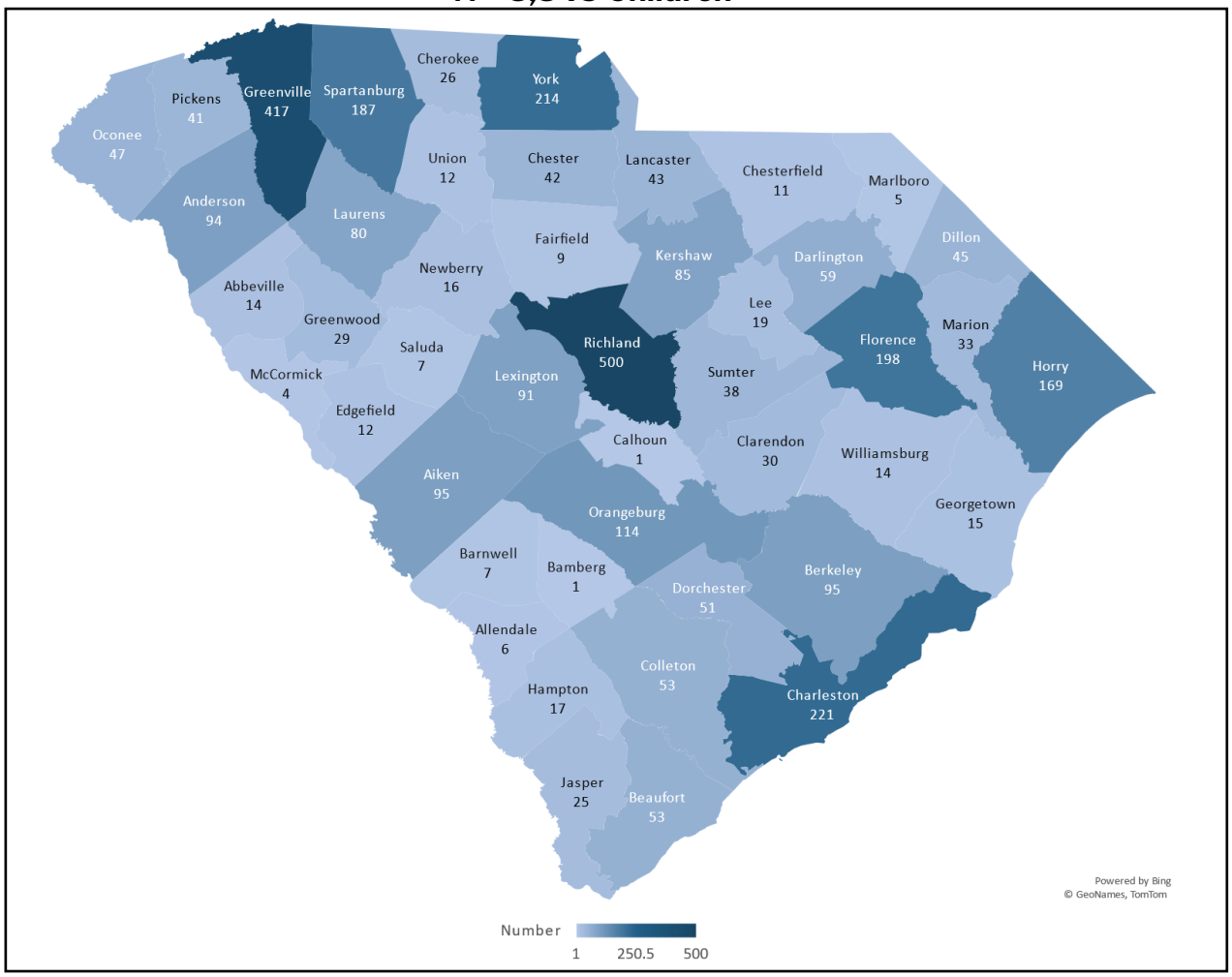
[31] For more information on Medicaid funding for HRSNs, see: https://www.chcs.org/media/Understanding-New-Federal-Guidance-on-Medicaid-Coverage-of-Health-Related-Social-Needs.pdf. For example, in 2022, Oregon was granted a 1115 waiver to, among other things, address social determinants of health using non-medical services, with children in foster care as one target population. North Carolina has used a 1115 waiver to implement evidence-based interventions to address social determinants of health through its "Healthy Opportunities Pilots" program, which focuses on housing instability, transportation insecurity, interpersonal violence, and toxic stress for a limited number of managed care enrollees who meet needs-based criteria. New York recently received approval for an 1115 waiver to fund its expansive Health Equity Reform, which includes a significant expansion of the state's Medicaid program to address HRSNs through social care networks and health equity organizations. See: https://www.health.ny.gov/health_care/medicaid/redesign/sdh/index.htm.

[32] South Carolina's State Fiscal Year runs from July 1st to June 30th.

[33] For details on the general process for budget allocation through the General Assembly, see: prior monitoring reports.

[34] This includes 23 children who resided in other institutional settings (e.g. Department of Juvenile Justice Facility, hospitalized for 30 days or more) on September 30, 2024, and may not match the data in Section VIII. *Placement*.

Figure 3: Number of Children in DSS Custody, by County as of September 30, 2024[35]
N = 3,345 Children[36]



Source: CAPSS data provided by DSS

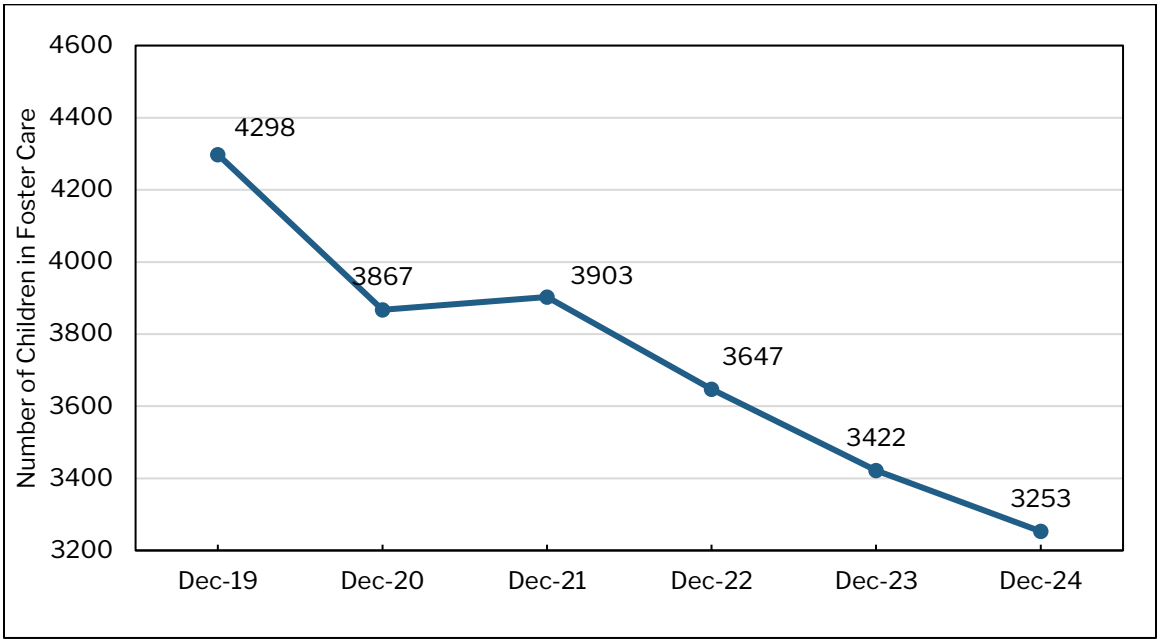
As shown in Figures 4 and 5, the population of children in DSS custody has sharply declined since the filing of this lawsuit and has continued to decrease, consistent with

[35] To view this map with current data, see: https://reports.dss.sc.gov/ReportServer/Pages/ReportViewer.aspx?/Foster+Care

[36] This includes 23 children who resided in other institutional settings on September 30, 2024, and may not match the data in Section VIII. *Placement*.

the state's policy priorities and national trends.[37,38] For example, in December 2019, 4,298 children were in foster care, compared to 3,253 in December 2024, a 24 percent decrease. The Department has reported that the decrease in family separations has been a result of DSS's efforts to prioritize prevention services and, wherever possible, reunify children quickly with their families.

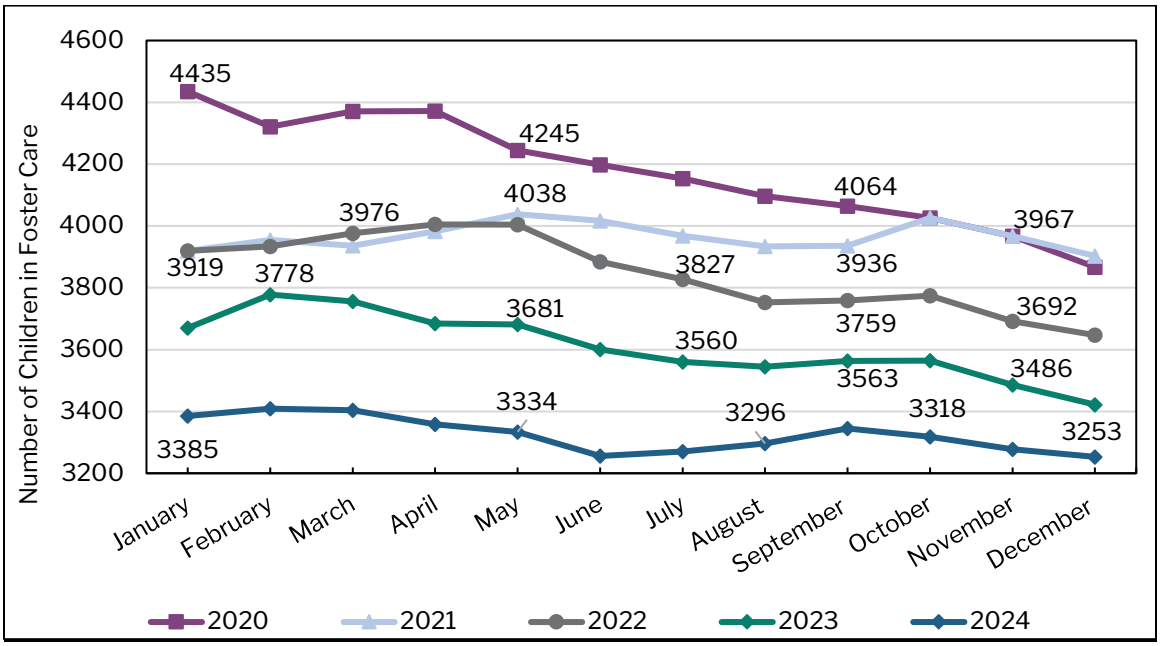
Figure 4: Population of Children in Foster Care
December 2019 – December 2024



Source: DSS data dashboard, 01/14/25[39,40]

[37] These data may include children in foster care who do not fall within the definition of Class Members under the FSA.
[38] U.S. Administration for Children and Families, (2022). "With a Focus on Prevention and Kinship Care, Number of Children Entering Foster Care Decreases for the Fourth Consecutive Year"; see: https://www.acf.hhs.gov/media/press/2022/focus-prevention-and-kinship-care-number-children-entering-foster-care-decreases
[39] DSS regularly publishes real-time data about children in foster care on its public website. Demographic data on age, race, and gender are available, as well as information about where children are placed and how long they have been in out-of-home care. To view DSS's data dashboard, see: https://dss.sc.gov/about/data-and-resources/foster-care-dashboard/
[40] Data from DSS's data dashboard includes children in foster care who do not fall within the definition of Class Members under the FSA.

Figure 5: Population of Children in Foster Care
December 2020 – December 2024

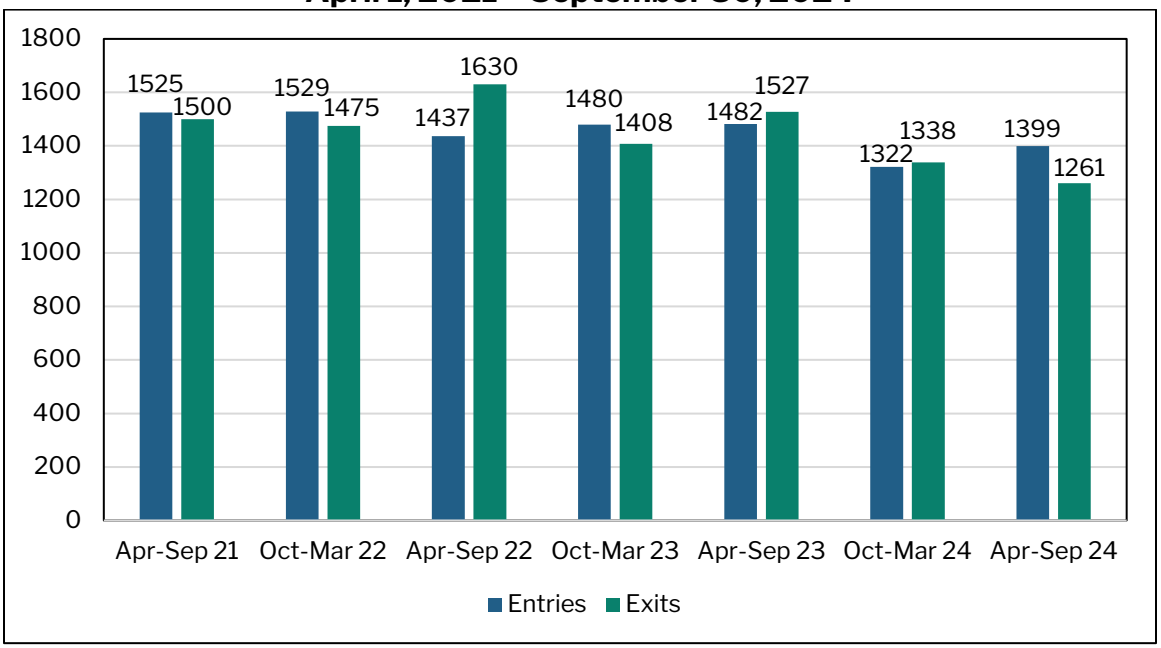


Source: DSS data dashboard, 01/14/25

Children Entering and Exiting Foster Care

Between April 1 and September 30, 2024, the total number of children who exited foster care (1,261) was lower than the total number of children who were brought into foster care (1,399). Figure 6 shows the number of entries to and exits from foster care during the previous six monitoring periods through the present monitoring period.

Figure 6: Foster Care Entries and Exits, by Monitoring Period
April 1, 2021 – September 30, 2024

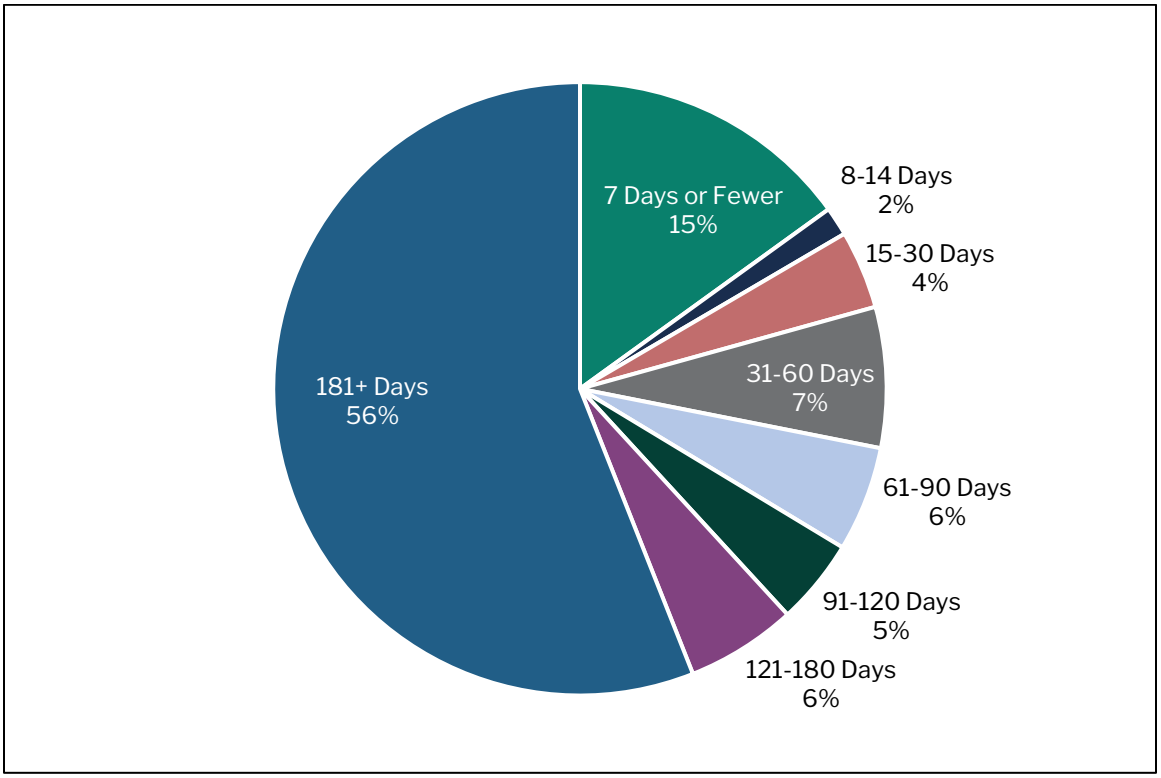


Source: CAPSS data provided by DSS

DSS's Office of Accountability, Data, and Research continues to refine its analyses of the amount of time children spend in foster care, with a particular emphasis on children who remain in foster care for less than six months. By focusing on this population, it hopes to better identify when removing children from their families can be avoided through improved cross-agency collaboration and the provision of in-home and community services.

During the 13-month period of September 1, 2023, to September 30, 2024, DSS reported that 2,832 children exited care. As shown in Figure 7, 28 percent (796 of 2,832) of these children exited within 60 days. Twenty-one percent (586 of 2,832) exited within 30 days; 17 percent (469 of 2,832) exited within 14 days; and 15 percent (426 of 2,832) exited within seven days of entry. These data show that there are a significant number of children who are separated from their families and brought into DSS's custody for very brief periods of time.

Figure 7: Length of Stay in Foster Care for Children Who Exited September 1, 2023 – September 30, 2024
N = 2,832 Children[41]



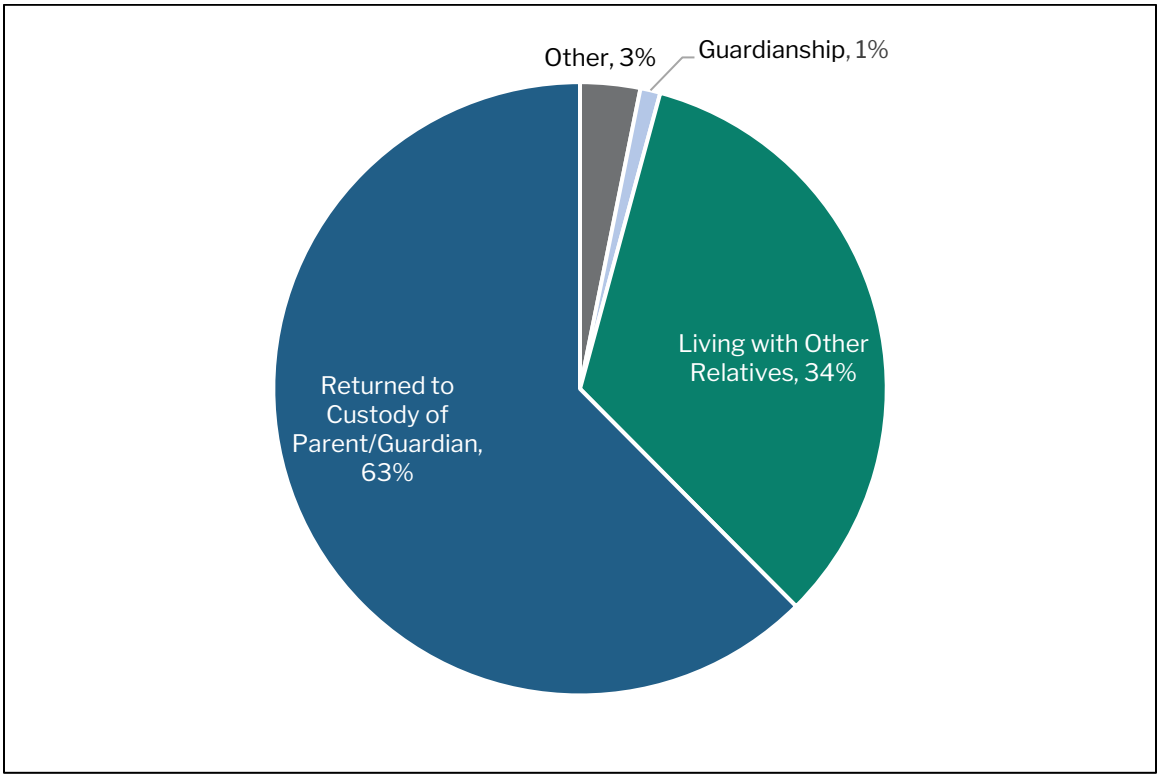
Source: CAPPS data provided by DSS

Figure 8 shows the exit reasons for the 469 children who exited foster care within 14 days of entry between September 1, 2023, and September 30, 2024. As depicted, more than half (63%, or 296 of 469) returned to the custody of their parents or guardians and 34 percent (158 of 469) exited to live with a relative or guardian. Of the children who were reunified with their parents within 14 days of entering foster care, nine percent (26 of 296) experienced re-entry (another entry into foster care) during the subsequent 13-month period.[42]

[41] This figure shows 13 months of data prepared by DSS for the November 18, 2024, Richland County Child Welfare Improvement Task Force meeting. See, Letter from J. Michael Montgomery with Richland County DSS Improvement Plan, with Appendix A. Richland County Task Force Slide Deck (December 23,2024, Dkt.339).

[42] Five of the 26 children who had a subsequent foster care episode after being returned to their parent(s) were in foster care for fewer than 15 days during their subsequent entry. All of those five children were returned to their parent(s) or relative(s).

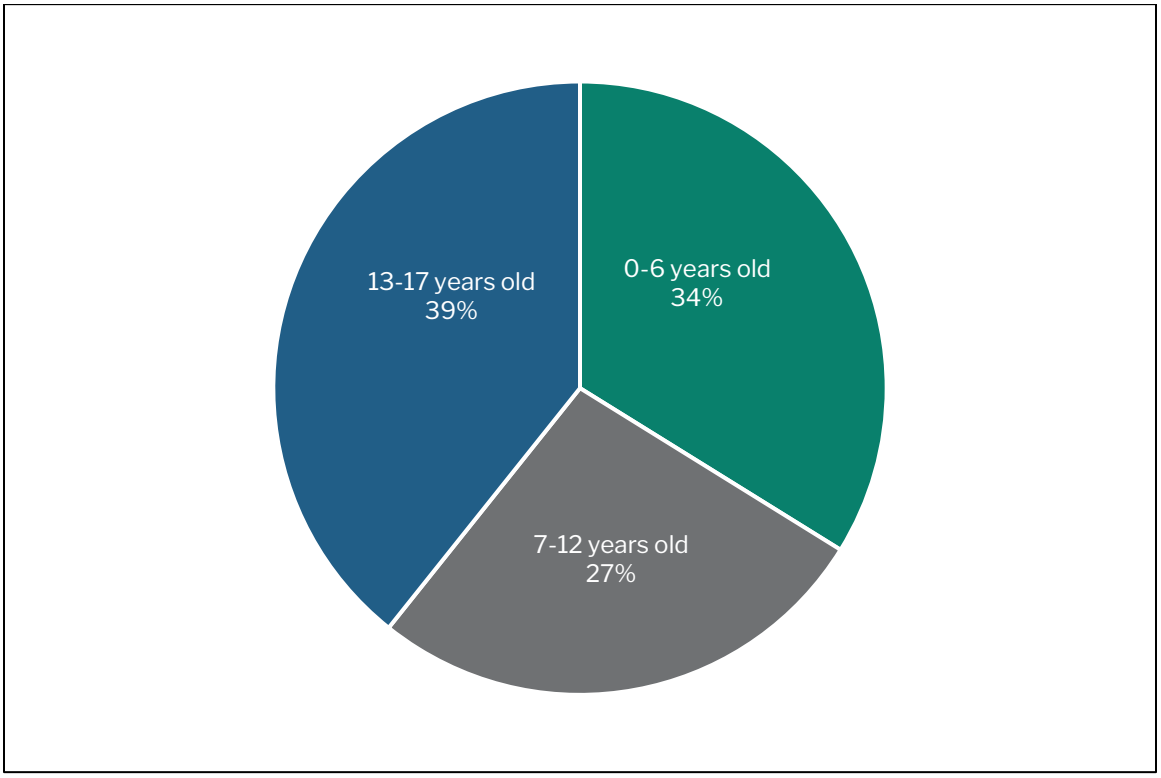
Figure 8: Exit Reason for Children in Care 14 Days or Less
September 1, 2023 – September 30, 2024
N = 469 Children



Source: CAPPS data provided by DSS

Data for the monitoring period (April 1 to September 30, 2024) show similar patterns. Twenty-four percent (330 of 1,399) of children who entered care between the six-month period remained in care for short periods ranging from one to 60 days. Specifically, according to DSS data, 14 percent (190 of 1,399) of children who entered foster care during the monitoring period remained in care for seven days or less. This is unchanged from the last monitoring period. Figure 9 shows the age ranges of these children and that all age groups are impacted. Thirty-four percent of these children were six years old and younger; 27 percent were seven to 12 years old; and 39 percent were 13 to 17 years old.

Figure 9: Ages of Children Who Entered Foster Care April 1 - September 30, 2024, and Exited within 60 Days of Entry
N = 330 Children



Source: CAPPS data provided by DSS

According to South Carolina statute, law enforcement has the authority to unilaterally remove children from their homes and place them in Emergency Protective Custody (EPC).[43] These emergency removals by law enforcement officers significantly contribute to the pattern of "short stays" in foster care. Of the 190 children who entered foster care during the monitoring period (April 1 to September 30, 2024) and remained in care for seven days or less, 87 percent (166) entered care due to an emergency removal by law enforcement.

[43] See SC Code § 63-7-620 (2023), authorizing law enforcement to use an EPC when, among other circumstances, (1) the officer has probable cause to believe that by reason of abuse or neglect the child is in substantial and imminent danger if not taken into emergency protective custody, and there is not time for a court order; (2) the child's parent(s) or guardian(s) has been arrested and as a result, the child's welfare is threatened due to loss of adult protection and supervision, and the parent(s) or guardian(s) does not consent to another person assuming physical custody of the child; or (3) a child has become lost accidentally and a search by law enforcement has not located the parent(s) or guardian(s).

This trend is also found when examining 13 months of data (from September 1, 2023, to September 30, 2024); within that period, 86 percent (365 of 426) of children who remained in foster care for only seven days or less entered foster care due to a unilateral emergency removal by law enforcement.[44] Research affirms the harm and trauma inflicted on children and families who are separated by law enforcement removals and child welfare systems, even for very short periods of time.[45]

As shown in Table 1, high numbers of children are brought into DSS custody by law enforcement for very short periods of time across all four regions of the state. Figure 10 shows the age ranges of these children and that all age groups are impacted. Thirty-seven percent of these children were six years old and younger; 24 percent were seven to 12 years old; and 39 percent were 13 to 17 years old. Children who were identified as Black represent 35 percent of the foster care population in South Carolina. Data in Figure 11 show the disproportionate percentage (47%) of Black children who are separated from their families by law enforcement removals for very short periods of time.

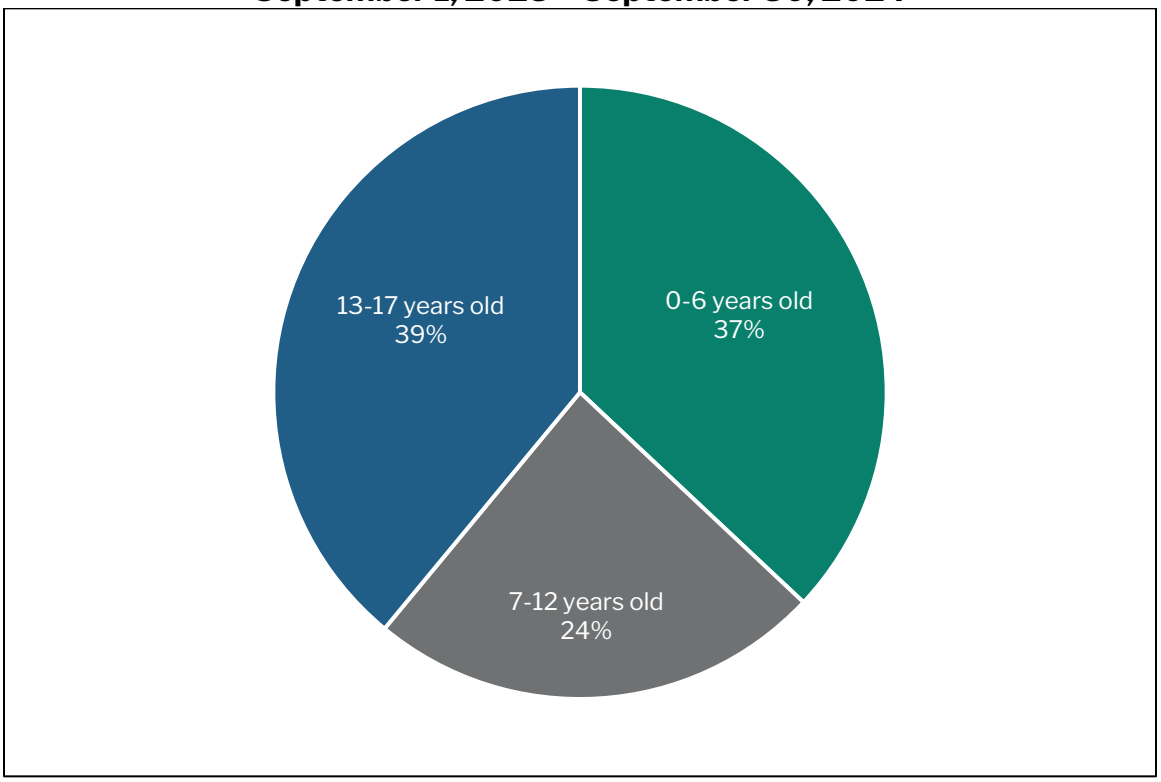
Table 1: Number of Children Who Entered Through EPC and Stayed in Care for Seven Days or Less, by Region
September 1, 2023 – September 30, 2024[46]

Region	Number of Children in Care for 7 Days or Fewer	Percent that Entered through EPC
Lowcountry	122	81% N= 99/122
Midlands	109	93% N= 101/109
Pee Dee	70	94% N= 66/70
Upstate	119	83% N= 99/119

Source: CAPPS data provided by DSS

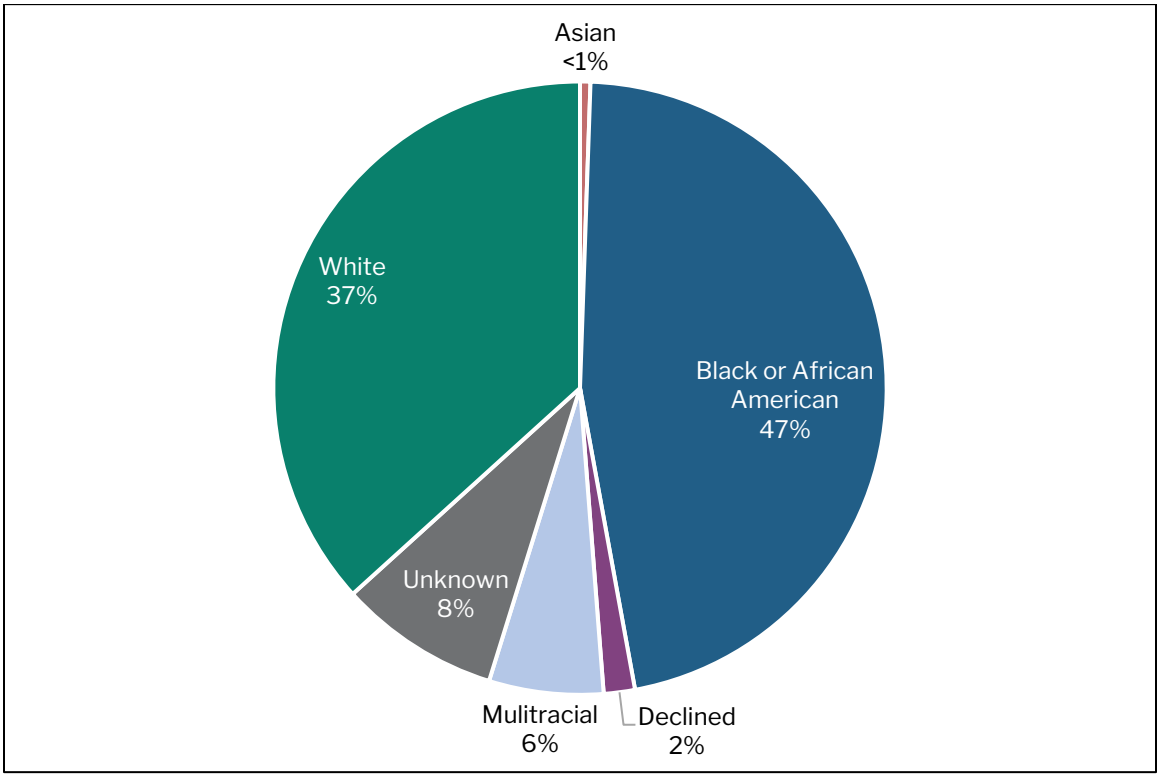
[44] Data prepared by DSS for the November 18, 2024, Richland County Child Welfare Improvement Task Force meeting. See, Letter from J. Michael Montgomery with Richland County DSS Improvement Plan, with Appendix A. Richland County Task Force Slide Deck (December 23,2024, Dkt.339).
[45] See, e.g.: Sankaran, V., Church, C., & Mitchell, M. (2019). A Cure Worse than the Disease? The Impact of Removal on Children and their Families. University of Michigan Law School Scholarship Repository,102(4). and Getz Z., Simmel C., Zhang L., Greenfield B. (2022). "Short-stayers" in child welfare: Characteristics and system experiences. Children and Youth Services Review, 138, 106531.
[46] Data prepared by DSS for the November 18, 2024, Richland County Child Welfare Improvement Task Force meeting. See, Letter from J. Michael Montgomery with Richland County DSS Improvement Plan, with Appendix A. Richland County Task Force Slide Deck (December 23,2024, Dkt.339).

Figure 10: Ages of Children Who Entered Through EPC and Stayed in Care for Seven Days or Less
September 1, 2023 – September 30, 2024



Source: CAPPS data provided by DSS

Figure 11: Race of Children Who Entered Through EPC and Stayed in Care for Seven Days or Less
September 1, 2023 – September 30, 2024



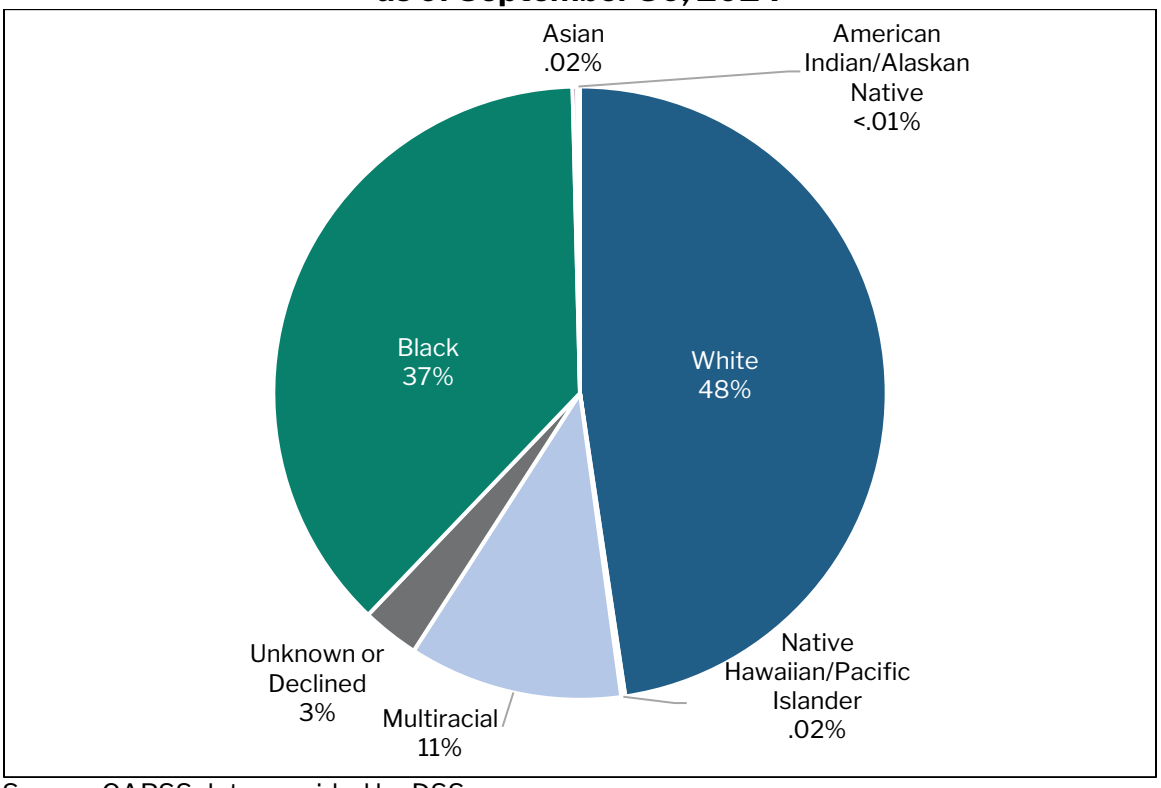
Source: CAPPS data provided by DSS

To reduce unnecessary family separation and mitigate the stress and the challenges it places on case managers to arrange safe and appropriate placement, DSS has expressed a renewed commitment to examining and changing practices leading to the removal of children from their homes and to working collaboratively with law enforcement to limit unnecessary emergency removals.

Demographics of Children in DSS Custody

As shown in Figure 12, of the children in DSS's custody on September 30, 2024, 48 percent were identified as White, 37 percent as Black, and 11 percent as Multiracial.[47,48] In accordance with federal guidelines, DSS does not record Hispanic ethnicity as a category in demographic data published on its public dashboard. However, DSS captures Hispanic ethnicity as a category in placement data and reported that seven percent (226 of 3,345) of children in DSS custody on September 30, 2024, identified as ethnically Hispanic.

Figure 12: Population of Children in DSS Custody, by Race as of September 30, 2024



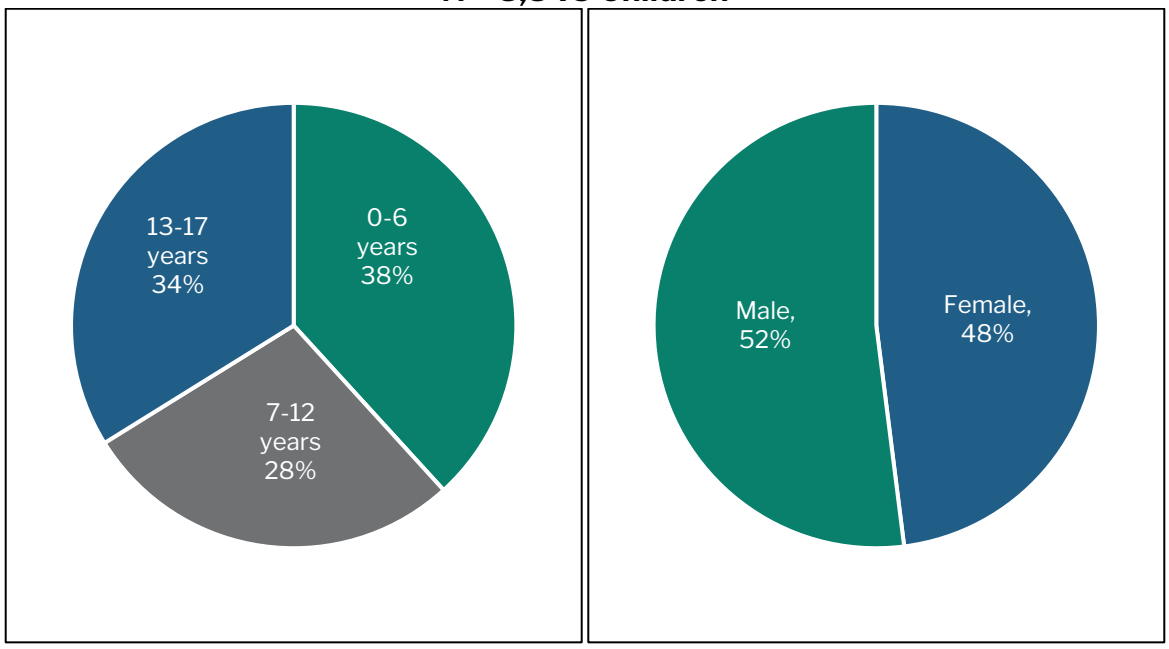
Source: CAPSS data provided by DSS

[47] Data included herein were provided by DSS and have not been independently validated by the Co-Monitors.

[48] According to South Carolina's 2023 Kids Count Data, the statewide population of children under 18 years of age includes, 53% percent of children who were identified as White, 28% identified as Black, and 12% percent identified as Hispanic.

Figure 13 shows that of all children in DSS custody on September 30, 2024, about one-third (34%) were adolescents (ages 13 to 17), 28 percent were between the ages of seven and 12, and 38 percent were ages six and under. Slightly fewer than half (48%) of children in DSS custody on September 30, 2024, were reported to be female.[49] These demographics have remained consistent for multiple monitoring periods.

Figure 13: Children in DSS Custody, by Age and Reported Gender as of September 30, 2024 N = 3,345 Children



Source: CAPSS data provided by DSS

[49] DSS has the capacity in CAPSS to collect information on children who identify as gender neutral or non-binary, as well as information on children's pronouns. DSS leadership reports that they are closely monitoring the usage of the fields and continue to work with staff to increase reliable data entry in this area. According to DSS data for January 2025, the use of the field for gender identity for Class Members was 71% and 43% for the field for pronouns.

IV. Fiscal Resources

Funding obligations associated with the *Michelle H.* lawsuit have been appropriated by the General Assembly over the last seven fiscal years, apart from SFY20-21 when there was a continuing resolution and no appropriation of funds. For the SFY2024-2025 appropriation process and the budget year which began July 1, 2024, DSS requested $19.66 million in new funding for Child Welfare Services. The requested amount included $14.4 million in new state recurring general funds and $5.3 million in additional authority to spend federal and other funds.[50] The final approved SFY2024-2025 Appropriations Act, passed in June 2024, allocated just $5 million in new state recurring funds.[51] DSS reported that the $5 million would cover increases in family foster care board rates consistent with meeting the United States Department of Agriculture (USDA) guidelines for the costs of raising a child in the Southeast region, as required under the FSA; increases in rates paid to group home providers; a portion of costs associated with the short-term residential crisis assessment and stabilization center; and salary increases for case manager assistants. The Appropriations Act also provided funds for modest salary increases and for covering rising health care premiums for all state employees. DSS's total budget for Child Welfare Services for SFY2024-2025, including state, federal, and other funds is $347 million. Total Child Welfare Services expenditures for the prior fiscal year (SFY2023-2024), including state, federal, and other funds was $359 million.

DHHS and the South Carolina Department of Mental Health (DMH) also requested funding for SFY2024-2025 for crucial services and supports that would be utilized, in part, for children in foster care. DMH received $4 million in new funds for contracted community beds. DHHS received its full requests, totaling approximately $103 million in new state general fund revenue. While additional state investments will be needed, these funds are critical to supporting the state share (or matching funds) for enhancing Medicaid-funded community-based services for children, youth, and families.

DSS's SFY2025-2026 budget request includes $31 million in additional recurring state general funds for child welfare services which, with federal and other fund

[50] To view DSS's full SFY2024-2025 Agency Budget Plan, see: https://www.admin.sc.gov/sites/admin/files/Documents/Budget/FY25%20L040%20-%20DSS.pdf
[51] To view the full SFY2024-2025 General Assembly Appropriation, see: https://www.scstatehouse.gov/sess125_2023-2024/appropriations2024/gab5100.php

estimates, would generate a total of $40.8 million in additional state, federal, and other funds for DSS's budget priority "Enhancing the Future of South Carolina Children and Families."[52] This includes: $2.3 million total funds for foster family home rate increases; $4.4 million total funds for board payments to kinship foster homes, which if approved will allow DSS to compensate both unlicensed and licensed kinship families equally; $15.8 million total funds for continued implementation of the salary plan ordered by the Court as part of DSS's workforce development plan; $3.5 million total funds to add 35 full-time equivalent positions (FTEs) for case management assistants, team leaders, and team coordinators; $3.2 million total funds to raise administrative fee rates for child placing agencies; $5.6 million total funds for expansion of evidence-based prevention services; $1.9 million total funds for staffing related to Child and Family Team Meetings (CFTMs), including adding 18 FTEs to implement pre-placement and initial CFTMs statewide; $2.1 million total funds to add 20 FTEs to increase capacity for foster parent licensing and placement; and $1.2 million total funds to add eight FTEs as health care quality improvement coordinators and nurses to improve child health and well-being outcomes.[53]

The Governor's Executive Budget submitted to the Legislature on January 13, 2025, recommended $25 million of the $31.4 million recurring state general fund request and $8.8 million federal authorization to DSS for continued child welfare reform efforts and promoting compliance with the terms of the *Michelle H.* settlement.[54]

DHHS and the South Carolina Department of Mental Health (DMH) have also requested funding for SFY2025-2026 for needed services and supports that will be utilized, in part, for children in foster care.[55] This includes a recommended $79 million increase in new recurring state funding for DHHS in the Governor's budget, with $19 million specifically identified to expand rehabilitative and behavioral health care. The Co-Monitors could not determine from the DHHS budget request the portion of these

[52] To view DSS's full SFY2025-2026 Agency Budget Plan, see: www.admin.sc.gov/sites/admin/files/Documents/Budget/FY26%20L040%20-%20Department%20of%20Social%20Services%20v2.pdf

[53] DSS Child and Family Team Meetings are facilitated by a trained DSS staff person independent of the family's case with involvement of family members, DSS staff, service providers, and others to review progress and plan.

[54] To view the Governor's Full SFY2025-2026 Executive Budget, see: https://governor.sc.gov/sites/governor/files/Documents/Executive-Budget/FY26%20Executive%20Budget%20Book%20-%20FINAL%20WEB%20VERSION.pdf

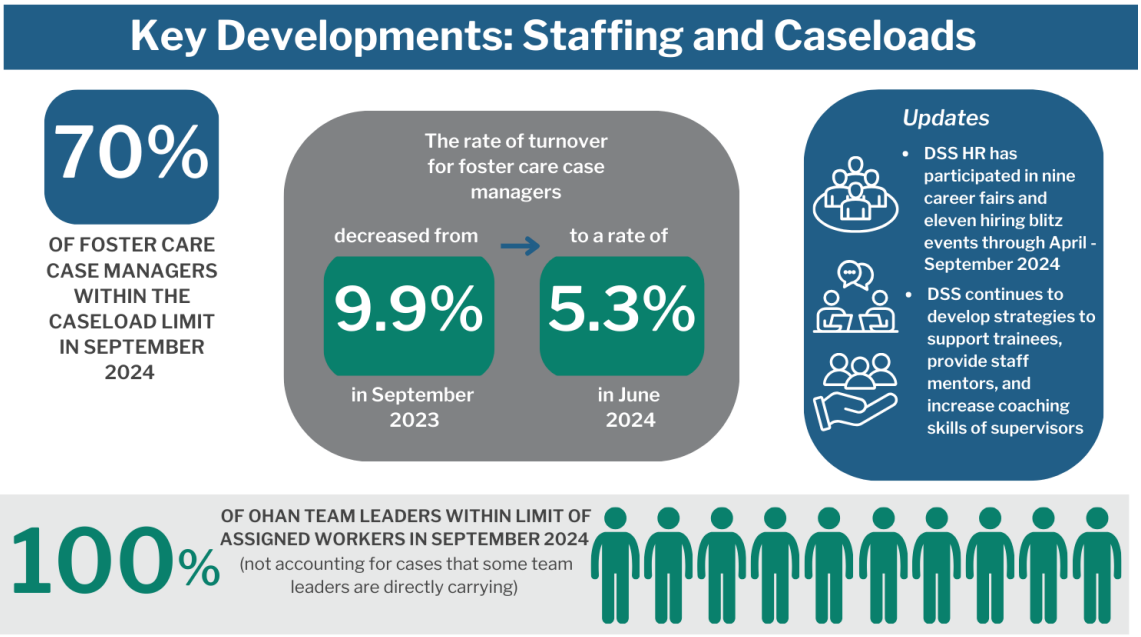
[55] To view the full FY2025-2026 Agency Budget Plans of all state agencies, see: https://www.admin.sc.gov/services/budget/building-budget/agency-budget-plans

general increases that will be devoted to expanding the continuum of community-based and other behavioral health services available to children in the *Michelle H.* Class. Similarly, DMH asked for additional $4.8 million in funds for "Community Support", but again, it is unclear whether those resources will be devoted to expanding access to services for children in foster care and their families.

As of the writing of this report, the SFY2025-2026 budget is currently under consideration by the South Carolina Legislature.

V. Staffing and Caseloads

With few exceptions, overall performance data for September 2024 show that caseloads of case managers and team leaders were relatively consistent compared to six months prior. Specifically, at the end of September 2024, 70 percent of foster care case managers had caseloads within the required limit, a slight increase from 68 percent in March 2024; 66 percent of adoptions case managers had caseloads within the required limit, relatively unchanged from 67 percent in March 2024; and all (100%) OHAN case managers or investigators had caseloads within the required limit. Ninety-one percent of foster care team leaders were within the required limits in terms of the number of case managers they supervised (not accounting for the cases some team leaders were directly carrying), an equivalent rate to March 2024.[56,57]



[56] The FSA utilizes the term "supervisor" to refer to DSS staff who oversee case-carrying staff. As part of its Guiding Principles and Standards (GPS) Case Practice Model development and work to define enhanced job expectations, DSS now utilizes the term "team leader" for this role, effective May 2023.
[57] Throughout the monitoring period (April through September 2024), some team leaders continued to carry direct cases in addition to supervising staff.

Staffing and Caseload Updates

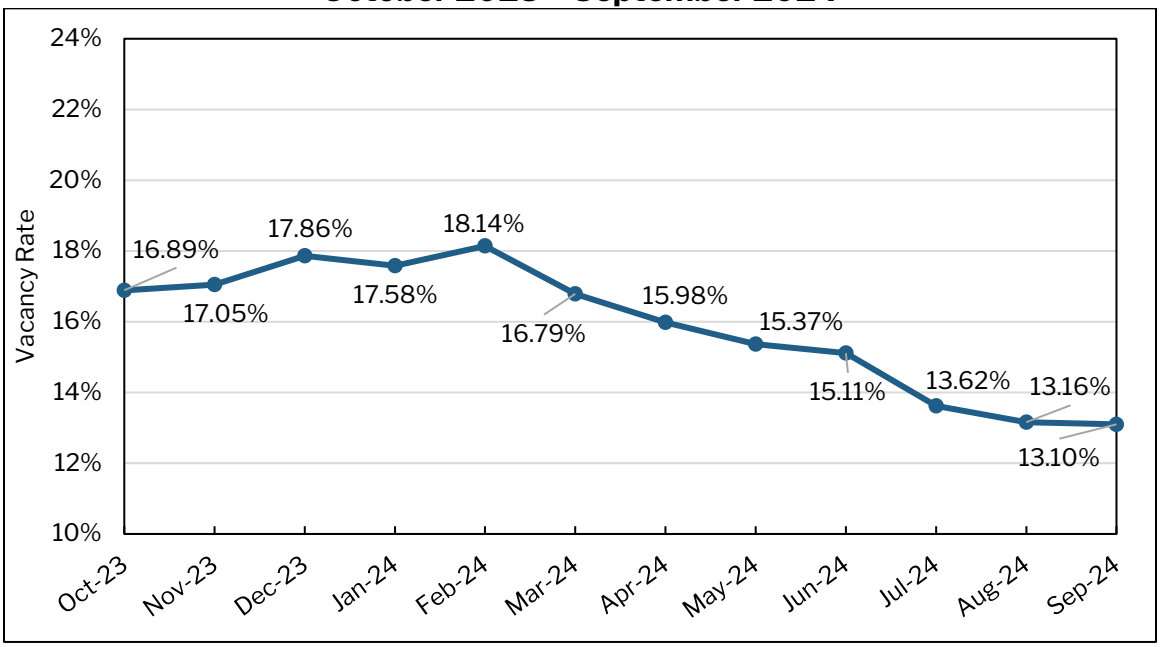
In DSS's October 2024 Data Submission to the Court, the Department provided updates on vacancy monitoring, hiring practices, regional support teams, staff turnover, and retention strategies; mentoring opportunities; and training curriculum enrollment for team leaders.[58] The combined turnover rate for foster care, adoptions, and OHAN case managers and team leaders has continued to decline each quarter since Quarter 3 of 2023 from eight percent to a rate of 4.7 percent in Quarter 2 of 2024. In this same period, the turnover rate specifically for foster care staff decreased from 9.9 percent to 5.3 percent.

The ongoing placement instability crisis has increased the demands on case managers throughout the state who must handle the stress and workload involved with children who do not have stable placements. These include the addition of excessive late-night hours where staff must respond to and transport children without placement and/or with night-to-night emergency placements which often put undue burden on staff and place children in harm's way. While DSS has made significant progress since the inception of the lawsuit toward hiring workers and reducing worker turnover, there remain significant issues in creating and sustaining a skilled and stable workforce and in ensuring that all workers have workloads that permit them to practice in accordance with DSS' GPS Case Practice Model. Case practice challenges include mentoring and training case managers in engaging children and families; assessing their underlying needs; working as a team with children, families, and others who support them; and tailoring interventions to align with their identified needs.

As shown in Figure 14, based upon data provided by DSS to the Court, the vacancy rate for foster care, adoptions, and OHAN case managers and team leaders has fluctuated over the last 12-month period, though ultimately declined beginning in March 2024 — from 18.14 percent in February 2024 to 13.10 percent in September 2024[59].

[58] Letter from J. Michael Montgomery Providing Information Prior to 10/18/2024 Status Conference (October 11, 2024, Dkt. 324).
[59] Letter from J. Michael Montgomery Providing Information Prior to 10/18/2024 Status Conference (October 11, 2024, Dkt. 324).

Figure 14: Vacancy Rate for Foster Care, Adoptions, and OHAN Case Managers and Team Leaders
October 2023 – September 2024



Source: DSS's Data Submission to the Court (October 11, 2024, Dkt.324)

Staffing and Caseloads Performance Data

The FSA requires that *"[a]t least 90% of Workers and Worker supervisors shall have a workload within the applicable Workload Limit"* (FSA IV.A.2.(b)) and that *"[n]o Worker or Worker's supervisor shall have more than 125% of the applicable Workload Limit"* (FSA IV.A.2.(c)). The Workforce Implementation Plan set the final target to be reached by DSS in March 2021.[60] Caseload standards differ by case manager type – specifically foster care, adoptions, and OHAN investigators.[61] Approved caseload standards are included in Table 2.

[60] To view the Workforce Implementation Plan, see: https://dss.sc.gov/media/1948/dss-workload-implementation-plan.pdf

[61] DSS has many staff with "mixed" caseloads that include different case types and both Class and Non-Class Members. On December 21, 2017, the Co-Monitors provisionally approved DSS's proposal to calculate caseloads for foster care case managers with mixed caseloads by adding the total number of children in foster care (Class Members) they serve to the total number of families (cases) of Non-Class Members also served. The following types of cases are currently counted by family (case): CPS investigations; family preservation; other child welfare services; and those involving a child subject to the Interstate Compact on the Placement of Children. This methodology is only applied to foster care case managers with mixed caseloads and is not applied to adoptions case managers.

Table 2: Caseload Standards, by Worker Type

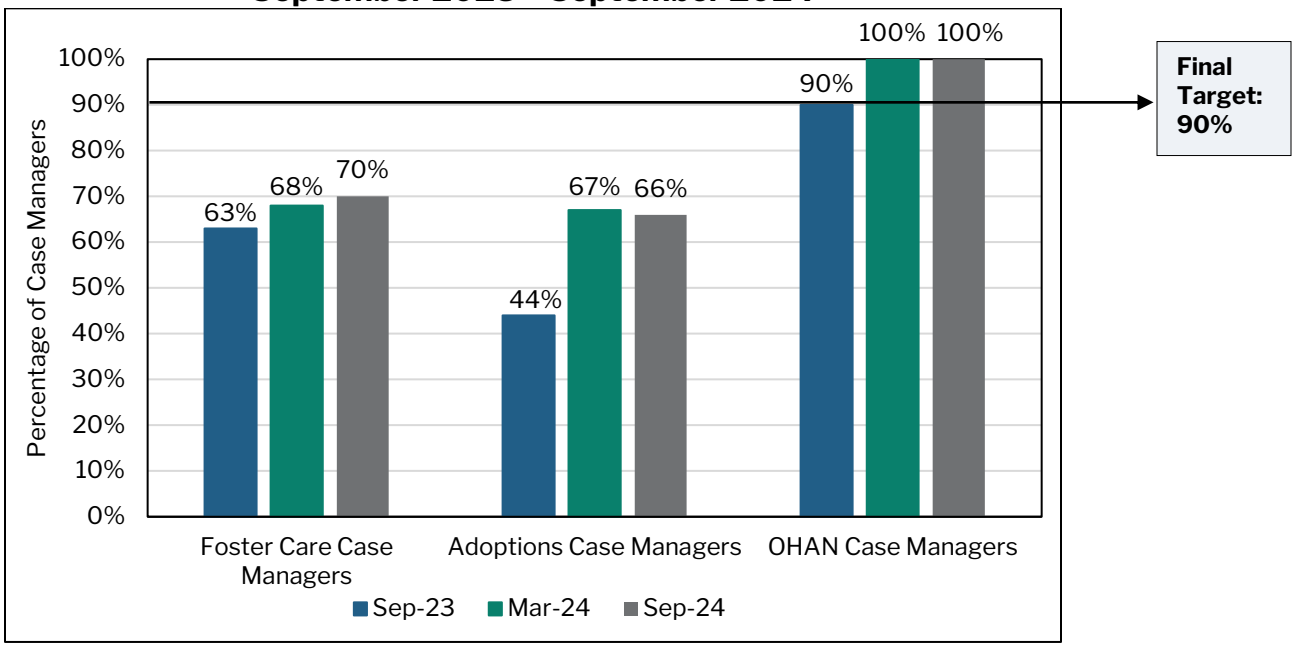
Worker Type	Caseload Standard	Caseload Standard for New Workers*	More than 125% of Standard
Case Managers			
Foster Care Case Manager	One case manager to 15 children (1:15)	No more than eight children (1:8)	More than 18 children or Non-Class cases
Adoptions Case Manager[62]	One case manager to 15 children (1:15)	No more than eight children (1:8)	More than 18 children
OHAN Investigator	One investigator per eight investigations (1:8)	No more than four investigations (1:4)	More than 10 investigations
Team Leaders			
Foster Care Team Leader	One team leader to five case managers (1:5)	N/A	More than six case managers
Adoptions Team Leader	One team leader to five case managers (1:5)	N/A	More than six case managers
OHAN Team Leader	One team leader to six investigators (1:6)[63]	N/A	More than seven investigators

Source: Approved DSS Workforce Implementation Plan (February 2019)
* Employed less than six months since completing Child Welfare Pre-Service Certification training

Figure 15 shows performance data on caseloads by case manager type for the two prior and the current monitoring period. As of September 30, 2024, compared to six months prior, the percentage of case managers with caseloads within required limits has improved slightly for foster care case managers and has maintained at 100 percent for OHAN case managers.

[62] Prior to 2019, DSS's workforce was structured so that case management responsibilities remained with the foster care case manager, even when an adoptions case manager was assigned, until a placement agreement was signed. As a result, the approved caseload standard for adoptions case managers was 1:17. In 2019, DSS began transitioning case management responsibility to adoptions case managers once children became legally eligible for adoption. This was completed in January 2020; thus, adoptions case manager caseload performance is assessed at a standard of 1:15.
[63] The Co-Monitors approved a higher caseload standard for OHAN team leaders in recognition of the fact that the OHAN investigators they supervise have lower caseload standards than other direct service case managers.

Figure 15: Percentage of Case Managers with Caseloads Within the Required Limits, by Case Manager Type September 2023 – September 2024



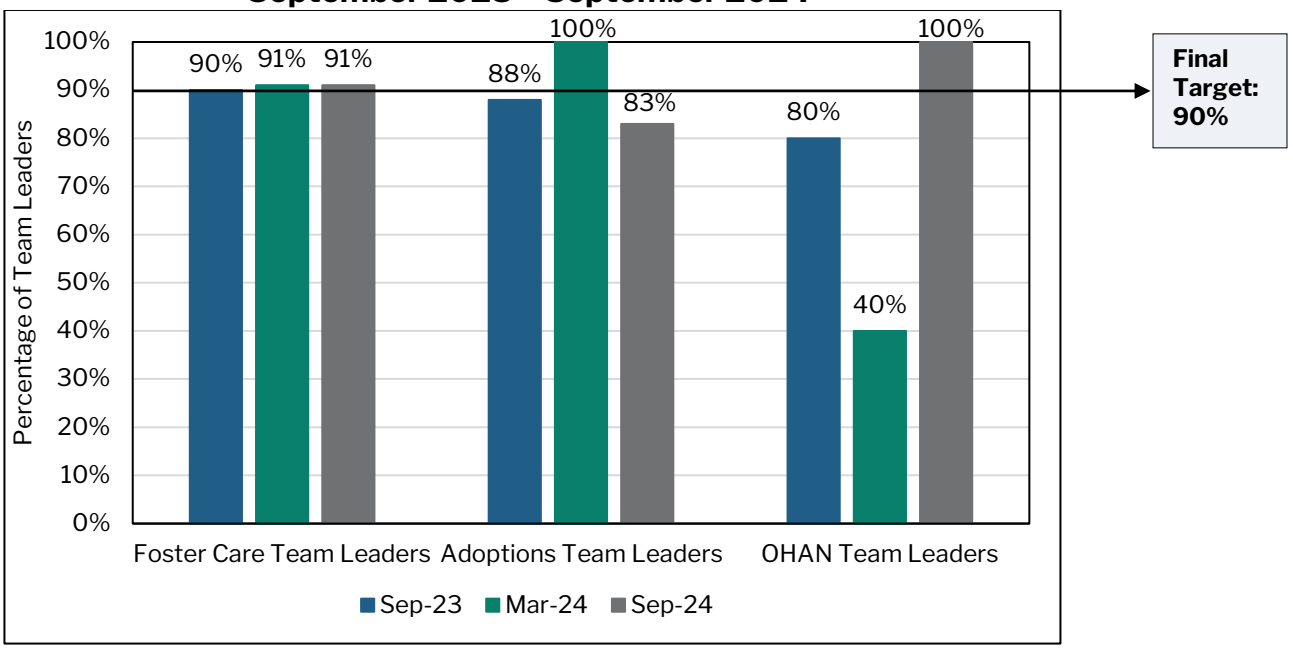
Source: CAPSS data provided by DSS

As shown in Figure 16, performance as of September 2024 for both foster care and OHAN team leaders has improved from six months prior. While caseload compliance for adoption team leaders decreased from 100 percent in March 2024 to 83 percent in September 2024, it should be noted that this change is due four out of 23 team leaders having one more staff than the standard.

The workload of team leaders may be higher than is reflected in the data, as data submitted by DSS show that some team leaders are continuing to be directly responsible for cases.[64]

[64] DSS has identified situations in which it may be necessary for team leaders to be directly responsible for carrying cases for short periods of time. These include circumstances in which a case manager is promoted to team leader and may temporarily retain case management responsibilities for up to 45 days if a case is nearing closure; there are complexities regarding the case that need to be addressed; or an important legal event will occur within the timeframe. When cases are being transferred from one case manager, office, unit, or program area to another, the case may be temporarily assigned to the receiving team leader for up to 5 days until the team leader assigns the case to the receiving case manager. DSS has also identified that team leaders sometimes carry cases when a case manager leaves the agency and creates a vacancy that takes some time to fill or when case managers are on extended leave. While the team leader is directly managing, or "carrying" a case, they are responsible for all required case duties, including visits with the child; monitoring the child's safety, placement,

Figure 16: Percentage of Team Leaders with Assigned Workers Within the Required Limits, by Team Leader Type September 2023 – September 2024



Source: CAPSS data provided by DSS

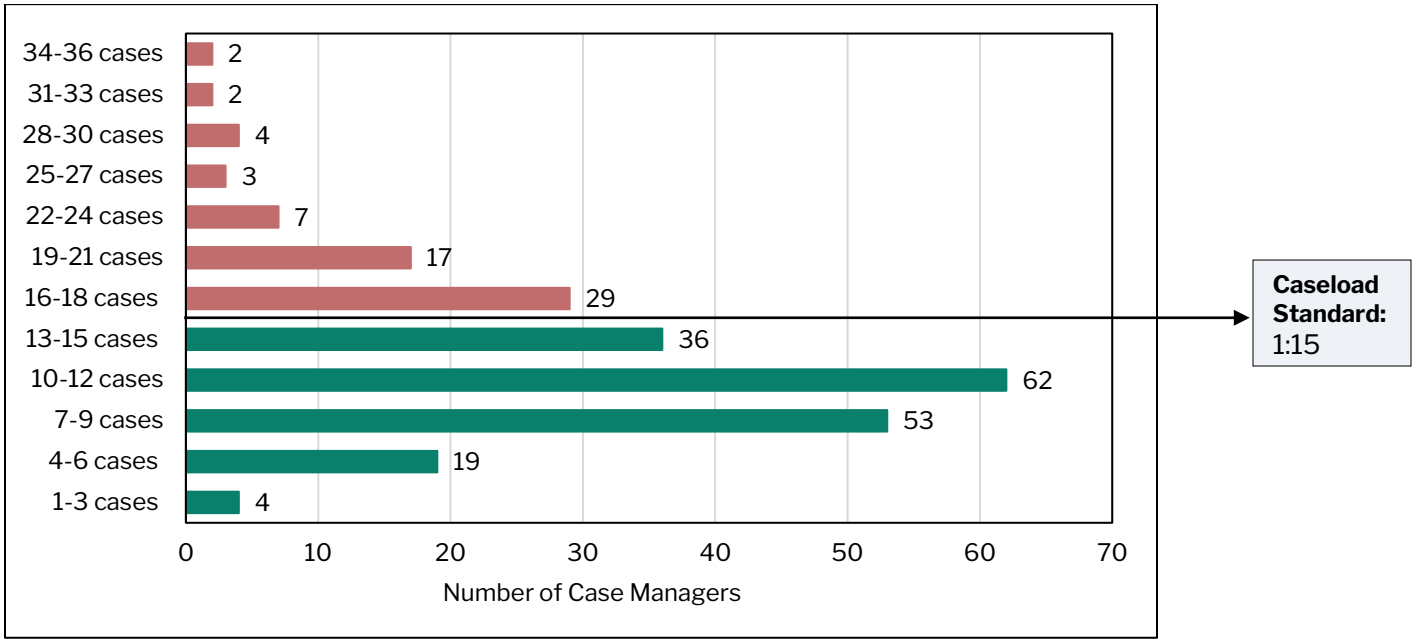
Foster Care Case Managers

Figure 17 shows the number of cases assigned on September 30, 2024, to the 238 foster care case managers who had completed Child Welfare Pre-Service Certification training more than six months prior (classified as "not new case managers"). Specifically, there were 174 (73%) foster care case managers with caseloads within the standard and 64 (27%) case managers with caseloads above the standard, including four case managers who were responsible for more than 30 cases each (double the caseload standard).[65]

well-being, case plan, and service delivery; ensuring the child is visiting with their siblings and/or parent(s); and other activities as necessary. For these circumstances, DSS requires Regional Director approval for team leaders to carry cases for more than 5 days; documentation be shared with DSS's Accountability, Data, and Research (ADR) unit; and a description of the case(s) the team leader will carry, the circumstances leading to the team leader carrying cases, and a specific plan and timeline be created to address the issue.

[65] Three of the case managers with above 30 cases were family preservation case managers from Berkeley County who were carrying between 1 and 7 Class Members on their caseload on September 30, 2024; the foster care case manager with the most cases (35) was in Laurens County.

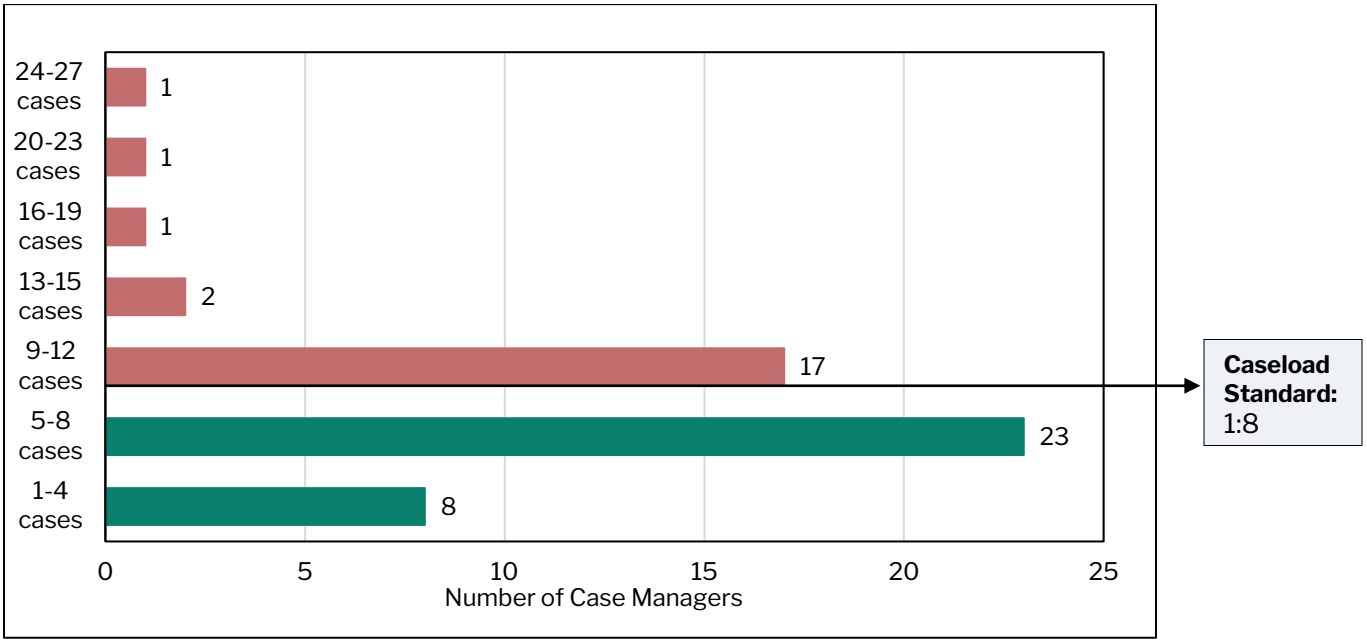
Figure 17: Number of Cases Assigned to Not New Foster Care Case Managers
September 30, 2024
N = 238 Existing (Not New) Foster Care Case Managers



Source: CAPSS data provided by DSS
*Green bars indicate caseloads at or below the required standard; red bars indicate caseloads higher than the required standard.

Caseload standards are graduated, in that new workers are not supposed to receive a full caseload until six months after completing pre-service training. Graduated caseload standards are an important staff retention strategy, allowing new staff the time to develop their skills and learn how to practice in accordance with the GPS Case Practice Model. Figure 18 shows the number of cases assigned on September 30, 2024, to the 53 new foster care case managers who had not completed certification training more than six months prior (classified as "new case managers"). Fifty-eight percent (31 of 53) of new foster care case managers had caseloads within the standard. As of September 30, 2024, three new foster care case managers were responsible for 16 or more cases (double the graduated caseload standard).

Figure 18: Number of Cases Assigned to New Foster Care Case Managers
September 2024
N = 53 New Foster Care Case Managers



Source: CAPSS data provided by DSS
*Green bars indicate caseloads at or below the required standard; red bars indicate caseloads higher than the required standard.

DSS offices are divided among four regions, which differ in terms of geographical size, the number of children and families served, and the number of assigned and onboarded case managers. As shown in Table 3, data on foster care case managers' caseloads as of September 30, 2024, demonstrate significant variation by region. Over the last 12 months, performance improved in the Lowcountry and Upstate regions, stayed consistent in the Midlands region, and declined in the Pee Dee region.

Table 3: Foster Care Case Managers with Caseloads Within the Required Limit, by Region
September 30, 2023 – September 30, 2024

Region	Foster Care Caseloads within Required Limit on September 30, 2023	Foster Care Caseloads within Required Limit on March 31, 2024	Foster Care Caseloads within Required Limit on September 30, 2024
Lowcountry	41% N= 14/34	36% N= 15/42	44% N=27/61
Midlands	50% N= 46/92	63% N= 58/92	63% N=55/88
Pee Dee	67% N= 40/60	88% N= 53/60	79% N=42/53
Upstate	81% N= 73/90	75% N= 61/81	91% N=81/89

Source: CAPSS data provided by DSS

VI. Contacts with Children: Case Manager Visits with Children and Family Time - Children's Visits with Their Parents and Siblings

Earlier in FSA implementation, DSS's performance on requirements for case manager contacts with children in their custody and the minimum required time children spend with their parents, or other reunification resource, and their siblings was extremely low. Reviews of statistically valid samples of records in September 2021, conducted by the Co-Monitors, found 34 percent of case manager visits met FSA requirements, 17 percent of children spent time with their parents with whom they were to be reunified, and 50 percent of children spent time with a sibling who was also in foster care and from whom they were separated.

In October 2021, after years of consistently low performance on requirements for visits between case managers and children (FSA IV.B.3) and time children spend with their parents, family members, (FSA IV.J.2), and siblings who are also in foster care and placed separately (FSA IV.J.3), and upon agreement of all Parties, the Co-Monitors suspended case record reviews and reporting on these measures. The Parties agreed that reviews would be paused for at least four monitoring periods, or until DSS's internal data indicate there has been substantial increase in performance.[66] Case reviews to assess if case manager visits with children meet FSA requirements have not yet resumed, as DSS has not reported improvements to prior performance.

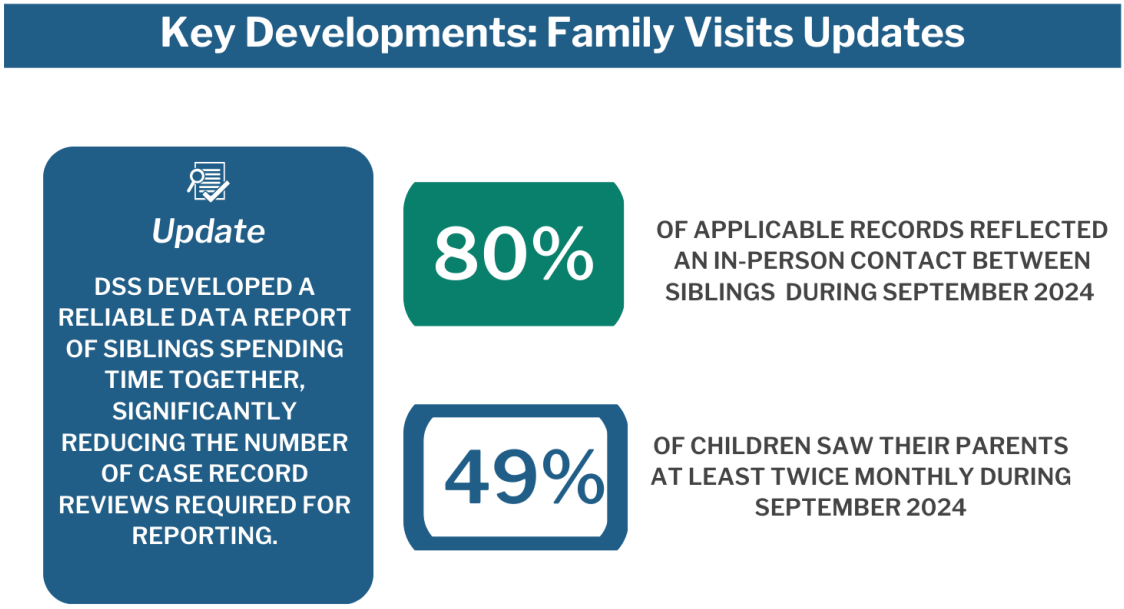
DSS reported success in steps taken to improve data entry in CAPSS and develop a reliable SafeMeasures® report on time children spend with siblings.[67] The report currently captures whether or not there was a contact between siblings, but CAPSS has not yet been updated to account exceptions for contact between siblings. To assess performance for September 2024, the Co-Monitors and DSS combined data from a SafeMeasures® report with results from a case records review of exceptions

[66] For more information on DSS's performance on the FSA measures related to visits between case managers and children, and time children spend with their parents and other family members, refer to *Michelle H., et al. v. McMaster and Leach* Progress Report for the Period April 1 – September 30, 2021, Sections VI. *Case Manager Visits with Children (p. 46)* and IX. *Family Time: Visits with Parents and Siblings (p. 98),* see: here.

[67] For more information on SafeMeasures®, see: https://evidentchange.org.

to sibling visits. DSS and Co-Monitors will use this methodology until updates in CAPSS are made to reflect each exception for contact between siblings.

Reviews found that while performance on the frequency of time children spend with their parents and siblings has improved since 2021, when less than 20 percent of children spent the minimum twice monthly time with their parents and only half of the minimum required visits occurred between siblings, it remains below the FSA final targets.



Family Time: Visits with Parents and Siblings

Parent-Child Visits

The FSA requires that "*[a]t least 85% of Class Members with the goal of reunification will have in-person visitation twice each month with the parent(s) with whom reunification is sought […]*" (FSA IV.J.3.).[68] DSS committed to achieving this target by March 2021.

[68] The following are exceptions approved by the Co-Monitors to the parent-child visitation requirement: court order prohibits or limits parent visitation; parent is missing or child is on runaway

Results from a review of a statistically valid sample of 307 applicable records in September 2024 show documentation of an approved exception to the requirement for visits between a child and their parent(s) in 56 records.[69,70,71]

Less than half (49%, or 124 of 251), of children in DSS custody with a goal of reunification spent time with their parents or reunification resource(s) twice during September 2024. Current performance is significantly below performance in March 2024, when 60 percent of children saw their parents twice during the month and continues to fall below the agreed upon target of 85 percent.

Sibling Visits

Section IV.J.2. of the FSA requires that "*[a]t least 85% of the total minimum number of monthly sibling visits for all sibling visits shall be completed.*"[72] DSS committed to achieving this target by March 2021.

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during a calendar month with best efforts to locate; parent or child is incarcerated or in a facility that does not allow visitation in the calendar month despite best efforts; parent refused to participate; parent did not show up to visit despite attempts to successfully arrange and conduct the visit; parental rights were terminated in that month; parent visit is infeasible due to geographic distance, with efforts to provide alternative forms of contact (geographic distance will only be allowed as an exception upon individual review of the applicable case by the Co-Monitors); County Director approval with legal consultation for determination that a visit poses immediate safety concerns for the child (if an immediate safety incident or concern occurs prior to or during a visit, the case manager is to remove the child from the visit and notify the County Director afterward); and team leader approval for determination that visitation would be psychologically harmful for the child. A DSS team leader must confirm the determination that visitation would be psychologically harmful to the child based upon written documentation of clinical decision issued by a Licensed Practitioner of the Healing Arts (LPHA) within the scope of their practice under SC State Law and who is not an employee of DSS. The LPHA's name, professional title, signature, and date must be listed on the document to confirm the clinical decision. In all instances, the exception must be supported by documentation of the exception reason and best efforts to foster time between the parent and child.

[69] As of September 30, 2024, there were 1,529 children who had been in foster care for at least 30 days with a permanency goal of "return to home" or "not yet established." A statistically valid sample of 307 cases was reviewed based on a 95% confidence level and +/- 5% margin of error.

[70] These exceptions include that the parent did not visit despite attempts to arrange and conduct a visit; a court order prohibited visits; and the child refused to participate in a visit.

[71] For September 2024, documentation of a missed visit due to Hurricane Helene was deemed an exception.

[72] The following are exceptions approved by the Co-Monitors to the sibling visitation requirement: court order prohibits or limits sibling visitation; child or sibling is on runaway during a calendar month with best efforts to locate; child or sibling is incarcerated or in a facility that does not allow visitation despite efforts; child or sibling refuses to participate in the visit, where age appropriate; sibling visit is infeasible due to geographic distance with efforts to provide alternative forms of contact (geographic

DSS is working towards the goal producing a reliable SafeMeasures® report on contacts between siblings that accounts for each of the agreed-upon exceptions for an in-person contact. For September 2024 performance, the Co-Monitors and DSS used a methodology that combined data from a SafeMeasures® report and results from a record review for exceptions to visits to determine performance.

Results from a statistically valid sample of 322 applicable records of September 2024 practices show documentation of an agreed-upon exception to the requirement that siblings visit each other at least once a month in nine records.[73,74,75,76] Of the remaining 313 records, 250 (80%) reflected the total minimum number of monthly sibling visits, while 63 records (20%) had no documentation of siblings spending time together. Current performance shows improvement but continues to fall below the final target of 85 percent.

DSS's policy and GPS Practice Model expectations are that siblings spend time together in the least restrictive environment possible; and see each other in a community-based setting, not in an office. The Co-Monitors have reported the location where siblings spend time together and saw decreasing office-based visits.

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distance will only be allowed as an exception upon individual review of the applicable case by the Co-Monitors); County Director approval with legal consultation for determination that a visit poses immediate safety concerns for the child or sibling (if an immediate safety incident or concern occurs prior to or during a visit, the case manager is to remove the child from the visit and notify the County Director afterward); and team leader approval for determination that visitation would be psychologically harmful for the child. A DSS team leader must confirm the determination that visitation would be psychologically harmful to the child based upon written documentation of a clinical decision issued by a Licensed Practitioner of the Healing Arts (LPHA) within the scope of their practice under SC State Law and who is not an employee of DSS. The LPHA's name, professional title, signature, and date must be listed on the document to confirm the clinical decision. In all instances listed above, the exception must be supported by documentation of the exception reason and best efforts to foster time with sibling(s).

[73] The universe applied to the requirement for monthly sibling visits includes siblings in foster care and living apart for the entirety of September 2024. It also reflects siblings placed in foster care at the same time or within 30 days of each other to better reflect siblings who "lived together before their placement," one of the elements of the definition of a sibling, as reflected on page 2 of the court ordered Visitation Plan (April 3, 2019, Dkt. 115). The universe does not reflect all siblings who share only one parent. It is also not fully comparable to result, 73%, from March 2024 when the timeframe for placement of siblings was expanded to one year.

[74] Results are from a statistically valid sample of 322, from a universe of 1,982 based on a 95% confidence level and +/- 5% margin of error; 114 records were reviewed for an agreed-upon exception.

[75] Exceptions included siblings refusing to visit and court orders prohibiting a visit.

[76] For September 2024, documentation of a missed visit due to Hurricane Helene, this was deemed an exception.

While data are not included in this report, DSS and Co-Monitors have agreed to resume reporting on this important practice going forward.

Case Manager Visits

The FSA requires that "*at least 90% of the total minimum number of monthly face-to-face visits with Class Members by caseworkers during a 12-month period shall have taken place*," and "*at least 50% of the total minimum number of monthly face-to-face visits with Class Members by caseworkers during a 12-month period shall have taken place in the residence of the child*" (FSA IV.B.2.&3.).

To assess FSA compliance, the Parties agreed that a case manager's documentation in CAPSS of a contact with a child should reflect DSS policy and practice and that CAPSS documentation would be assessed qualitatively.[77] DSS has not reported improvements in performance on case manager visits with children. Therefore, the Co-Monitors have not resumed case record reviews to determine performance on this measure.

[77] To view the Visitation Implementation Plan, see: https://dss.sc.gov/media/1956/3-28-2019-final-dss-visitation-implementation-plan.pdf

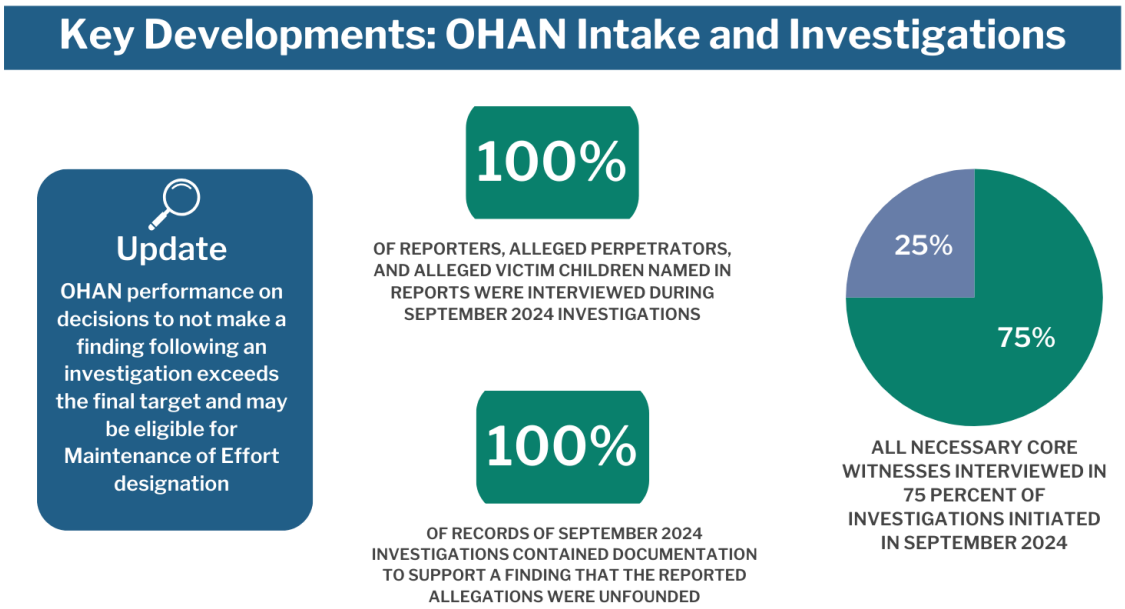
VII. Intakes and Investigations of Alleged Abuse/Neglect in Out-of-Home Care

The Out-of-Home Abuse and Neglect (OHAN) unit conducts investigations of allegations of abuse and/or neglect of children in foster care screened by Intake Hub staff and assessed to meet criteria for an investigation. On October 18, 2024, after previously achieving Maintenance of Effort status for four FSA OHAN commitments, the Court found that DSS had made sufficient improvement to terminate its jurisdiction over the following provisions: (1) Intake – Decision Not to Investigate (FSA IV.C.2.); (2) Timely Completion of Investigation Within Forty-five (45) Days of Initiation (FSA IV.C.4(d)); (3) Timely Completion of Investigation Within Sixty (60) Days of Initiation (FSA IV.C.4(e)); and (4) Timely Completion of Investigation Within Ninety (90) Days of Initiation (FSA IV.C.4(f)). Performance on these measures for the April 1 through September 30, 2024, monitoring period are included in this report, but as the Court has granted Termination and Exit will not be monitored or included in subsequent reports.[78,79] During the monitoring period, the Co-Monitors have determined through case record reviews and verification of data provided directly by DSS, that DSS has maintained performance in each of these four areas.

Results from twice-yearly reviews of OHAN performance on the remaining FSA measures — (1) timely initiation of investigations, (2) investigation decisions, and (3) contact with core witnesses during investigations — continue to be positive. Overall, dictation and documentation by OHAN case managers and team leaders reflect appropriate decision-making during investigations.

[78] Court Order approving Maintenance of Effort for FSA IV.C.2 and FSA IV.C4(d), (e), and (f). (August 3, 2023, Dkt.290)
[79] Order on Motion for Miscellaneous Relief (October 18, 2024, Dkt.329).

OHAN Performance Data



OHAN Intake

DSS's Intake Hub screens all reports alleging abuse and/or neglect of children, including allegations involving children in foster care settings.[80] Decisions on whether to accept a report for investigations are made using a Structured Decision Making (SDM)® intake tool.[81]

[80] In addition to the Intake Hub call center, DSS maintains a child abuse and neglect online reporting system accessible through its website. Guidance provided on the site indicates that it is designed to receive non-emergency reports of suspected abuse and/or neglect of a child or adult, and that it should not be used to report suspected abuse and/or neglect against a child in foster care. After determining that some reports regarding children in foster care were improperly submitted through this website, which has a longer 48-hour timeframe for processing, DSS reviewed its procedures for web-based reports with the goal of modifying them to meet the FSA requirements for a 24-hour response. DSS reports it has designated intake team leaders to be responsible for checking DSS's online portal every two hours for reports.

[81] For more information on SDM, see: https://evidentchange.org/assessment/structured-decision-making/child-welfare/

Decision Not to Investigate

The FSA requires that *"[a]t least 95% of decisions not to investigate a Referral of Institutional Abuse or Neglect about a Class Member must be made in accordance with South Carolina law and DSS policy"* (FSA IV.C.2.).

Decisions to either accept a report for investigation or take no further action on the report ("screen out") are based upon information received by the Intake Hub to determine whether the allegations would meet the state's statutory definition of abuse or neglect.[82] A team leader at the Intake Hub reviews and approves each screening decision.

DSS continued to meet the agreed upon target for this measure. The Co-Monitors reviewed data collected by DSS's Internal Monitoring Team, which show DSS has maintained performance on this measure from April through September 2024. DSS's Internal Monitoring Team agreed with the decision to screen out each of 61 applicable reports.[83]

OHAN Investigations

Allegations of abuse or neglect of children in DSS custody screened by DSS's Intake Hub as appropriate for investigation are assigned to OHAN staff.[84,85] The FSA and OHAN policy require face-to-face contact with each of the alleged victim child(ren) within 24 hours of a report to Intake to assess for safety and risk, and the investigation is to be completed within 45 days.[86] OHAN policy requires that the investigator conduct a safety assessment, including a private interview with the child; collaborate with the child's case manager or law enforcement to make arrangements for medical treatment or examinations, as needed; interview core witnesses to

[82] SC Code § 63-7-20.
[83] This review includes examining information entered in CAPSS, and listening to recordings of reports, when available.
[84] SC Code § 63-7-1210; SC DSS Child Welfare Policies and Procedures Manual, Chapter 16: Special Topics: Out of Home Abuse and Neglect (effective May 19, 2022).
[85] Allegations of abuse and/or neglect by a foster parent of their biological or adopted child(ren) are investigated by child protective service case managers/investigative staff in local county offices.
[86] SC DSS Child Welfare Policies and Procedures Manual, Chapter 16: Special Topics: Out of Home Abuse and Neglect (effective May 19, 2022).

inform the investigation; review documents and records related to the incident; and assess the risk of further maltreatment to all children within that setting.[87]

FSA measures that relate to OHAN investigations include timely initiation of the investigation (two measures); contact with core witnesses (one measure); investigation determination decisions (one measure); and timely completion (three requirements which DSS has met and maintained).[88] The Co-Monitors and DSS staff review all investigations initiated in March and September of each year to report on performance. In September 2024, OHAN initiated 40 investigations which involved Class Members and were applicable for review.

Timely Initiation of Investigations

The FSA requires that *"[t]he investigation of a Referral of Institutional Abuse or Neglect must be initiated within twenty-four (24) hours in accordance with South Carolina law in at least 95% of the investigations"* (FSA IV.C.4.(a)). FSA Section IV.C.4.(b) requires that *"[t]he investigation of a Referral of Institutional Abuse or Neglect must include face-to-face contact with the alleged victim within twenty-four hours in at least 95% of investigations, with exceptions for good faith efforts approved by the Co-Monitors."*[89] The Co-Monitors measure performance for both

[87] Ibid.

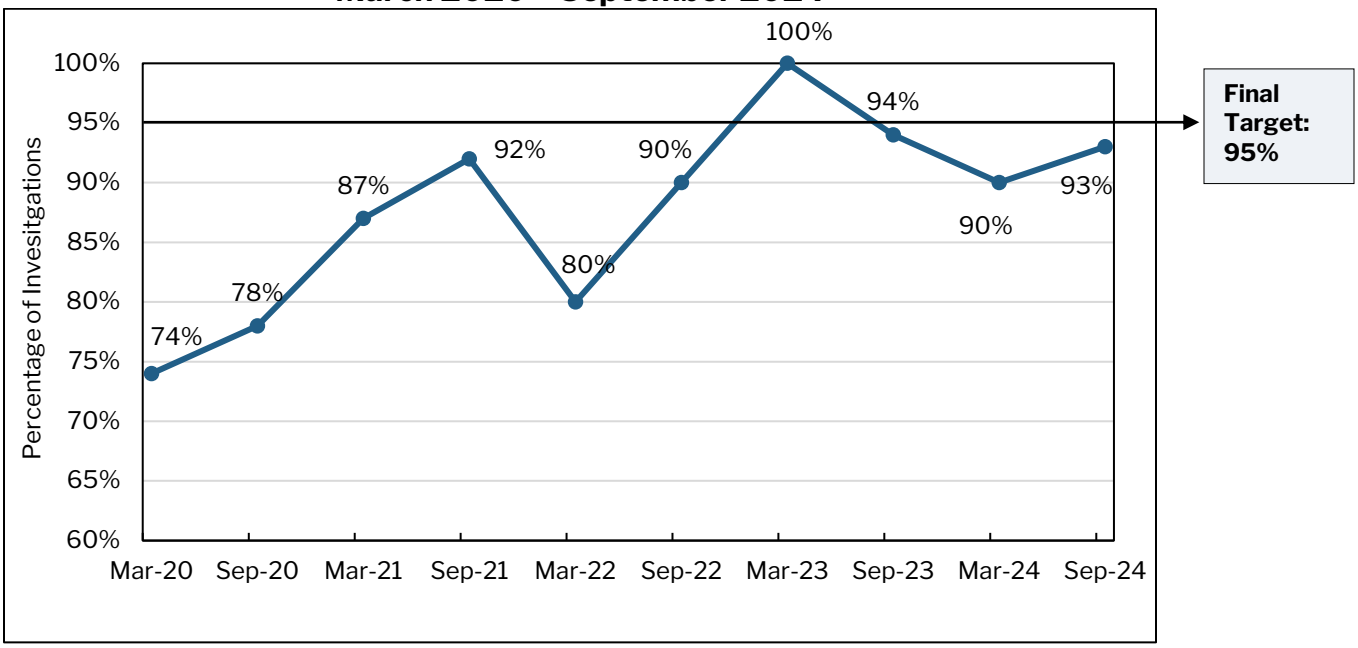
[88] The Co-Monitors' interpretation of the FSA requires that investigations be initiated within 24 hours of receipt of a report by DSS, not within 24 hours of the decision to accept the report, and that initiation is completed by making face-to-face contact with the alleged victim child(ren). As a result, the performance for both FSA measures IV.C.4.(a) and (b) are measured using the same methodology and timeframes - the time between receipt of referral/report and face-to-face contact with alleged child(ren) victim must be within 24 hours.

[89] The Co-Monitors approved the following efforts as "good faith efforts" for timely initiation which must be completed and documented, as applicable, to make contact with an alleged victim child(ren) within 24 hours: investigator attempted to see child(ren) at school or child care facility; investigator attempted to see child(ren) at doctor's visit or hospital; for child(ren) moved to an out-of-state location in order to receive specialized treatment, investigator attempted to interview by Skype or other virtual means; investigator attempted to see child(ren) at the police department; investigator attempted to attend forensic/Child Advocacy Center interview; investigator attempted to see child(ren) at therapist's office; investigator contacted the assigned foster care case manager(s) and/or team leader(s); investigator attempted to contact the parent/guardian of the victim child(ren) if the child(ren) has returned home; and investigator attempted to contact the child at all foster care placements where the child may temporarily be placed in the first 24 hours. Additionally, the following extraordinary circumstance exceptions to timely initiation were approved by the Co-Monitors: child was returned to biological family prior to report and family refuses contact; child is deceased; law enforcement prohibited contact with child(ren); facility restrictions due to child's medical

FSA IV.C.4.(a) and (b) using the same methodology and timeframes, requiring face-to-face contact with the alleged child victim within 24 hours of a report by the Intake Hub.

Of the 40 applicable OHAN investigations which began in September 2024, investigators met with all alleged victim children within 24 hours in 33 (83%) investigations. In four (10%) additional investigations, all applicable good faith efforts were made to contact each of the alleged victim children.[90] Therefore, 93 percent of investigations were initiated in a timely manner. Current performance has improved since the prior period (see Figure 19) and falls slightly below the final target of 95 percent.

Figure 19: Percentage of OHAN Investigations with Timely Initiation March 2020 – September 2024



Source: Case Record Reviews completed by University of South Carolina Center for Child and Family Studies (U of SC CCFS) (up to Sep-21), DSS, and Co-Monitor staff

requirements; natural disaster; and child missing despite efforts to locate (efforts should include all applicable good faith efforts).

[90] One case involved a youth considered to be on "runaway" status who could not be located during the investigation.

Contact with Core Witnesses during Investigations

The FSA requires that *"[c]ontact with core witnesses must be made in at least 90% of the investigations of a Referral of Institutional Abuse or Neglect, with exceptions approved by the Co-Monitors"* (FSA IV.C.4.(c)).[91]

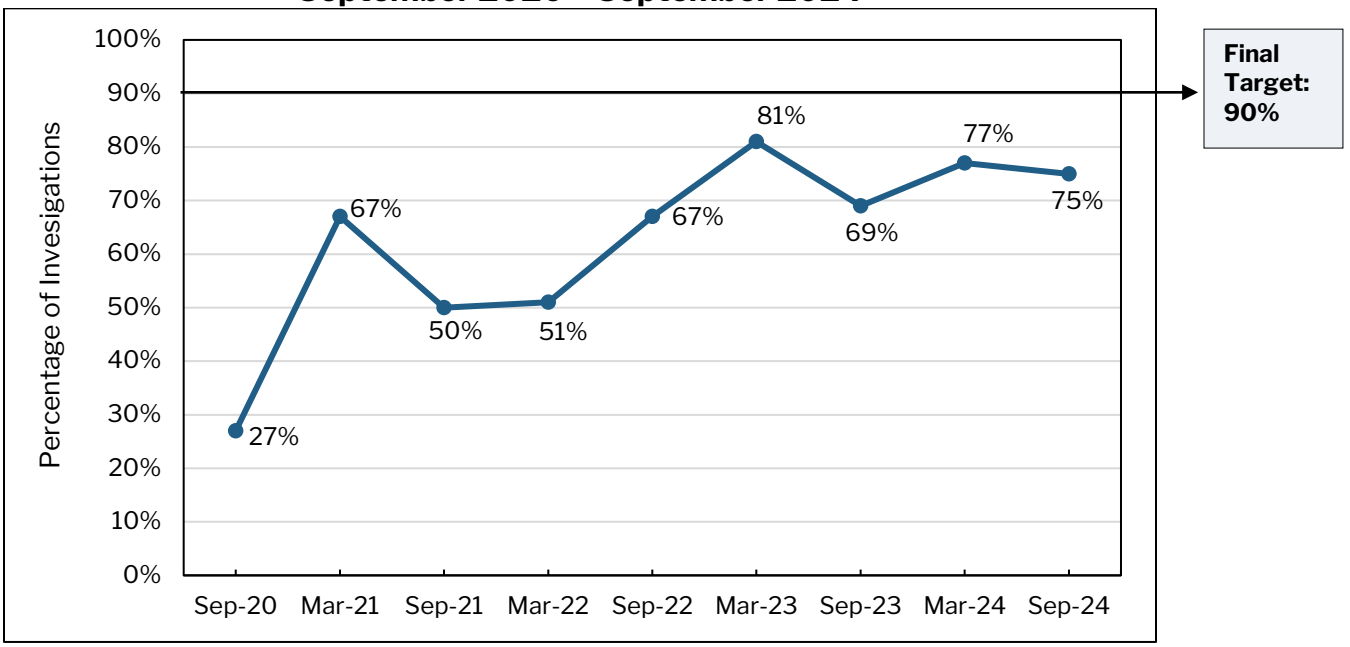
A core witness is defined as an individual who is pertinent to the investigation because they witnessed or have knowledge of the alleged actions and can shed light on the allegations and the actions of the alleged perpetrators. Core witnesses may differ from investigation to investigation, but in all cases include reporter(s), alleged perpetrator(s), alleged child victim(s), the child's DSS case manager, other child(ren) and/or adult(s) in the home, and, when involved, law enforcement. If the allegations involve an institutional setting, all other adults and children relevant to the investigation are also considered core witnesses.[92]

Of the 40 applicable investigations which began in September 2024, 30 (75%) records contained documented contact with all necessary core witnesses during the investigation. This performance reflects a slight decrease from March 2024 (77%) and remains below the final target of 90 percent (see Figure 20).

[91] The following are exceptions approved by the Co-Monitors to the requirement that the investigator contact a core witness during an investigation: witness refused to cooperate; witness advised by counsel or law enforcement that interview could not occur (e.g., due to pending charges, lawsuit); witness is deceased; unable to locate or identify witness; and medical conditions prevented witness from cooperating. In all instances, the exception must be supported by documentation of the exception and best efforts to engage the witness.

[92] This definition of core witnesses was proposed in DSS's OHAN Implementation Plan, which was approved by the Co-Monitors and consented to by Plaintiffs.

Figure 20: Percentage of OHAN Investigations with Contact with All Necessary Core Witnesses
September 2020 – September 2024



Source: Case Record Reviews completed by U of SC CCFS (up to Sep-21), DSS, and Co Monitor staff

Data presented in Table 4 show the frequency of OHAN investigator contact with each type of necessary core witness in the 40 investigations reviewed. The table also shows the number of investigations with additional core witnesses and whether they were interviewed.

Table 4: Percentage of OHAN Investigations with Necessary Core Witnesses, by Type of Core Witness
September 2024
N = 40

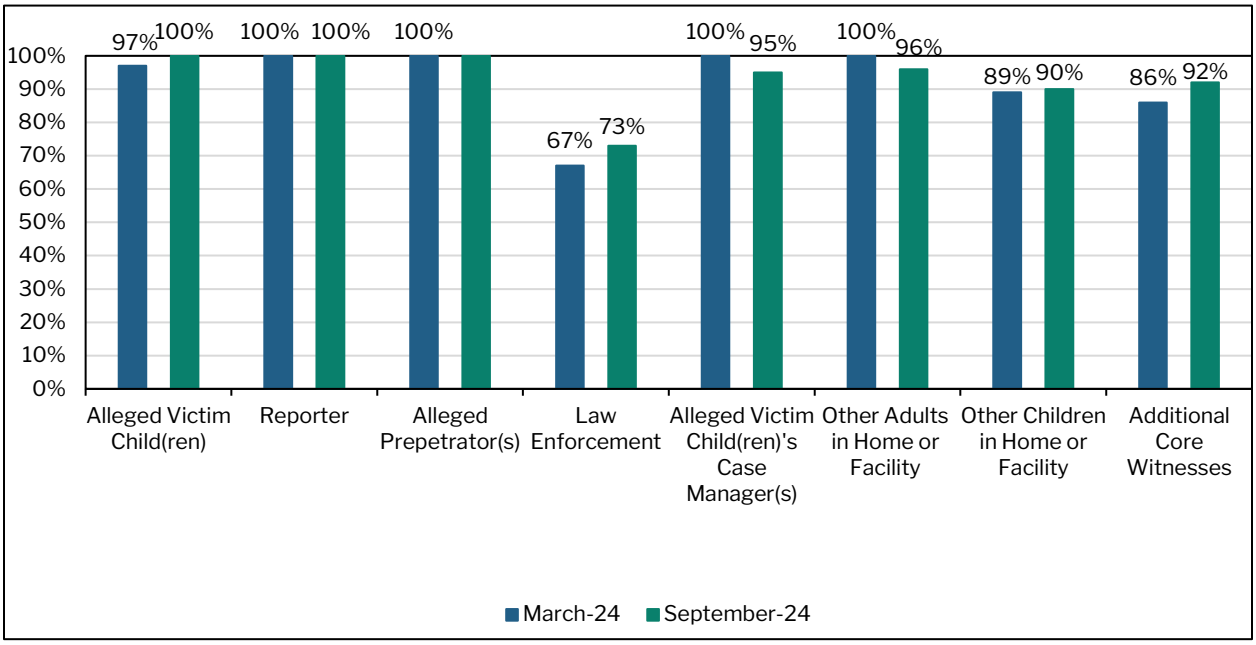
Core Witness	Applicable Investigations	Interview with All
Alleged Victim Child(ren)	39[93]	39 (100%)[94]
Reporter	29[95]	29 (100%)
Alleged Perpetrator(s)	37	37 (100%)[96]
Law Enforcement	15	11 (73%)[97]
Alleged Victim Child(ren)'s Case Manager(s)	40	38 (95%)
Other Adults in Home or Facility[98]	10	10 (100%)
Other Children in Home or Facility[99]	19	18 (95%)
***Additional* Core Witnesses**	36	33 (92%)

Source: Case Record Review by DSS and Co-Monitor staff

Data in Figure 21 show the frequency of contact within all categories of core witnesses for investigations opened in September 2024 compared to the prior review of investigations in March 2024. Interviews were conducted with all applicable reporters and alleged perpetrators in March and September 2024 investigations. With the exceptions of establishing contact with each alleged victim's case manager and interviewing other adults in the home, where performance declined slightly, there are improvements in each area.

[93] Excludes one child whose status was "runaway" and could not be located during the investigation.
[94] For all but one investigation, the investigator interviewed and/or observed each alleged victim child, as age appropriate. In one investigation, the school principal was present during the only interview with the child.
[95] In one investigation, the reporter was anonymous.
[96] Includes one investigation with multiple unsuccessful efforts to reach an alleged perpetrator.
[97] Includes one investigation with multiple unsuccessful efforts to reach law enforcement.
[98] For investigations involving foster homes, in addition to speaking with the alleged perpetrator(s), the investigator should speak with all other adults in the household. For investigations involving institutions, the investigator should speak with all other adults who were involved in or who have knowledge of the allegations.
[99] For children who are placed in foster homes, in addition to speaking with all alleged victim children, the investigator should speak with all non-victim children in the home to inform the investigation, including other children in foster care and biological or adopted children in the home. For investigations involving institutions, as facilities can have many children placed there, investigators should speak with all other children who were involved in or who have knowledge of the allegations.

Figure 21: Contact with Necessary Core Witnesses During OHAN Investigations March 2024 and September 2024



Source: Case Record Reviews completed by DSS and Co-Monitor staff

Investigation Decisions

According to DSS policy, at the conclusion of an investigation, a decision to *indicate* or *unfound* is made based upon the totality of the information collected, with the preponderance of the evidence as standard of proof of the facts.[100]

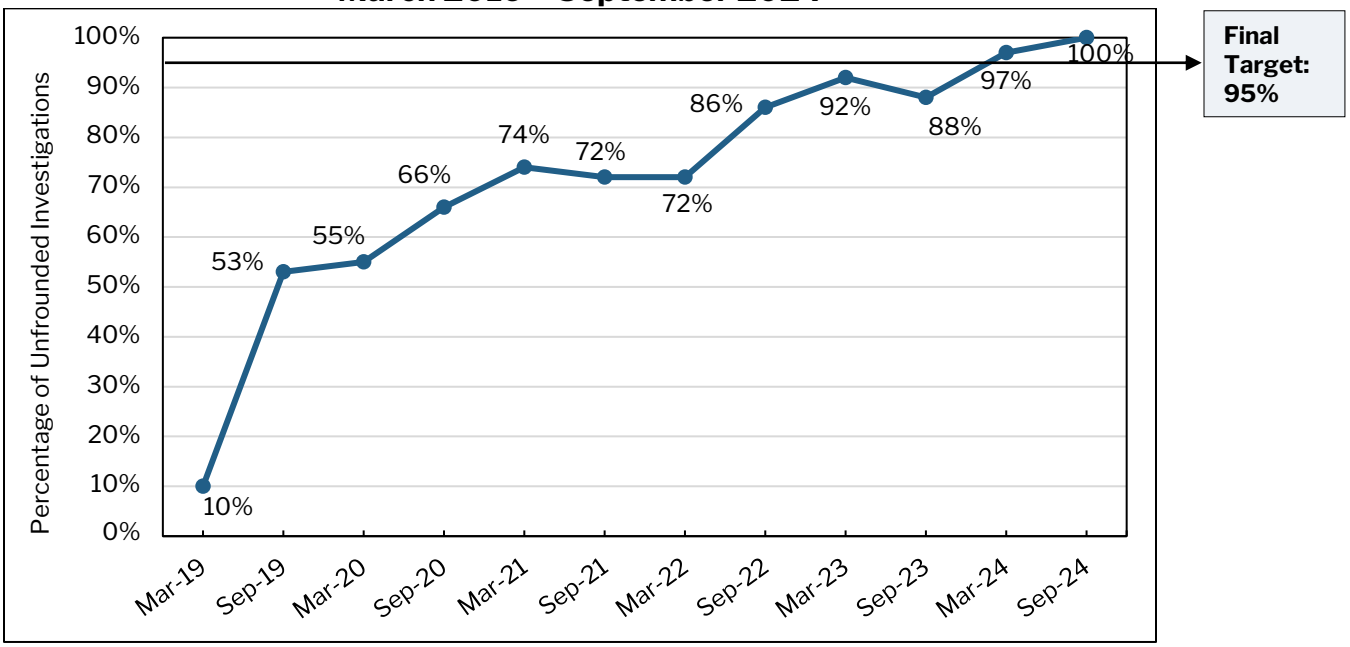
Section IV.C.3. of the FSA requires that *"[a]t least 95% of decisions to 'unfound' investigations of a Referral of Institutional Abuse or Neglect must be based upon DSS ruling out abuse or neglect or DSS determining that an investigation did not produce a preponderance of evidence that a Class Member was abused or neglected."*

In 34 of the 40 investigations reviewed, the final decision was to unfound or not make a finding of the allegations. Reviewers agreed that the decision to unfound was appropriate in all (100%) of the investigations. This performance has exceeded the final target of 95 percent since March 2024 (see Figure 22) and may be eligible for a Maintenance of Effort determination (FSA V.E.3.).

[100] SC DSS Child Welfare Policies and Procedures Manual, Chapter 16: Special Topics: Out of Home Abuse and Neglect (effective May 19, 2022).

As shown in the Figure, performance has risen from 10 percent in 2019 to its current level, a considerable achievement based on improved practices and documentation.

Figure 22: Decision to Unfound OHAN Investigations Deemed Appropriate March 2019 – September 2024



Source: Case Record Reviews completed by U of SC CCFS (up to Sep-21), DSS, and Co Monitor staff

Timely Investigation Completion

The FSA includes three measures for timely completion of investigations (FSA IV.C.4(d),(e)&(f)), recognizing that some investigations may take longer than 45 days as policy requires. The FSA and OHAN policy provide that the OHAN Director or Director's Designee may authorize an extension of up to 15 days for "good cause" or compelling reasons.[101] Good cause means that, through no fault of the investigator, sufficient reason exists for delaying the investigation decision.[102] DSS has met and maintained the required final target levels for each measure assessing timely completion of OHAN investigations since September 2018.

[101] SC DSS Child Welfare Policies and Procedures Manual, Chapter 16: Special Topics: Out of Home Abuse and Neglect effective (May 19, 2022).

[102] Examples of good cause may be one of the following: awaiting critical collateral information (e.g. medical report, x-rays, toxicology, video); awaiting forensic interview/findings; awaiting critical information from another jurisdiction (e.g. central registry check); critical new information was received from witness that requires follow-up; awaiting action by law enforcement; or child has been too ill or traumatized to speak with investigator.

Completed within 45 Days

Thirty-six (90%) of the 40 investigations opened in September 2024 were completed within 45 days. The four (10%) remaining investigations reviewed included approval for an additional 15 days to complete necessary investigative tasks and were closed within the extended timeframe. Current performance at 100 percent exceeds the final target for this measure.

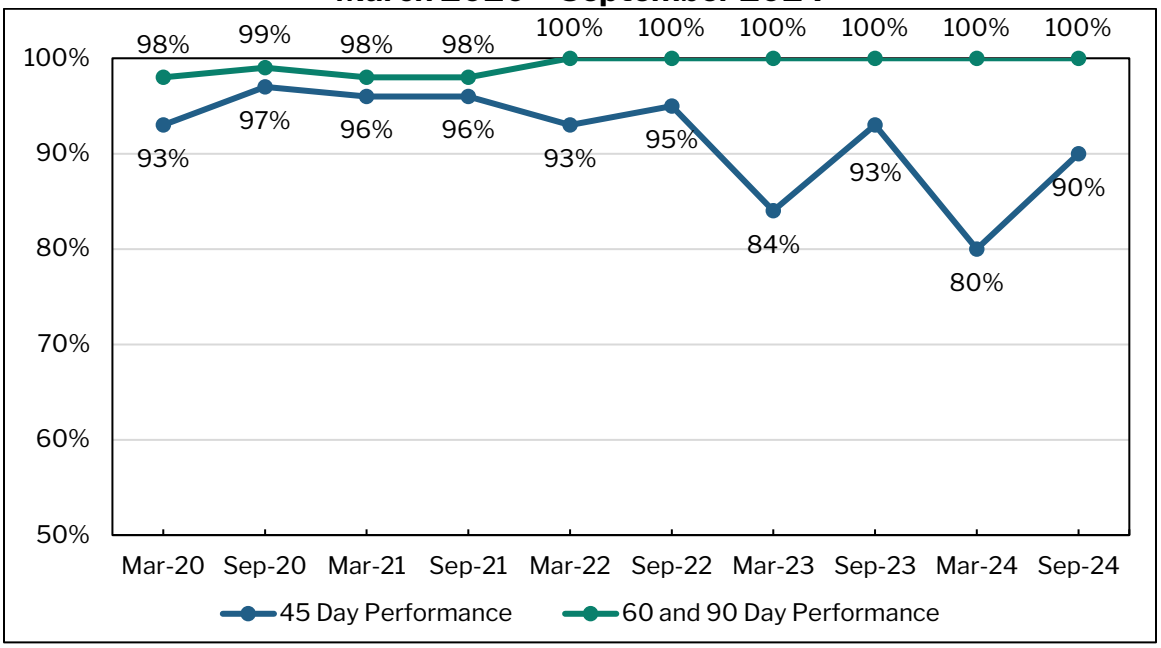
Completed within 60 Days

All (100%) of the 40 investigations reviewed were completed within 60 days of opening. Performance exceeds the final target for closure within 60 days.

Completed within 90 Days

Since all investigations were closed within 60 days, performance on 90-day closure is also 100 percent, and performance exceeds the final target for this measure. Figure 23 shows performance for timely closure of investigations from March 2020 to September 2024.

Figure 23: Timely Completion of OHAN Investigations March 2020 – September 2024



Source: Case Record Reviews completed by U of SC CCFS (up to Sep-21), DSS, and Co Monitor staff

VIII. Placements

Since the start of the lawsuit, many more children in foster care are placed in family-based settings, and very young children are no longer in congregate care settings. On October 18, 2024, the Court granted Maintenance of Effort Status for FSA provision IV.E.3., requiring that 98 percent of Class Members twelve years old and under be placed outside of congregate care, and for FSA provision IV.D.2, requiring DSS to prevent, with exceptions, the placement of any Class Member aged six or under in any non-family group placement.[103]

DSS has also continued to prioritize the placement of children with family members ("kin") and consistent with best practice is actively working towards becoming a "kin-first" state.[104] Twenty-eight percent of all children in DSS custody were placed with kin at the end of September 2024. This rate is consistent with the prior two monitoring periods. Additionally, DSS reports it is pursuing strategies to increase payments to kinship caregivers, including supporting kin to become licensed. The number of licensed kin caregivers continues to steadily increase. Forty-seven percent of kin caregivers are now licensed, compared with 43 percent during the prior monitoring period.

Overall, however, South Carolina's placement instability crisis persists and continues to be especially acute in Richland County. DSS reports that the annual statewide rate of placement moves for the period of October 1, 2023, to September 30, 2024, reached 6.64, meaning Class Members were moved an average of 6.64 times per 1,000 days in care.[105] This is the highest rate since the onset of the lawsuit when the rate was 3.55, and far exceeds the final target benchmark of fewer than 3.37 moves per 1,000 days in care. The state continues to use DSS offices and emergency placements at high rates. During the most recent six-month monitoring period between April 1 and September 30, 2024, the total number of nights children spent in temporary placements (overnight office stays and emergency placements combined), increased to 11,166 nights, compared to 10,845 nights during the prior monitoring period from October 1, 2023, to March 31, 2024.

[103] Order on Motion for Miscellaneous Relief (October 18, 2024, Dkt.329).
[104] "Kin" includes both relatives and other people who are important in children's lives ("fictive kin").
[105] DSS reports the placement instability rate annually.

A major precipitating factor of South Carolina's placement instability crisis is the high rate of EPCs from law enforcement and the pattern of "short stays" in foster care that stems from it. Data for the April 1 to September 30, 2024, monitoring period show 24 percent of children who entered care during the six-month period remained in care for 60 days or fewer, including 14 percent who were in care for seven days or less. Of those children who entered foster care and remained in care for seven days or less, 87 percent entered care due to a unilateral emergency removal by law enforcement. Unnecessary removals and short stays in care not only cause great harm to children and families, but also place enormous strain on the placement array, case managers, and DSS resources overall.

The Co-Monitors described the negative impact of the placement crisis on children, families, kin, foster parents, group home staff, private providers, and DSS frontline staff and leaders in their Supplemental Report, issued in August 2023.[106] They also raised to the Court their urgent concerns with the especially high rates of placement instability and challenging conditions in the Richland County DSS office (RCDSS) following a site visit to the RCDSS office on September 23-24.[107] On October 18, 2024, the Court issued an Order directing the creation of a task force to prepare and implement an improvement plan for RCDSS to meet specific goals, including eliminating overnight stays in the RCDSS office and out-of-county emergency foster care placements; ending the routine presence of Class Members in the RCDSS office; and eliminating excessive late night work shifts for RCDSS staff, which includes consideration of dedicated staff for second and third shifts.[108]

The Richland County DSS Improvement Plan includes efforts to address critical issues previously identified by the Co-Monitors, including the severe shortage of community-based services and supports, including crisis intervention services and trauma-based treatments; an insufficient array of placement resources, especially those with caregivers trained and supported to work with children with complex

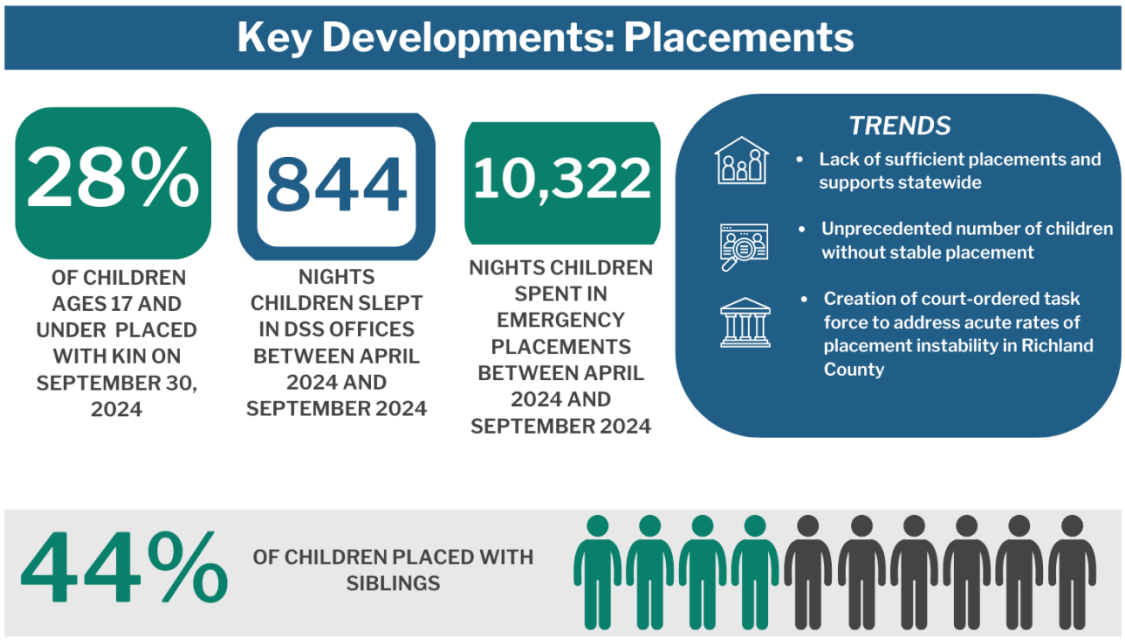
[106] *Michelle H.* Co-Monitors' Supplemental Report Regarding South Carolina's Placement Crisis (August 1, 2023, Dkt. 288-1) To view the full report, see: https://cssp.org/wp-content/uploads/2023/10/ Supplemental-Report-re-South-Carolinas-Placement-Crisis.pdf
[107] Co-Monitors Progress Report for Period October 1, 2023 - March 31, 2024, from Co-Monitors Judith Meltzer and Paul Vincent, Attachment #2: October 2, 2024, Letter (October 4, 2024, Dkt. 323).
[108] Order directing the prompt creation of a task force to prepare and implement a plan to address issues relating to overnight stays in the Richland County DSS office (October 18, 2024, Dkt. 331).

needs; and the limited ability of staff to identify, assess, and respond to children's underlying needs.[109]

The plan also recognizes that DSS cannot solve the problem by themselves and seeks to establish more effective partnerships with private providers and transparent collaboration with and accountability between other state agencies, most importantly the Department of Health and Human Services (DHHS), the Department of Mental Health (DMH), the Department of Juvenile Justice (DJJ), the Department of Disability and Special Needs (DDSN), the Department of Education, and the Department of Children's Advocacy (DCA) to develop the services and supports that children need. It also includes engagement with Medicaid and its contractor, Select Health, the principal funders of needed service expansions. Further, the plan includes activities to move toward integrating DSS's Guiding Principles and Standards (GPS) Case Practice Model into its practice with children and families, which is vital to the agency's ability to fully succeed in its mission of supporting children's safety, permanency, and well-being and strengthening families.[110]

Since the drafting of the Improvement Plan, DSS held an additional Task Force meeting on January 28, 2025, and is in the process of organizing work groups to build out implementation plans for key strategy areas.

[109] Letter from J. Michael Montgomery with Richland County DSS Improvement Plan, with Appendix A. Richland County Task Force Slide Deck (December 23,2024, Dkt.339).
[110] To view the GPS Case Practice Model, see: https://dss.sc.gov/media/2746/gps-practice-model-final.pdf



Placement Updates

Practice Development to Assess Underlying Needs and Craft Individualized Services

The Co-Monitors have long recommended that DSS demonstrate a different approach to identifying and understanding children and families' underlying needs. During this monitoring period, DSS continued to work with a consulting psychologist who is providing technical assistance on a small number of complex cases involving children in Greenville, Richland, and Spartanburg counties. These consultations are geared towards assessing children and families' underlying needs, identifying innovative problem-solving strategies, and supporting and developing DSS staff expertise in crafting individualized service plans. This strategy is intended to build capacity and skills of DSS staff to integrate the GPS Practice Model into their work with children and families. As of September 2024, DSS reported that the consulting psychologist has reviewed records of and conducted meetings for a total of 12 children. Since the end of the monitoring period, and as part of efforts to address placement instability in Richland County, the consulting psychologist has been on site on December 16-18, 2024, and January 15-17, 2025, and has conducted 10 additional reviews and meetings.

Partnerships with Private Providers and Community Members

The Department's efforts to more fully engage private providers as partners in developing and implementing change strategies have continued to grow since the early days of the lawsuit and during the monitoring period. Members of the provider community have shared that they are ready and willing to contribute and adapt as needed to assist DSS in its efforts to better support children and families. The effectiveness of many of the recommendations included herein, as well as initiatives in which DSS is currently engaged, depend not only on collaboration with other state agencies, but on consistent and meaningful partnerships with private providers.

On October 9th and 10th, 2023, DSS convened a strategy session with providers and other partners to examine together the root causes of the placement instability crisis and to consider and develop follow-up actions. The convening resulted in the formation of three workgroups: one focused on embedding a kin-first culture, the second on strategies to improve placement stability and the redesign of CFTMs, and the third was charged with embedding children-centered approaches into case practice. Each workgroup consisted of representatives from DSS, providers, and partner organizations, and were expected to incorporate input from participants with lived experience. The Co-Monitors were invited to participate with some of the workgroups.

Overall, progress from the workgroups has been slow. DSS provided information on the activities of the three workgroups in its October 11, 2024, Data Submission to the Court.[111] The Kin-First Culture workgroup has spent the year assessing the barriers and working to develop recommendations for improvement. DSS developed and disseminated an interagency survey to better understand current beliefs and knowledge about kinship care in South Carolina and has had a subgroup assess all of its policies and protocols to identify areas for streamlining as well as to identify gaps. DSS reported that the Placement Stability through Child and Family Team Meetings workgroup has reviewed data, completed case reviews and reviewed research briefs to better understand the potential impact of CFTMs in achieving placement stability, and has focused efforts on messaging the importance of placement providers attending CFTMs. DSS also reported that the Youth Centered Placement Design workgroup held a convening to better understand their work and the potential impact

[111] Letter from J. Michael Montgomery Providing Information Prior to 10/18/2024 Status Conference (October 11, 2024, Dkt. 324).

of a truly youth-centered placement system by including youth voice in the convening. On March 6, 2025, the co-leads of the three workgroups convened to crosswalk all recommendations that have been approved to move to the design and implementation phase and to identify workgroup members to participate in this next phase of workgroup activities.

Although the focus on root causes and the underlying needs of children and families is essential and urgent, the outputs from the workgroups in terms of tangible changes have been slow. Parallel to that work, and because of the known lifelong deleterious effects on children and families of separation, the Co-Monitors urged that more immediate actions be taken in response to the alarming rate at which children experience placement instability and continue to be housed in DSS offices. The Court's orders directing the formation of the Richland County task force and improvement plan have hopefully created a greater sense of urgency to move to action. The Co-Monitor's expectation is that as the Richland County plan is refined through implementation, it has the potential to be a blueprint for action to address placement instability throughout South Carolina.

Expansion of Home- and Community-Based Services Through Medicaid

DSS and its partner agencies continued to move forward this monitoring period with some of the recommendations included in the Co-Monitors' Supplemental Report.[112] With the support of the Governor's office, there appears to be increased collaboration between agencies and other key partners. DSS reported that the roll-out of evidence-based, prevention-focused Homebuilders and Multi-Systemic Therapy (MST) services has moved forward. Homebuilders was officially added to the state Medicaid plan on July 1, 2024. DHHS, Select Health, providers, and DSS continue to meet to streamline implementation of Homebuilders through Medicaid. The first case of Homebuilders service coverage through Medicaid was received in August 2024.

DSS reported that DHHS also added the MST plan on July 1, 2024, and that the service is available to children in foster care in the Upstate and Midlands service areas. The Co-Monitors will continue to closely track and report on the implementation of MST

[112] A full list of Co-Monitor recommendations for addressing the placement crisis can be found in the Supplemental Report pp. 19-29, see: https://cssp.org/wp-content/uploads/2023/10/Supplemental-Report-re-South-Carolinas-Placement-Crisis.pdf

and Homebuilders. It is important to note that while MST and Homebuilders are valuable resources, both models have eligibility requirements that limit services to a modest number of children and families. For example, few class members are eligible for Homebuilders support because it is primarily a model to prevent abuse and neglect and entry into foster care.

The Co-Monitors continue to encourage DSS and its partner agencies to proceed expeditiously to develop a robust system of care and supports for South Carolina's children and families that are available at scale and across the state.

Expansion and Use of Removal Prevention Child and Family Team Meetings (CFTMs)

DSS leadership and staff reported that convening a removal prevention CFTM prior to a child's removal from their parents or within 24-hours of a child's placement into emergency protective custody has been an effective practice, both for keeping families together and for identifying kin and other family resources, should a child need to enter foster care. The use of CFTMs as part of efforts to prevent family separation has proved to be an effective practice in many jurisdictions throughout the country. In their Supplemental Report, the Co-Monitors recommended that CFTMs be mandated to routinely occur before or upon placement and in accordance with the GPS Case Practice Model.[113] The Co-Monitors also recommended that "DSS engage technical assistance support in the form of external expert consultation around the assessment of underlying needs and innovative problem-solving strategies with families, including use of flexible funds that could meet the needs of families to avoid family separation."[114]

DSS has not mandated CFTMs in all cases and across the state but is moving incrementally to develop and expand the practice. While the majority of CFTMs are facilitated by a modest number of "expert" facilitators limiting the number of families who have access to the CFTM process, DSS is beginning to train additional case managers in the four counties involved with its "Teaming for Teens" work (formerly referred to as Small Test of Change or STOC). These four counties have committed

[113] To view the GPS Case Practice Model, see: https://dss.sc.gov/media/2746/gps-practice-model-final.pdf

[114] *Michelle H.* Co-Monitors' Supplemental Report Regarding South Carolina's Placement Crisis (August 1, 2023, Dkt. 288-1), p.22. To view the full report, see: https://cssp.org/wp-content/uploads/2023/10/Supplemental-Report-re-South-Carolinas-Placement-Crisis.pdf

to use removal prevention CFTMs as a core strategy to prevent the unnecessary separation of children and families. During the prior monitoring period, as part of the Teaming for Teens work, DSS began rolling out removal prevention CFTMs focused on young people ages 13 to 17 who are at risk of entering foster care in three counties in the state: Anderson, Greenville, and Spartanburg, and during the fourth quarter of 2024 Richland County also began using removal prevention CFTMs. DSS reported that as of late February 2025, leadership in all four counties had completed Removal Prevention Orientation Training and training for line-staff in Richland County had also been completed with sessions for line-staff in the remaining three counties scheduled for March 2025. DSS also reported that the focus of this work has begun to shift to the development of a mandatory and standardized removal prevention meeting process scalable across the state.[115]

The Co-Monitors encourage the Department to move swiftly with statewide implementation of this important strategy, and to dedicate sufficient resources to support it. This includes preparing trained case managers to facilitate team meetings for their own caseloads as well as providing access to ample flexible funding that can be quickly accessed and creatively utilized by teams working with children and their families to support child-specific efforts ensuring safety, stability, permanency, and well-being.[116] Until CFTMs become fully incorporated into practice and are consistently used to engage, assess, and support children and families upon initial and/or sustained involvement with DSS, the potential of CFTMs to be more than a crisis response will not be fully realized.

[115] Letter from J. Michael Montgomery Providing Information Prior to 10/18/2024 Status Conference (October 11, 2024, Dkt. 324).

[116] As identified in the Supplemental Report, successful implementation will require flexible funds to be available to CFTMs, without unnecessary layers of approval. To meet needs identified by children and their families, these funds should be easily accessible to staff and available for concrete supports and non-traditional interventions not currently funded through other state and federally funded programs. *Michelle H.* Co-Monitors' Supplemental Report Regarding South Carolina's Placement Crisis (August 1, 2023, Dkt. 288-1), p.23.

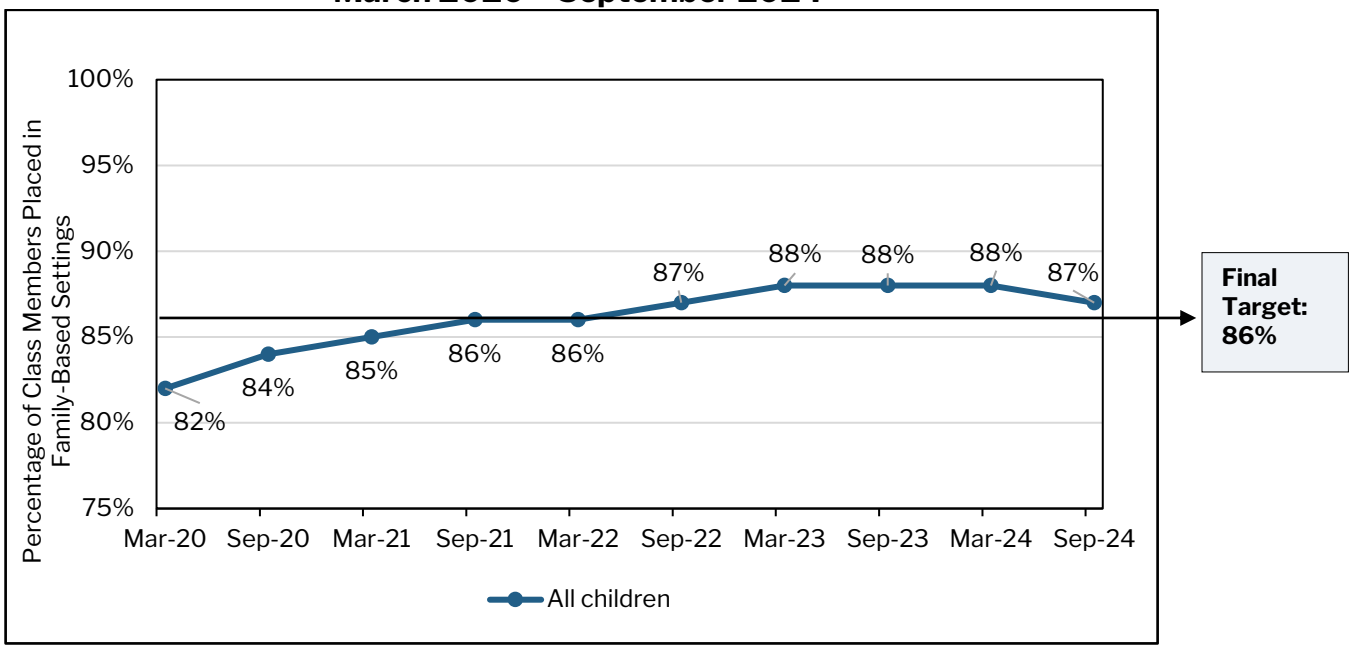
Placement Performance Data

Placement of Children in Family-Based Settings

The FSA contains several provisions related to the placement of children in the most family-like, least restrictive environments necessary to meet their needs. Overall, the FSA requires that "*at least 86 percent of Class Members be placed outside of congregate care on the last day of the reporting period*" (FSA IV.E.2.).

As shown in Figure 24, as of September 30, 2024, 87 percent (2,905 of 3,322) of Class Members were placed in family-based settings and outside of congregate placements.[117] Performance continues to meet the final FSA target for children residing in family-based placements.[118]

Figure 24: Trends in Placement of Children in Family-Based Settings March 2020 – September 2024



Source: CAPSS data provided by DSS

[117] Twenty-three children resided in other institutional settings and were removed from the universe. Specifically, DSS reports that 12 children were incarcerated in correctional or juvenile detention facilities, 10 children were hospitalized, and one child was in a DDSN Community Training Home.

[118] This measure captures strictly the type of setting in which children are placed at a given point in time and does not reflect stability or the long-term nature of that placement. Children in emergency placements are included in this calculation as residing in family-based placements.

The FSA also includes placement standards specific to certain age groups of children. It requires that *"[a]t least 98% of the Class Members twelve (12) years old and under shall be placed outside of Congregate Care Placements on the last day of the Reporting Period unless an exception pre-approved or approved afterwards by the Co-Monitors is documented in the Class Member's case file"* (FSA IV.E.3.). DSS is further required to prevent, with exceptions approved by the Co-Monitors, *"the placement of any Class Member age six (6) and under in any non-family group placement (including but not limited to group homes, shelters or residential treatment centers)"* (FSA IV.D.2.).[119,120]

The Court granted Maintenance of Effort status for both provisions on October 18, 2024, and DSS continued to meet final performance targets during the monitoring period.[121] As of September 30, 2024, 98 percent (2,169 of 2,205) of Class Members ages 12 and under resided in a family–based setting and outside of a congregate placement, and all 11 children ages birth to six who resided in congregate facilities during the monitoring period were placed in those settings pursuant to an agreed upon exception.[122]

While the FSA does not include targets for the placement of children ages 13 to 17 outside of congregate care settings, it bears noting that children in this age range are far more likely than younger children to be placed in congregate settings and at

[119] On March 15, 2016, the Co-Monitors approved DSS's plan, including acceptable exceptions (due to medical necessity, placement with parents, or placement with siblings), and DSS issued a directive outlining the procedure to be used by staff to reduce the placement of young children in congregate care, and ensure the appropriate placement of children ages six and under in family placements (FSA IV.D.2.). The procedure requires approval of a Regional Director prior to the placement of any child under the age of seven in a non-family-based setting.

[120] The following are exceptions approved by the Co-Monitors to the requirement that children ages 6 and under be placed outside of placed outside of congregate care: the child requires a degree of clinical and/or medical support that can only be provided in a group care setting and cannot be provided in a family-like setting, and the placement is a facility that has the capacity and specialized treatment to meet those needs; the child is the son or daughter of another child placed in a group care setting; or the child coming into foster care is in a large sibling group and all efforts to secure foster home and therapeutic foster home placements have been completed and have not produced a home. In the last instance, placement in a facility that can accommodate the sibling group together and maintain daily contact between siblings is an allowable exception. This exception is time-limited for up to 90 days and can be extended for time-limited increments after considering and documenting the best interests of the children and pursuing and documenting intensive efforts to identify and support an appropriate placement or placements.

[121] Order on Motion for Miscellaneous Relief (October 18, 2024, Dkt.329).

[122] This includes 8 children under the age of 6 who resided with their parent in a residential facility.

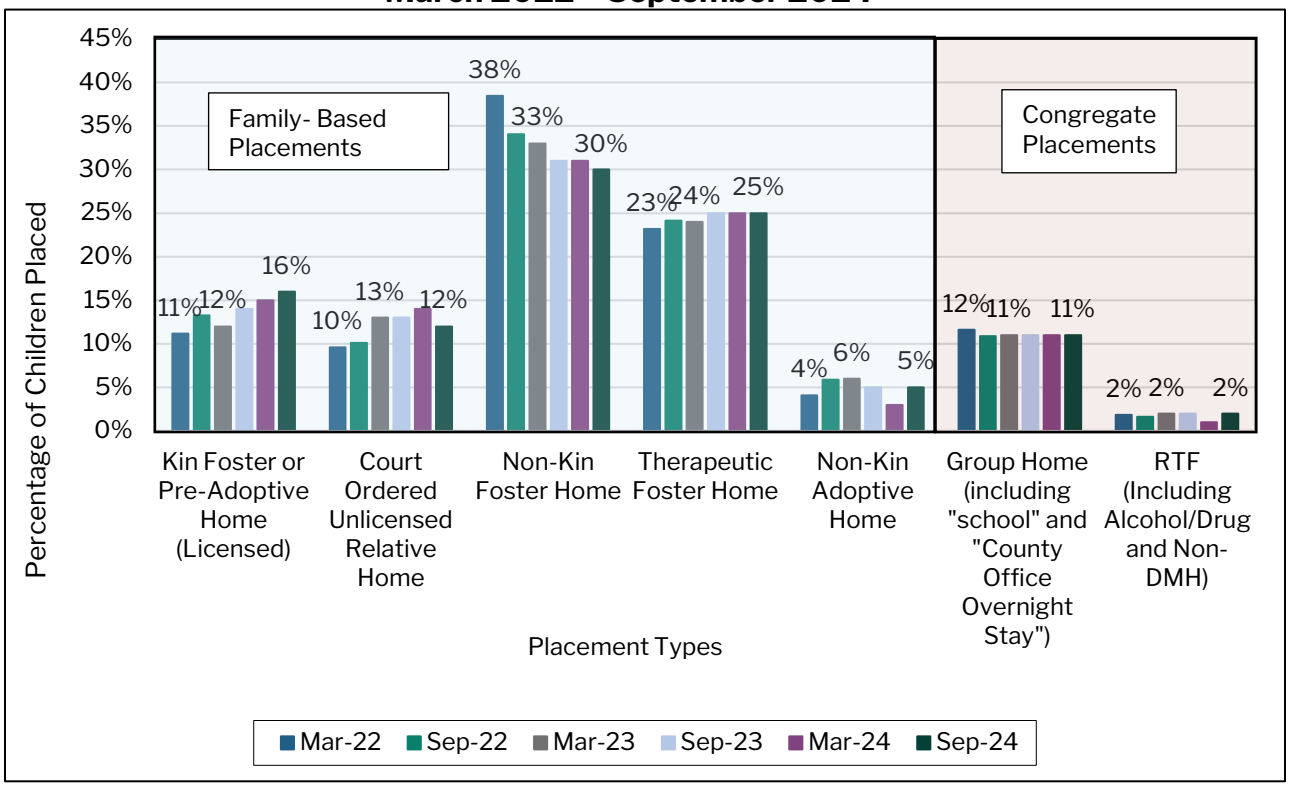
consistently high rates. On September 30, 2024, 33 percent (373 of 1,117) of children ages 13 to 17 resided in a congregate facility; this is nearly the same performance as the prior monitoring period (34%).

Distribution of Placement Types

Figure 25 shows the breakdown for all placement types of children in DSS custody on the last day of the monitoring period. On September 30, 2024, 16 percent (532 of 3,322) of children resided in licensed kin foster homes. When combined with court-ordered unlicensed relative placements, 28 percent (927 of 3,322) of children were placed with relatives. As of September 30, 2024, 60 percent (1,978 of 3,322) of children were placed in foster or adoptive homes with non-kin, including: 1,013 (30%) children placed in non-kin foster homes, 814 (25%) children placed in therapeutic foster homes, and 151 (5%) placed in non-kin adoptive homes.[123] Consistent with previous monitoring periods, most children in congregate placements resided in group homes which include county office overnight stays (11%, or 366), while 51 (2%) children were in residential treatment facilities.[124]

[123] As in many systems across the country, in South Carolina, some private organizations are licensed as Child Placing Agencies (CPAs). These agencies receive funding to provide foster care placement and monitoring through group facilities or by recruiting, training, and licensing foster parents. Many children in non-kin foster or therapeutic foster homes are placed through CPAs. On the last day of the period, September 30, 2024, 38% of children in DSS custody were in a CPA placement.
[124] This includes 13 children who slept overnight in a DSS county office on the last day of the monitoring period. These are not licensed or appropriate foster care placements.

Figure 25: Percentage of Children in Family-Based and Congregate Placements March 2022 – September 2024



Source: CAPSS data provided by DSS

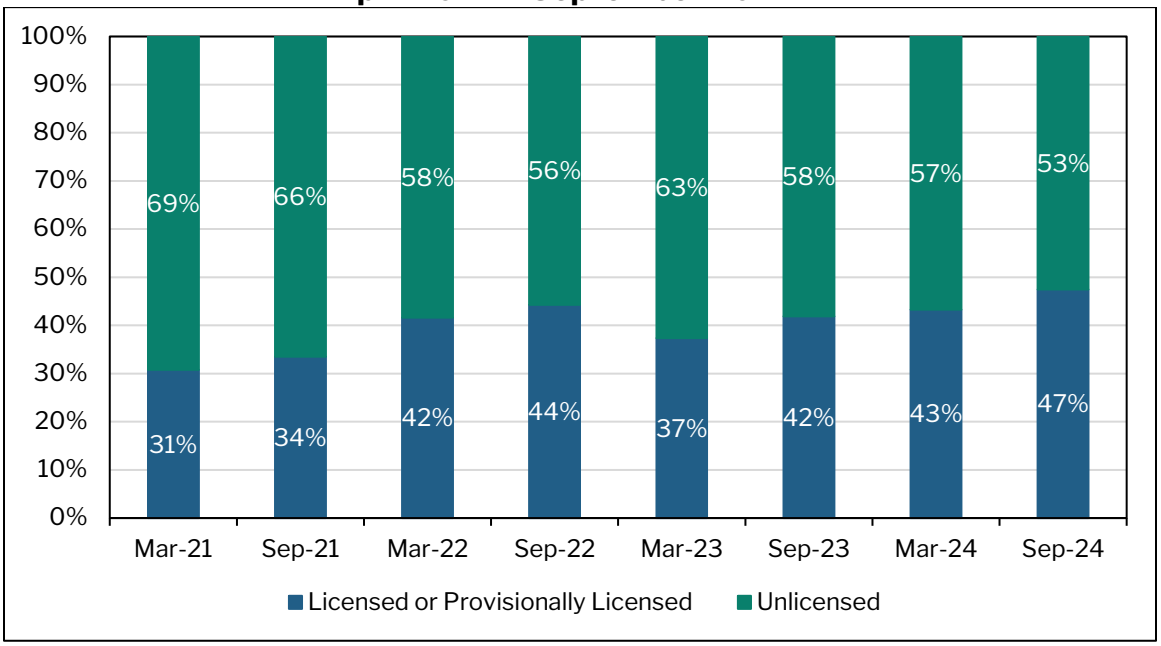
Kin Placement and Licensure

DSS continues to dedicate staff to recruiting, licensing kin, and prioritizing placement with kin following its July 2020 reorientation which shifted the licensing of non-kin foster homes to private agencies under contract. In May 2023, in recognition of the need for additional capacity, DSS re-initiated direct licensing of foster homes for adolescents, children who identify as LGBTQ+, and large sibling groups.

DSS reported that it offers licensing as an option to all kin caregivers and that staff share with potential kin caregivers the benefits of licensure, including eligibility for full foster care maintenance payments. Much of the discussion in the Kin-First work group has focused on gathering information about what is currently available to support kin placements and reviewing what needs to be done in terms of messaging and communication to make sure that case managers across the state are aware of this focus and the availability of supports. The overall trend, as shown in Figure 26, is

an increasing rate of licensed kin homes.[125] Forty-seven percent of kin caregivers were licensed or provisionally licensed as September 30, 2024, compared with 43 percent as of March 31, 2024.

Figure 26: Kinship Licensing Trends
April 2022 – September 2024[126]



Source: CAPSS data provided by DSS.

In accordance with new federal regulations urging states to provide the same maintenance payments to all caregivers, including approved kin caregivers and those with provisional licenses, DSS reported that it pays kin caregivers who are licensed and those who are provisionally licensed the same rate as non-related foster family homes.[127] As 53 percent of kin caregivers are unlicensed as of September 2024, DSS is working to develop and implement strategies with the goal of increasing equity and maximizing payments to all kinship caregivers. This will be essential if DSS is to be

[125] Provisional licensure allows a child to be placed in the kin home before the full foster parent licensure process has been completed.
[126] Due to shifts in DSS data collection and reporting timelines, beginning in September 2023, data included herein are as of the first day of the following month. For example, data for March 2024 were reported by DSS as of April 1, 2024 (instead of March 31, 2024, as previously reported).
[127] In recognition of the importance of kinship support in improving outcomes for children and families, on September 28, 2023, the Administration for Children and Families published a new rule allowing Title IV-E agencies to utilize separate licensing and approval standards for kinship placements. For more information, see: https://www.federalregister.gov/documents/2023/09/28/2023-21081/separate-licensing-or-approval-standards-for-relative-or-kinship-foster-family-homes

successful in further expanding the array of kin providers throughout the state. DSS reports that funds requested as part of the agency's SFY2025-2026 budget plan, if approved, will allow DSS to compensate equally both unlicensed court-ordered kinship families that are unable to meet the separate kinship licensing standards, and licensed or provisionally licensed kinship families.

Also in accordance with the new federal regulations which allow for separate licensing and approval standards for kinship placements, DSS in its October 2024 Data Submission to the Court, laid out three objectives to implement kin-specific licensing and approval: (1) amend South Carolina statutes to allow DSS to implement streamlined licensing and approval standards for kin that differ from non-relative foster family homes; (2) amend current foster family home regulations and promulgate new kin-specific licensing and approval standards; and (3) obtain approval from the Administration for Children and Families for an amendment to the Title IV-E State Plan to allow the state to proceed with the streamlined standards and receive federal reimbursement.[128] DSS reported that it has filed proposed kin-specific licensing and approval standards which were published in the State Register on August 23, 2024, and will be seeking approval of the final kin-specific standards by the General Assembly during the first regular session of the 126th South Carolina Legislature.[129]

Finally, as reported in its October 2024 Data Submission to the Court, DSS is also working to increase supportive services for kin caregivers.[130] In October 2023, DSS issued three capacity-building grants to replicate Nevada-based Foster Kinship's Kinship Navigator Program in South Carolina. DSS implemented Foster Kinship Navigator Services on August 1, 2024, and as of February 21, 2025, had sent 1,354 referrals for services statewide. DSS also reported drafting a separate scope of work for a Kinship Navigator Services Request for Proposal for long-term sustainability of the program being implemented through capacity building grants.

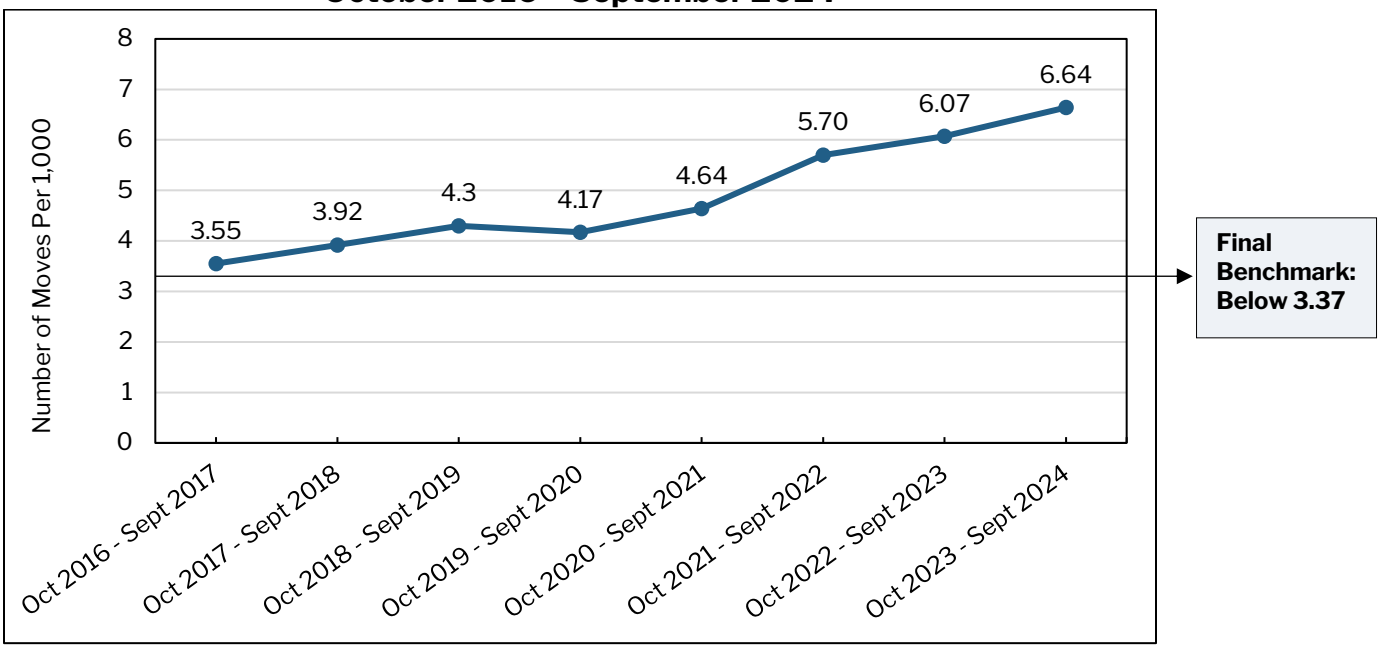
[128] Letter from J. Michael Montgomery Providing Information Prior to 10/18/2024 Status Conference (October 11, 2024, Dkt. 324).
[129] DSS's proposed regulations for the licensure of kinship caregivers were published in the State Register on August 23, 2024 (Document No. 5296). For more information, see: https://www.scstatehouse.gov/state_register.php
[130] Letter from J. Michael Montgomery Providing Information Prior to 10/18/2024 Status Conference (October 11, 2024, Dkt. 324).

Placement Instability

The FSA requires that for *"all Class Members in foster care for eight days or more during the 12-month period, the placement instability rate shall be less than or equal to 3.37"* (FSA IV.F.1.). Placement instability is defined as the rate of placement moves per 1,000 days of foster care among Class Members (FSA II.O.); placement moves are changes in foster care placements.

DSS reported that for the period October 1, 2023, to September 30, 2024, Class Members were moved an average of 6.64 times per 1,000 days in care.[131,132] As shown in Figure 27, placement instability continued to increase significantly and is at the highest level since the lawsuit began.

Figure 27: Rate of Placement Moves
October 2016 – September 2024



Source: CAPSS data provided by DSS

[131] DSS reports the placement instability rate annually.
[132] For the purpose of this measure, a placement change is considered as a move if it was not temporary (the child did not return to the original placement), the move was not the original removal episode, and the child's length of stay in foster care was greater than 7 days.

As shown in Table 5, between 11 and 14 percent of children in each region experienced two or more placement moves (meaning at least three placements) in the six-months between April 1, and September 30, 2024.

Table 5: Number of Children Experiencing Placement Moves, by Region April 1 – September 30, 2024[133]

Number of Moves	Lowcountry		Midlands		Pee Dee		Upstate		Statewide	
0 Moves	526	54%	913	59%	443	51%	669	51%	2551	54%
1 Move	255	26%	341	22%	248	29%	383	29%	1227	26%
2-3 Moves	121	13%	168	11%	106	12%	183	14%	578	12%
4-5 Moves	32	3%	50	3%	31	4%	25	2%	138	3%
6-10 Moves	25	3%	43	3%	22	3%	33	3%	123	3%
>10 Moves	7	1%	39	3%	11	1%	11	1%	68	1%
Grand Total	996	100%	1554	100%	861	100%	1304	100%	4685	100%

Source: CAPSS data provided by DSS

A significant number of children who enter foster care in South Carolina exit and return to their parents or another relative after a very short period of time. Many of the children who experience these "short stays" in foster care enter care as the result of a unilateral removal by law enforcement. Data for the April 1 to September 30, 2024, monitoring period show 24 percent (330 of 1,399) of children who entered care during the six-month period remained in care for 60 days or fewer, including 14 percent (190 of 1,399) who were in care for seven days or less. Of the 190 children who entered foster care and remained in care for seven days or less, 87 percent (166) entered care due to a unilateral emergency removal by law enforcement. South Carolina's high rate of short stays in care places tremendous strain on child welfare system resources, including the placement array, and is a significant contributing factor to the state's placement instability crisis.

Overnight Stays in DSS Offices and Hotels

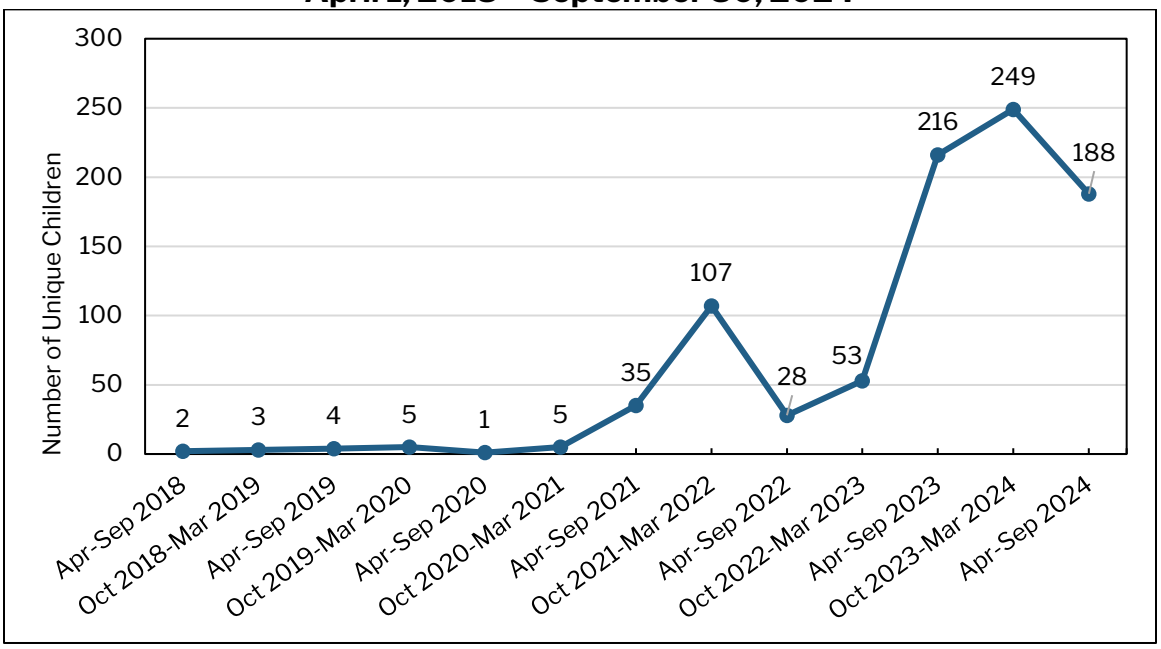
The FSA requires that by November 28, 2015, *"DSS shall cease using DSS offices as an overnight placement for Class Members and shall cease placing or housing any Class Members in hotels, motels and other commercial non-foster care establishments. For any Class Members moved out of such DSS Offices or Hotels, DSS shall provide for their appropriate placement. In the extraordinary event that a*

[133] Ibid.

child stays overnight in a DSS office, Defendants shall immediately notify the Co-Monitors, who shall provide a report to Parties as appropriate, including whether or not, in their view, the incident should be reported to the Court as a violation which would preclude Defendants' ability to achieve compliance on this provision" (FSA IV.D.3.).

As shown in Figure 28, between April 1 and September 30, 2024, 188 unique children experienced overnight stays in DSS offices. This is a significant decrease compared to the prior monitoring period when 249 unique children spent experienced overnight office stays. However, as discussed below, the decrease in office stays has been accompanied by an increase in night-to-night placements and placements of children in temporary arrangements far from their home counties.

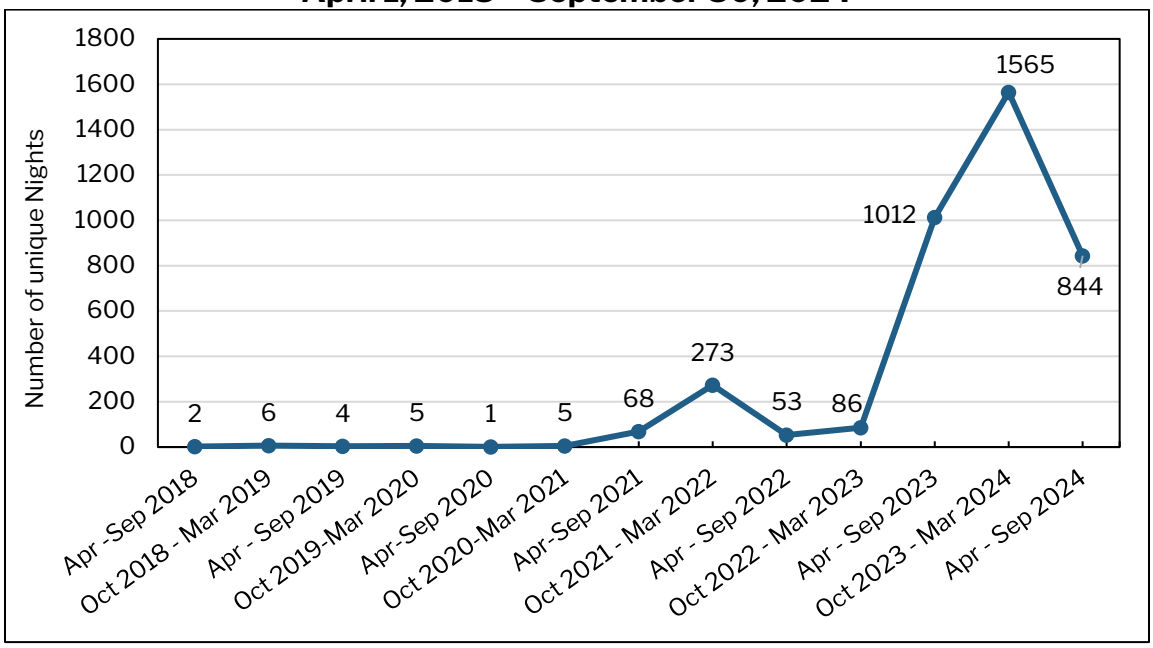
Figure 28: Number of Unique Children Who Stayed Overnight in a DSS Office April 1, 2018 – September 30, 2024



Source: CAPSS data provided by DSS

Likewise, when measured in terms of the total number of *nights* spent in DSS offices, as opposed to children, there was a significant decrease. As shown in Figure 29, Class Members spent 844 nights in DSS offices in the most recent six-month monitoring period (April 1 to September 30, 2024), compared to 1,565 nights during the prior monitoring period.

Figure 29: Number of Nights Children Stayed at a DSS Office
April 1, 2018 – September 30, 2024

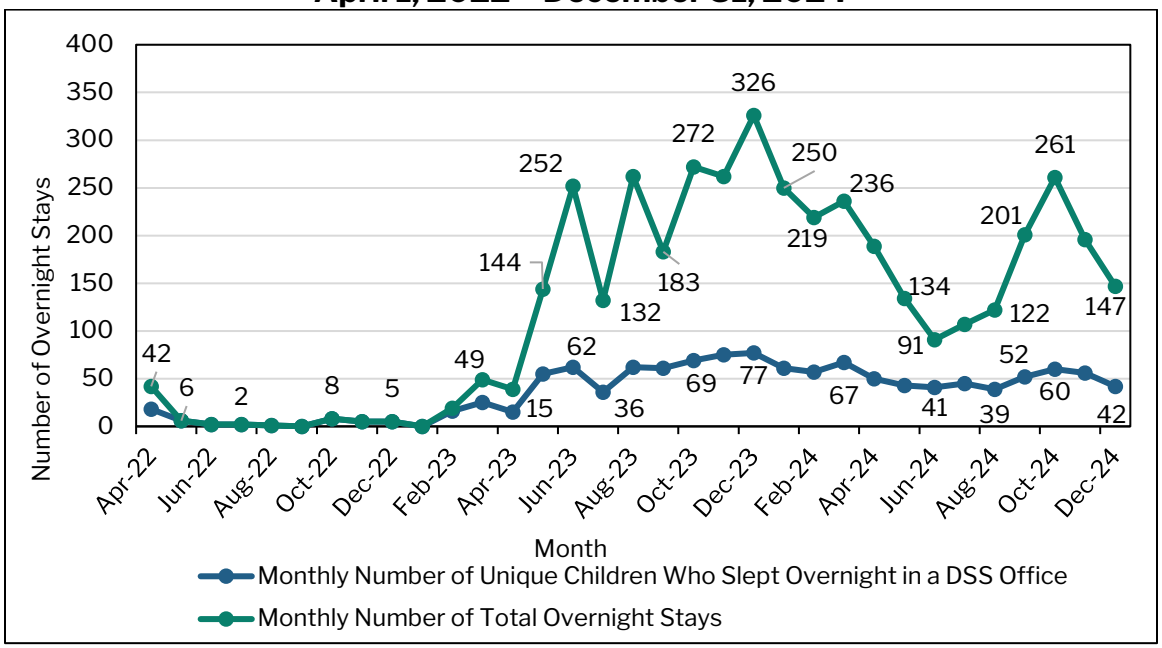


Source: CAPSS data provided by DSS

While reductions in both the number of children experiencing overnight office stays and the number of nights children spent in DSS offices represent significant progress, they remain far higher than the data show in 2022 and earlier.

Figure 30 shows the monthly number of unique children who slept overnight in a DSS office and the monthly number of total overnight office stays. As indicated by the trendline, the number of overnight stays can be highly variable from month to month. According to data provided by DSS, in the three months since the end of the monitoring period, there was a significant spike in overnight stays in October 2024 followed by decreases in both November and December 2024.

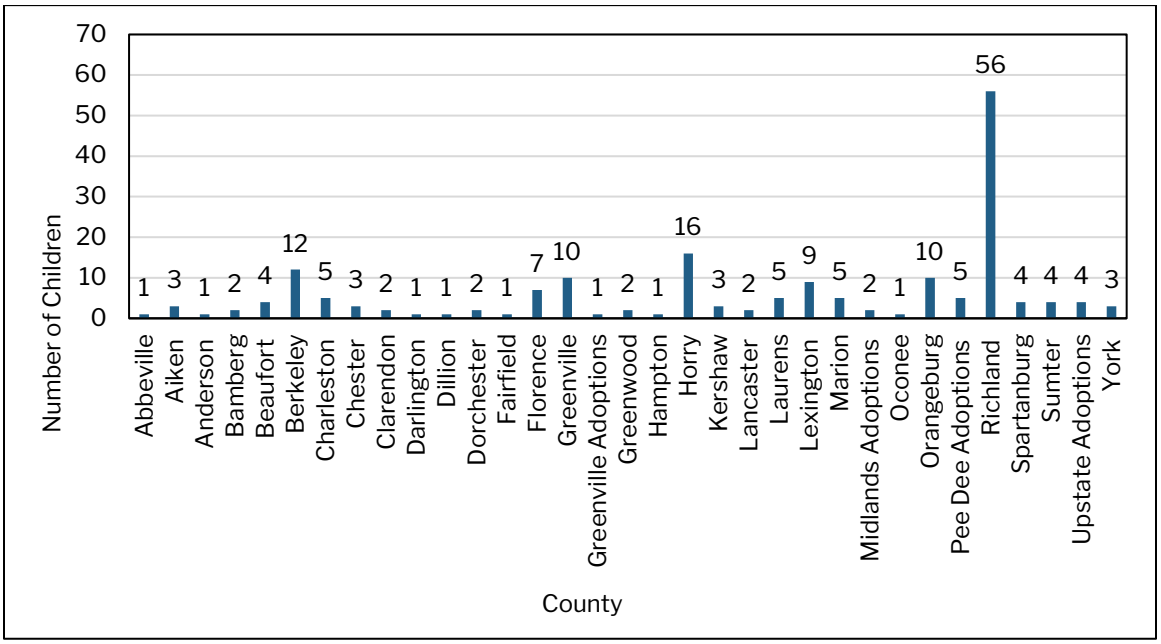
Figure 30: Monthly Overnight Stays in DSS Offices Experienced by Children April 1, 2022 – December 31, 2024



Source: CAPSS data provided by DSS

When assessed by county, of the 188 unique children who slept overnight in a DSS office between April 1 and September 30, 2024, 30 percent (56) children were from Richland County (see Figure 31).

Figure 31: Number of Unique Children Who Stayed Overnight in DSS Offices, by County
April 1 – September 30, 2024
N = 188[134]

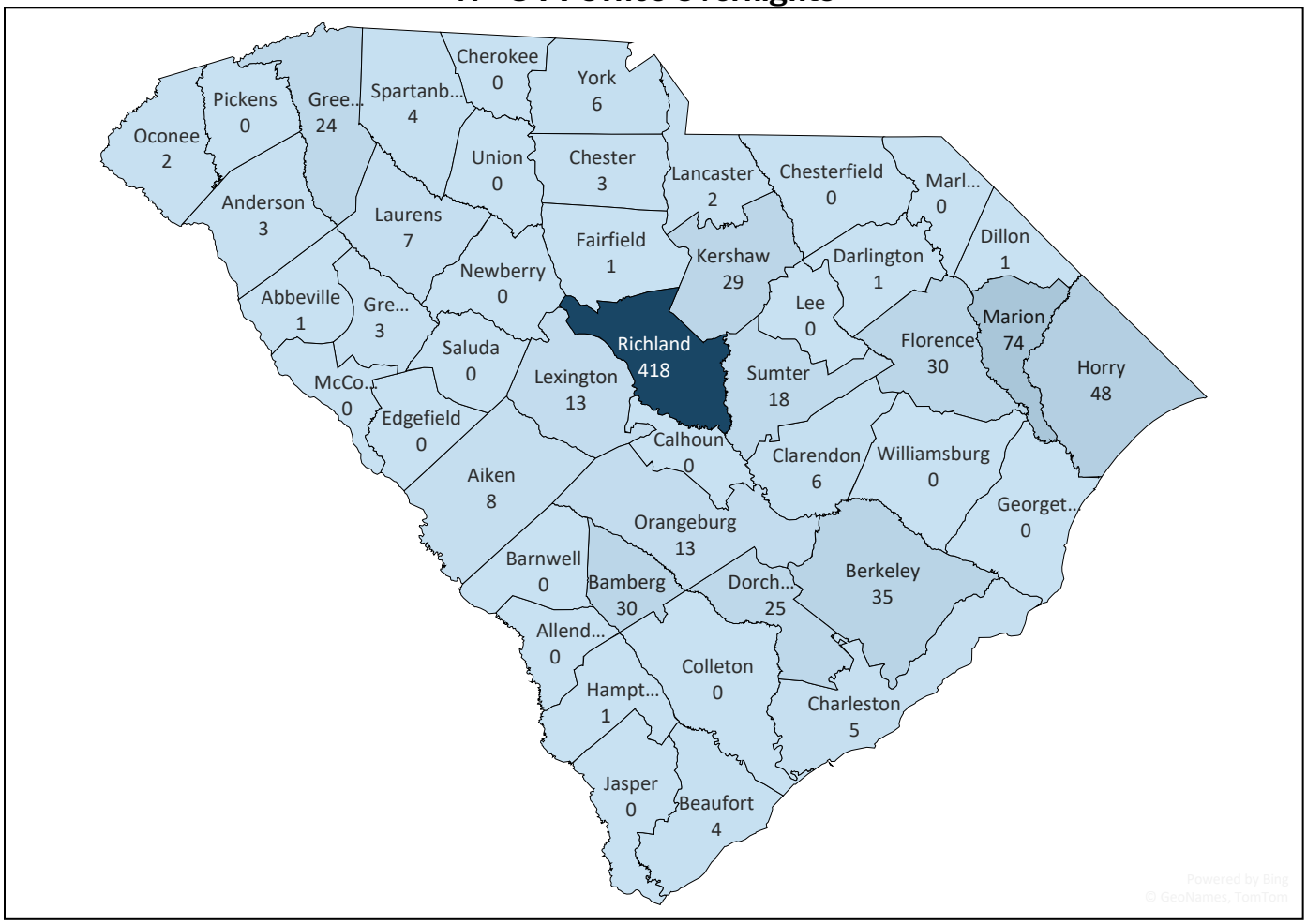


Source: CAPSS data provided by DSS

Figure 32 shows the total number of nights children stayed in a DSS office between April 1 and September 30, 2024, by county. Similar to the data in Figure 31, 50 percent (418 of 844) of overnight office stays were in Richland County. Richland County, however, accounted for just 12 percent (390 of 3,345) of the statewide foster care population on the last day of the monitoring period, September 30, 2024.

[134] Counties that did not have any children who experienced an overnight stay in a DSS office are omitted from the Figure.

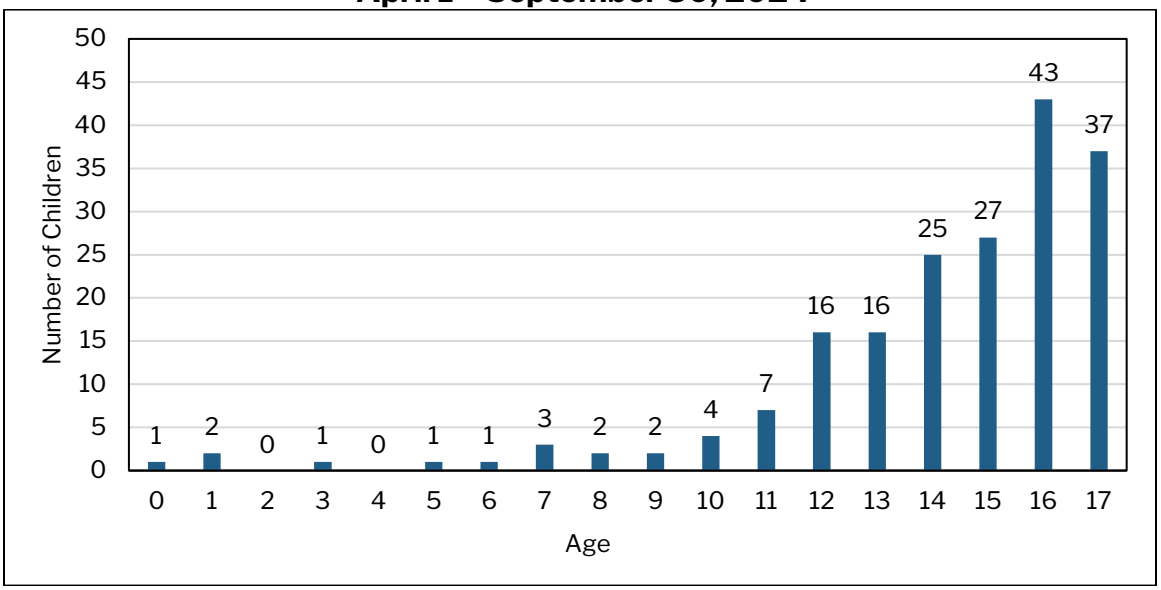
Figure 32: Number of Overnight DSS Office Stays, by County
April 1 – September 30, 2024
N = 844 Office Overnights



Source: CAPSS data provided by DSS

While the greatest number of children sleeping overnight in DSS offices were between 16 and 17 years old, many younger children also experienced overnight office stays. As shown in Figure 33, among the children who experienced at least one night in a DSS office during the period of April 1 to September 30, 2024, three percent (6 of 188) were age six or under, and 18 percent (34 of 188) were ages seven through 12.

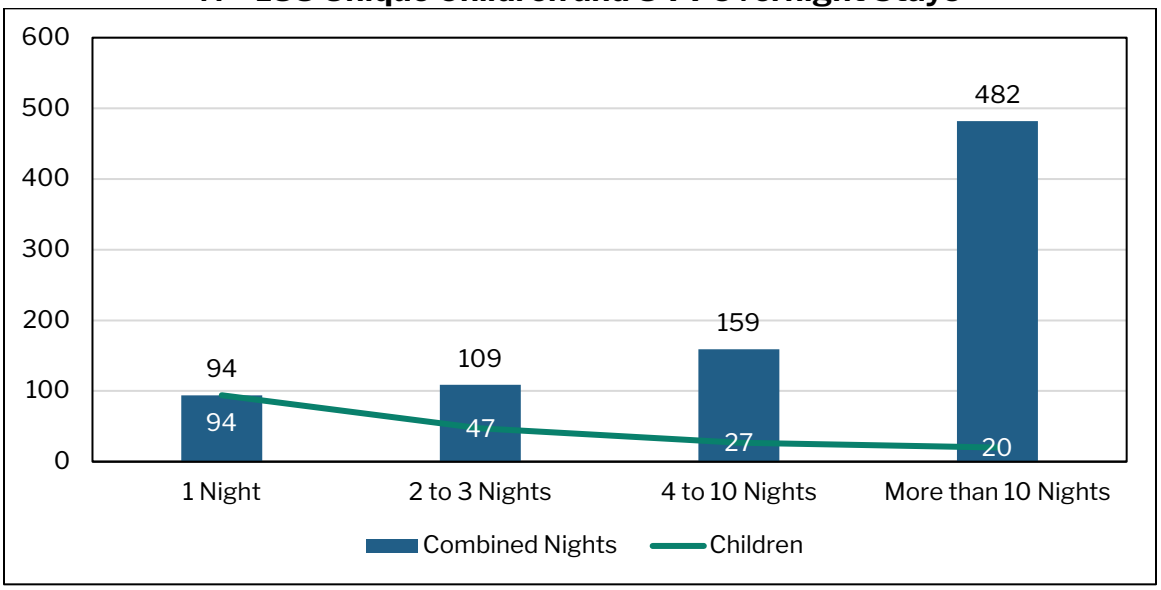
Figure 33: Number of Children Staying Overnight in DSS Offices, by Age
April 1 – September 30, 2024



Source: CAPSS data provided by DSS

As shown in Figure 34, a small number of children accounted for most of the nights spent in a DSS office. Among the 188 children who experienced an overnight office stay during the monitoring period, 20 (11%) children spent more than 10 nights in a DSS office. These 20 children spent a combined total of 482 nights in a DSS office, which accounts for 57 percent (482 of 844) of all overnight office stays during the monitoring period. In other words, despite representing 11 percent of the children who stayed in an office overnight, these 20 children experienced 57 percent of the overnight office stays.

Figure 34: Number of Nights Children Spent in DSS Offices
April 1 – September 30, 2024
N = 188 Unique Children and 844 Overnight Stays



Source: CAPSS data provided by DSS

Emergency Placements

The FSA requires that children should not remain in an initial emergency placement for longer than 30 days (FSA IV.E.4.), and if they experience an additional emergency placement within 12 months, the subsequent emergency placement should not last more than seven days (FSA IV.E.5.).

With regard to the specific FSA requirements, DSS reports that of the 637 children who experienced an emergency placement between April 1 and September 30, 2024, 22 had at least one emergency placement that lasted longer than 30 days.[135] Sixty-one percent (391 of 637) had already experienced at least one emergency placement within the prior 12 months, and 216 of those children had at least one subsequent emergency placement during the monitoring period that lasted more than seven days.

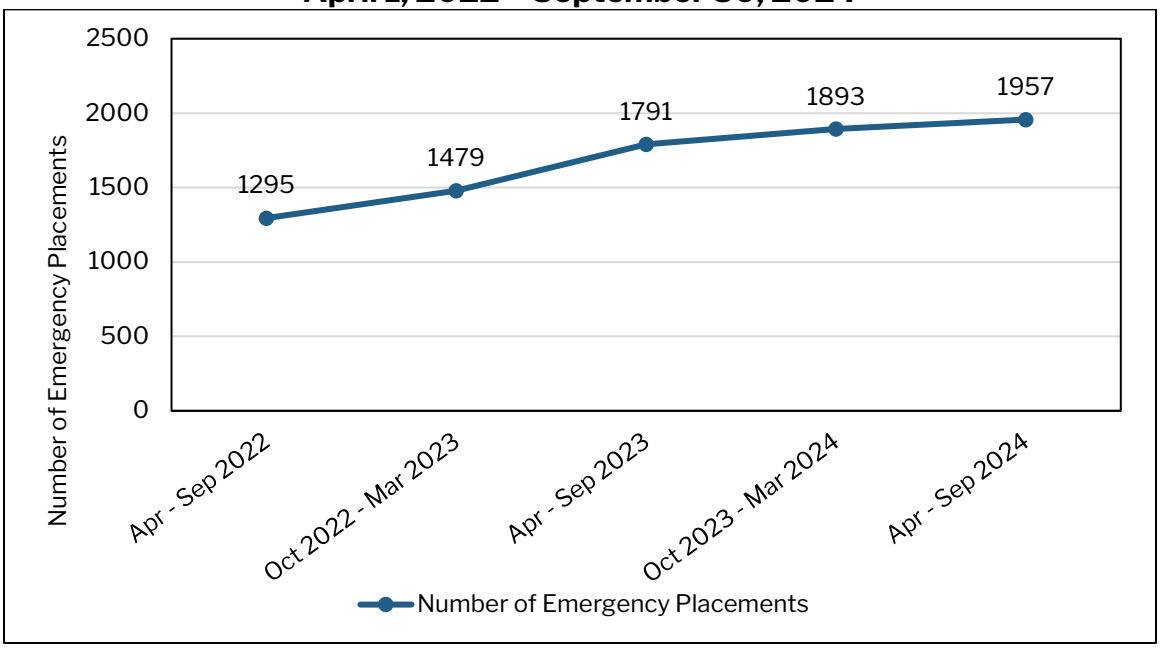
The FSA requirements, however, are of limited value in capturing the experiences of South Carolina's children, as children experiencing instability are more commonly

[135] When emergency placements last longer than 30 days, CAPSS triggers a redesignation for that placement to a long-term placement rather than emergency placement.

moved between emergency placements rather than remaining in a single emergency placement for a long period of time. The additional data provided in Figure 35 more fully describe the State's use of emergency placements.

Since the last monitoring period ending March 31, 2024, the number of emergency placements, the number of unique children who experienced an emergency placement, and the total number of nights that children spent in emergency placements increased. As mentioned above, as the State took action to decrease office stays, the solution too often was a very short-term emergency placement. As shown in Figure 35, DSS reported that there were 1,957 emergency placements of children between April 1 and September 30, 2024. This is the highest usage of emergency placements documented since the start of the lawsuit.

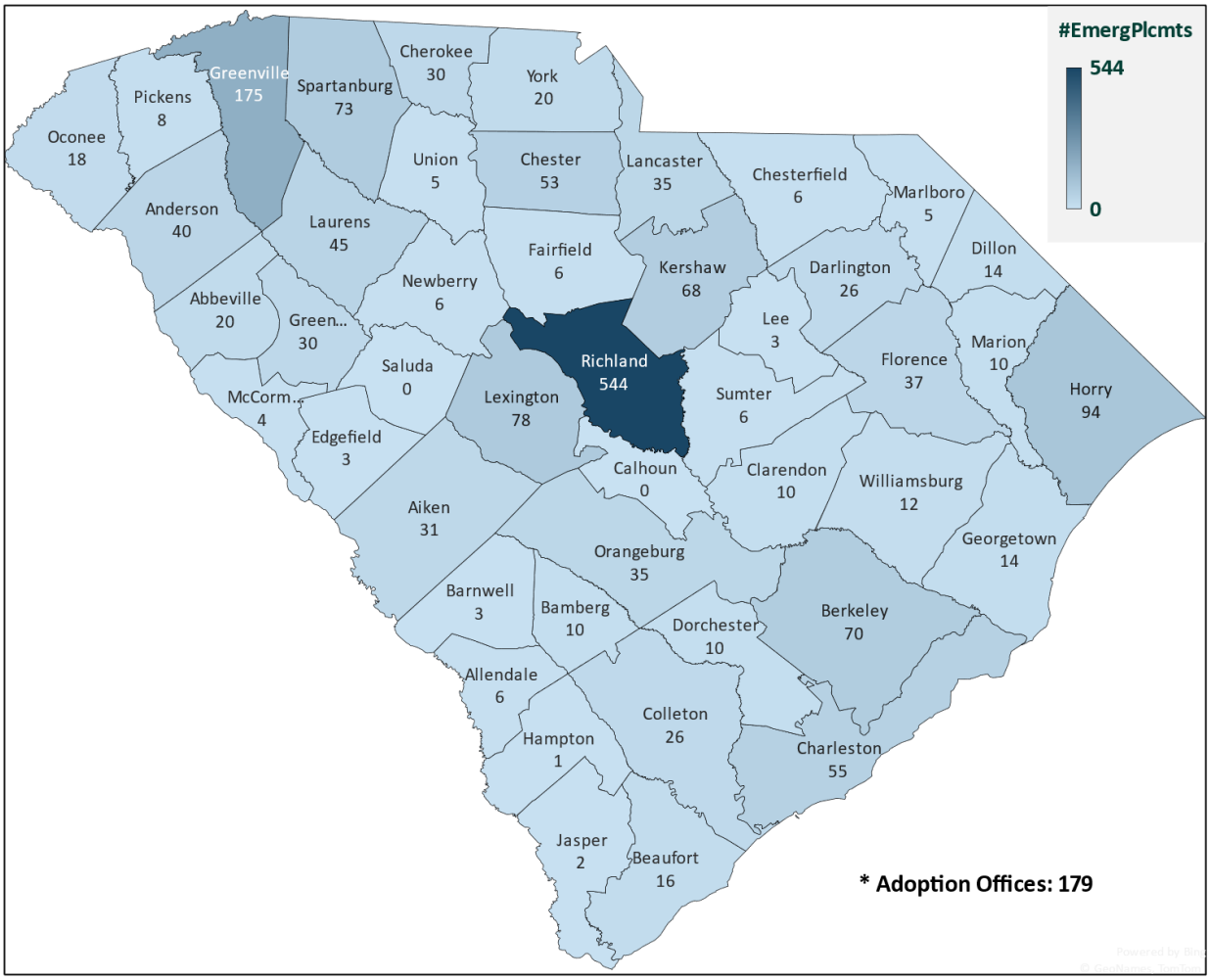
Figure 35: Number of Emergency Placements
April 1, 2022 – September 30, 2024



Source: DSS CAPPS Data

As shown in Figure 36, 544 of the 1,957 (28%) emergency placements were for children from Richland County.

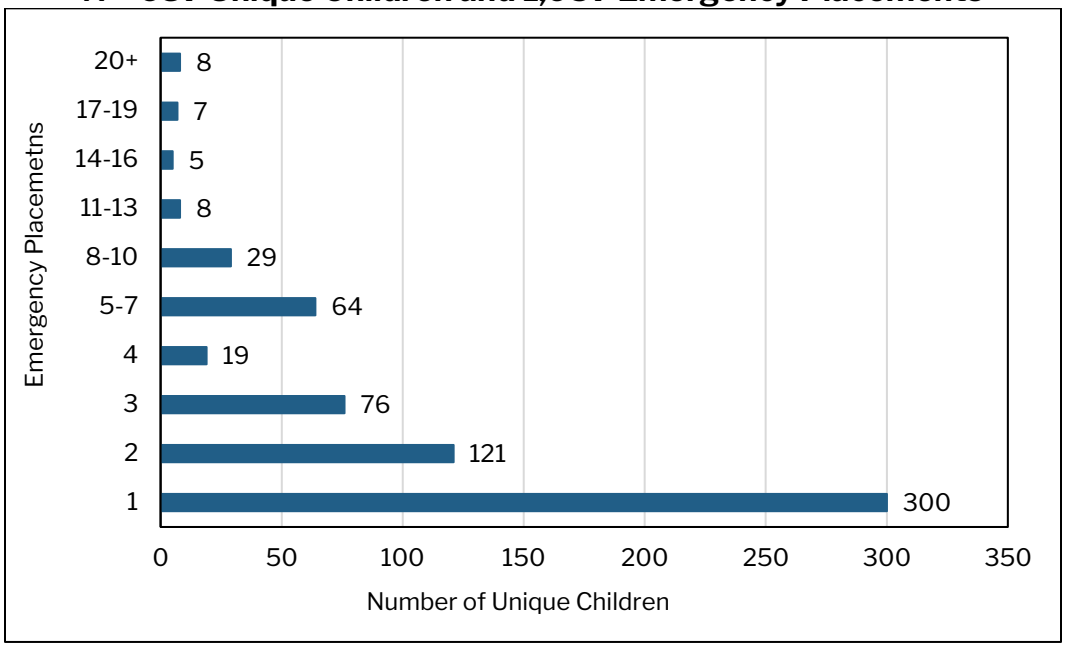
Figure 36: Number of Emergency Placements, by County
April 1 – September 30, 2024



Source: CAPSS data provided by DSS

The 1,957 emergency placements were experienced by 637 unique children, which is 20 percent (637 of 3,322) of the total number of children in care on the last day of the monitoring period. Figure 37 shows that of these 637 children, 300 (47%) experienced one emergency placement during the monitoring period, while eight (1%) experienced 20 or more emergency placements.

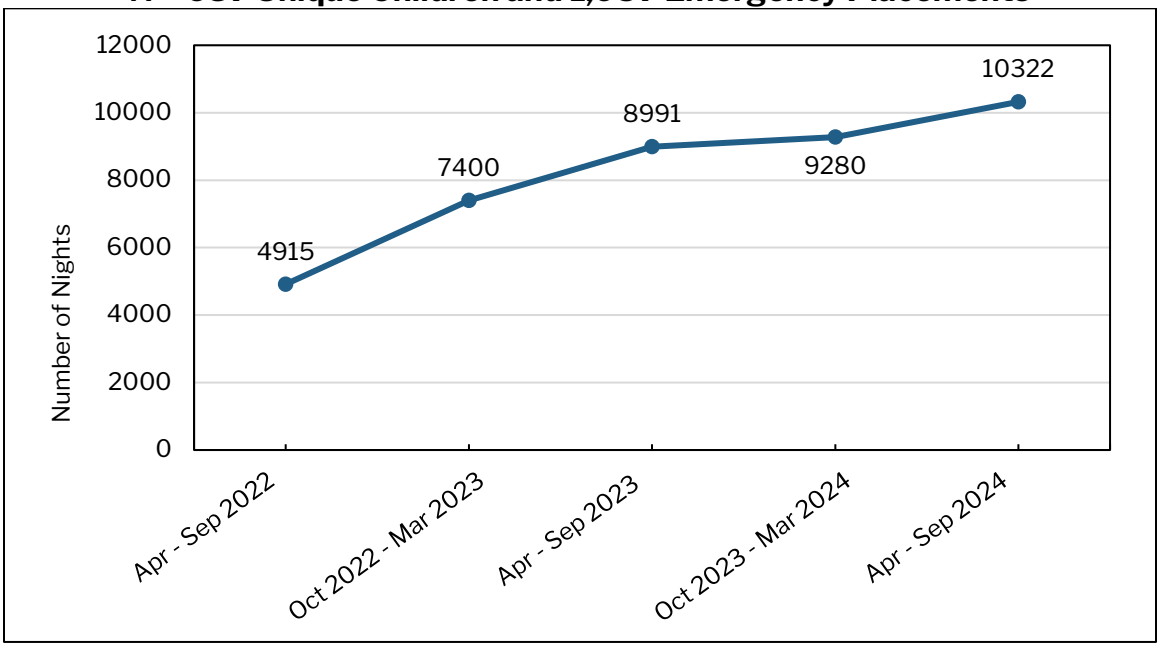
Figure 37: Number of Emergency Placements Experienced, by Class Members
April 1 – September 30, 2024
N = 637 Unique Children and 1,957 Emergency Placements



Source: CAPSS data provided by DSS

In total, children spent 10,322 nights in emergency placements between April 1 and September 30, 2024 (see Figure 38).

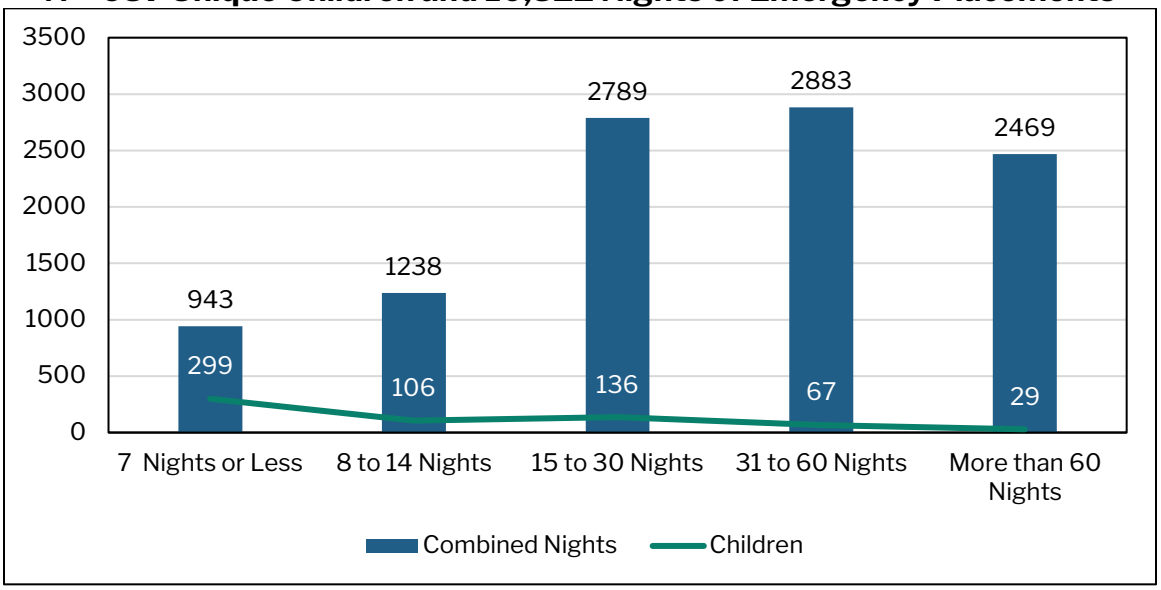
Figure 38: Total Number of Nights Children Spent in Emergency Placements
April 1, 2022 – September 30, 2024
N = 637 Unique Children and 1,957 Emergency Placements



Source: CAPSS data provided by DSS

Figure 39 shows the distribution of the number of nights children spent in emergency placements between April 1 and September 30, 2024. Twenty-nine children experienced more than 60 nights in emergency placements, with a combined total of 2,469 nights. These 29 children made up five percent of those who experienced emergency placements but accounted for 24 percent of the total number of nights spent in emergency placements during the monitoring period.

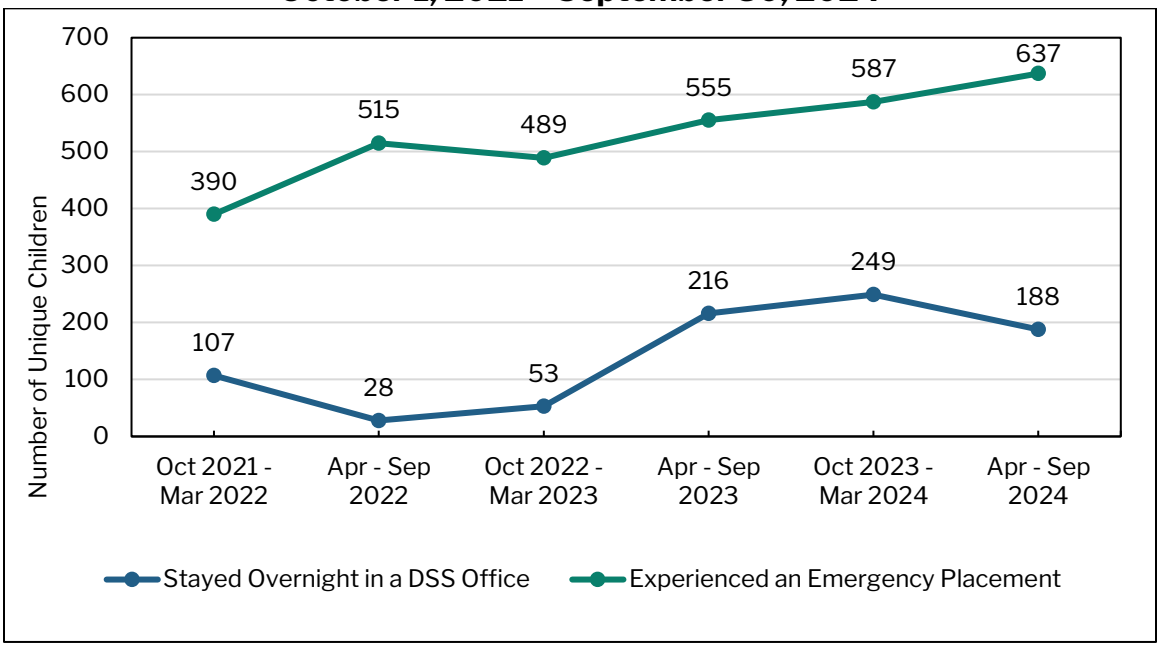
Figure 39: Number of Nights of Emergency Placements Experienced, by Children
April 1 – September 30, 2024
N = 637 Unique Children and 10,322 Nights of Emergency Placements



Source: CAPSS data provided by DSS

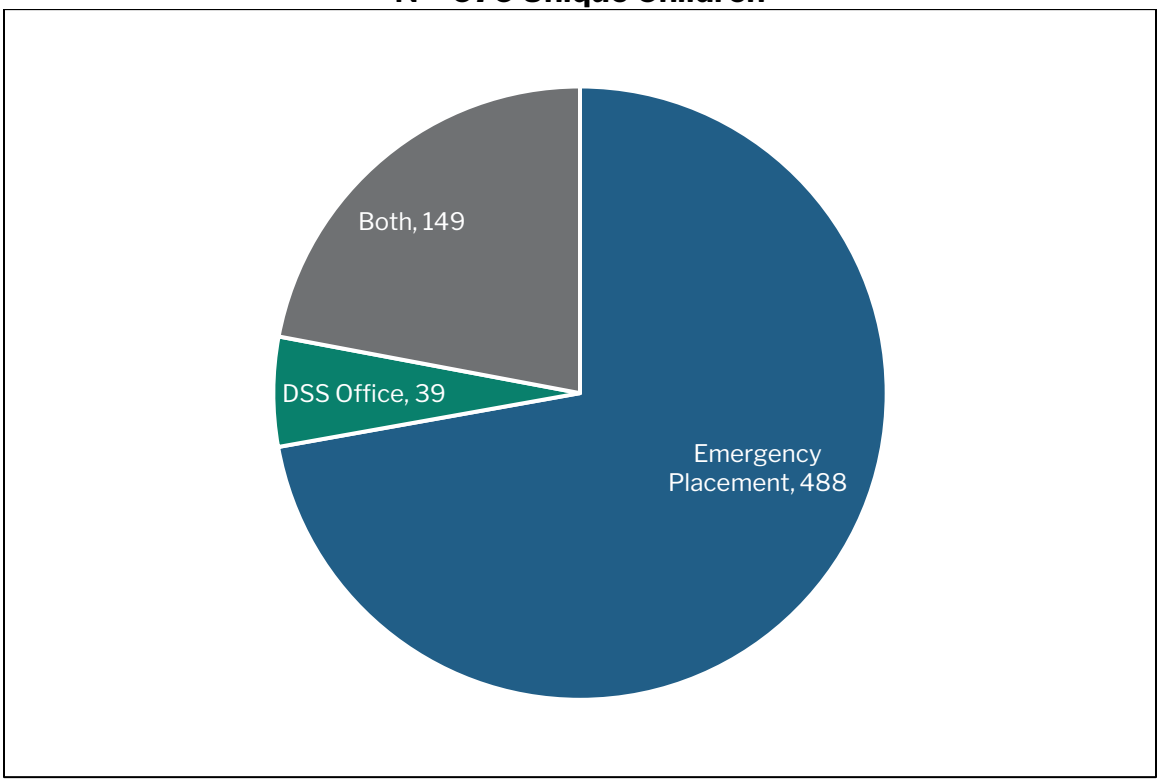
In practice, children are frequently moved between DSS offices and emergency placements while staff search for, and children await, appropriate and stable placement. During the monitoring period between April 1 and September 30, 2024, the total number of nights children spent in temporary placements (overnight office stays and emergency placements combined), increased to 11,166, compared to 10,845 during the prior monitoring period. Figure 40 shows the total number of children who experienced an overnight stay at a DSS office and the total number of children who experienced an emergency placement during the monitoring period. Figure 41 shows that among children who experienced a temporary placement, 149 (22%) children experienced both an overnight office stay and an emergency placement between April 1 and September 30, 2024.

Figure 40: Children Who Experienced an Overnight Stay at a DSS Office or an Emergency Placement
October 1, 2021 – September 30, 2024



Source: CAPSS data provided by DSS

Figure 41: Number of Children Who Experienced an Overnight Stay at a DSS Office, an Emergency Placement, or Both
April 1, 2021 – September 30, 2024
N = 676 Unique Children



Source: CAPSS data provided by DSS

While the reduction in the overnight office stays is encouraging, usage of short-term placements overall remains high statewide, and especially in Richland County. This is an untenable situation for children whose lives have already been disrupted by entry into foster care. The moves between short-term emergency placements and DSS offices disrupt family and community connections, school enrollment, participation in services, and can communicate to children that they are unwanted. Moreover, staying overnight in DSS offices is unacceptable and leads to escalating problems and harm to children, families, and DSS staff.

Juvenile Justice Placements

The FSA requires that *"[w]hen Class Members are placed in juvenile justice detention or another Juvenile Justice Placement, DSS shall not recommend to the family court or Department of Juvenile Justice that a youth remain in a Juvenile Justice Placement*

without a juvenile justice charge pending or beyond the term of their pleas or adjudicated sentence for the reason that DSS does not have a foster care placement for the Class Member. DSS shall take immediate legal and physical custody of any Class Member upon the completion of their sentence or plea. DSS shall provide for their appropriate placement" (FSA IV.H.1.)

Due to the complexities of tracking data in this area, the Co-Monitors have historically had to rely significantly on reports and discussions with community members and DSS to assess performance. In November 2022, the Co-Monitors and DSS, with the South Carolina Department of Juvenile Justice's (DJJ) permission and collaboration, published a report of findings from their joint comprehensive review of the experiences of children involved with both DSS and DJJ.[136]

During the prior monitoring period, DSS began implementing Teaming for Teens (formerly referred to as a Small Test of Change) in Anderson, Greenville, and Spartanburg Counties, and later added Richland County. A core strategy of the Teaming for Teens work is the use of removal prevention CFTMs to reduce the number of unnecessary entries of children into foster care due to EPCs of teens by law enforcement and the DJJ court. DSS reported that as of February 21, 2025, in Anderson, Greenville, and Spartanburg Counties 58 CFTMs involving 73 children have been completed and 62 of those children did not enter foster care during the 30-day period following the CFTM. In Richland County, where the use of removal prevention CFTMs began in the fourth quarter of 2024, 11 CFTMs involving 11 children have been completed and as of February 21, 2025, 10 of those children had not entered foster care. The Co-Monitors will continue to report on the progress of this promising developing work.

Sibling Placements

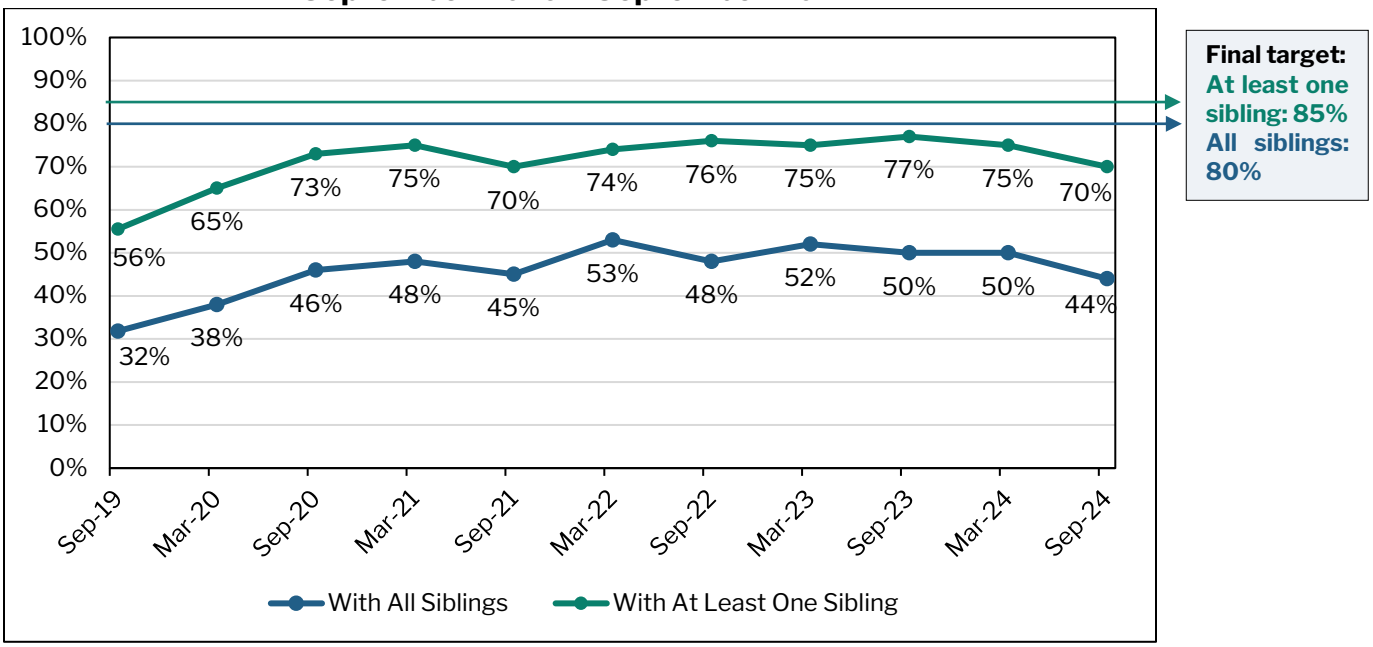
The FSA recognizes the importance of the lifelong and supportive relationships between children and their siblings and requires that *"at least 80 percent of children who enter care with or within 30 days of their siblings be placed with their siblings"* (FSA IV.G.2. & 3.). The FSA includes two targets — one for placement with *at least one*

[136] To view full report, including key findings and recommendations, see: https://cssp.org/wp-content/uploads/2022/10/FINAL-Children-Concurrently-Involved-with-SC-DJJ-and-DSS-Joint-Review-Findings-002.pdf

of a child's siblings (85% target) and the other for placement with *all* siblings (80% target).[137] DSS committed to achieving these targets by March 2021.

DSS provided data for 685 children who entered foster care from April 1 to September 30, 2024, with a sibling or within 30 days of a sibling's entry into foster care. That data show DSS placed 70 percent (482 of 685) of applicable children with at least *one* of their siblings and 44 percent (298 of 685) of applicable children with *all* of their siblings by 45 days after entry into care. As shown in Figure 42, this performance falls below performance from the prior two monitoring periods and does not meet the final FSA targets.

Figure 42: Sibling Placements for Children Entering Placement September 2019 – September 2024



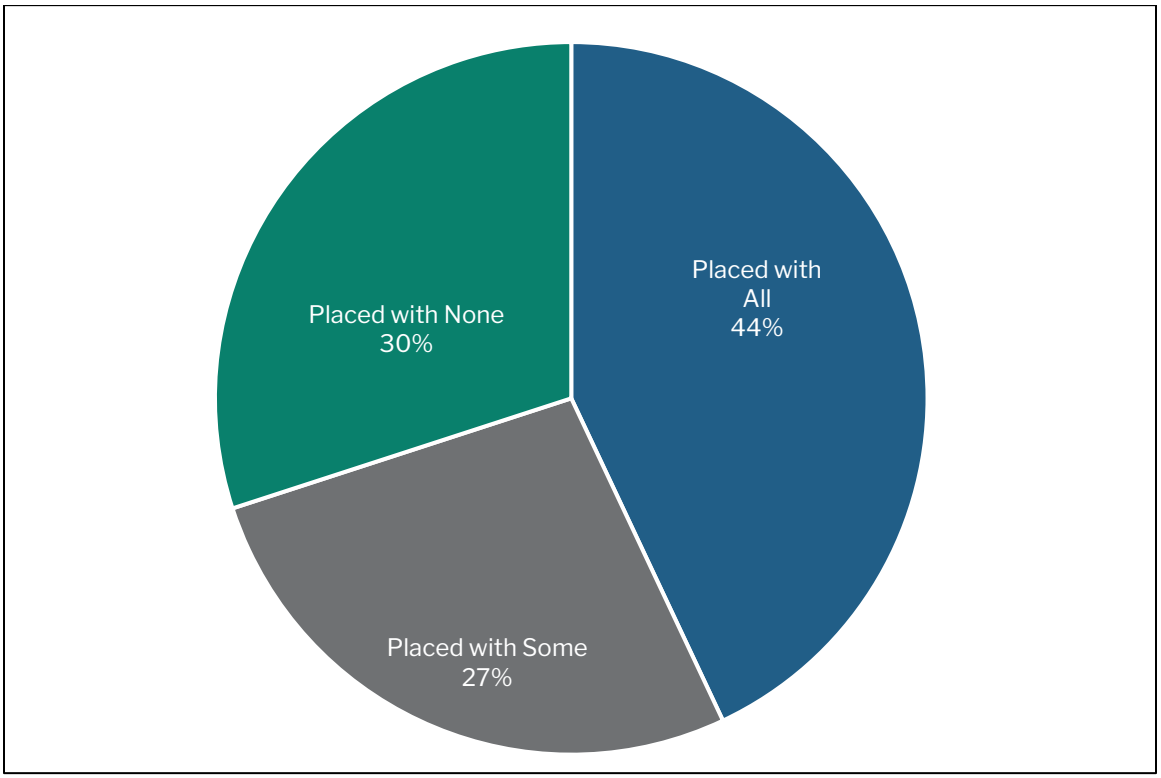
Source: CAPSS data provided by DSS

Figure 43 shows the breakdown of sibling placements between April 1 and September 30, 2024. Thirty percent (203 of 685) of all children entering care with their siblings were not placed with *any* siblings 45 days after entry into care. This

[137] The FSA allows for exceptions to this requirement, including when there is a court order prohibiting such placement or if the placement is determined not to be in the best interest of 1 or more siblings. Exceptions to placement of children with their siblings have been approved, though not applied, during this monitoring period; therefore, actual performance may be higher than reported. DSS will develop a process for review and approval of exceptions in a future monitoring period.

outcome is comparable to prior recent performance and fails to meet the FSA outcome.

Figure 43: Sibling Placements for Children Entering Care
April 1 – September 30, 2024
N = 685



Source: CAPSS data provided by DSS

Therapeutic Placements

During the monitoring period, the Parties successfully negotiated a joint motion to modify the FSA, Section IV.1 with respect to assessment of children's needs for therapeutic services and/or placement, timely and appropriate response to meeting those identified needs, and establishment of enforceable interim benchmarks with specific timelines to measure progress. The joint motion was submitted to the Court on October 25, 2024, and approved and ordered by the Court on November 1, 2024.[138,139]

[138] Joint motion to amend the Final Settlement Agreement Section IV.1 (October 25, 2024, Dkt.332-1).
[139] Court order (November 1, 2024, Dkt.333).

The FSA amendments to Section IV.1 include establishment of the following benchmarks: *"95% of Class Members that are both identified through an approved CANS as needing therapeutic placement and/or services and recommended for specific placement and/or services during a CFTM will be referred to such recommended placements and/ services within 30 days of the date of the CFTM;* and *95% of Class Members identified through an approved CANS and a CFTM as needing therapeutic placement and/or services shall receive an updated assessment at least annually thereafter, upon a placement disruption or upon a material change in the Class Member's needs*."

In addition, the FSA amendments require DSS, in collaboration with the Co-Monitors, to develop and implement a quality review process to establish baseline performance data for ongoing assessment of DSS practice with regard to the assessment and provision of therapeutic services and/or placement of children in state custody.

These FSA amendments are a significant step forward in ensuring that children's underlying needs are assessed and met in a systematic, comprehensive, and timely manner that preserves family and community connections. The Co-Monitors will work closely with DSS over the next few months to implement these new requirements.

IX. Health Care

The Health Care Improvement Plan and Health Care Addendum, approved by the Co-Monitors and the Court on August 23, 2018, and February 25, 2019, respectively, established commitments to a framework for care coordination involving distinct, interrelated roles for the DSS Office of Health and Well-Being, DSS case managers, DHHS, its private managed care organization (MCO) Care Coordinators, foster caregivers, and families.[140] The Plan and Addendum were approved and ordered by the Court with the understanding that additional details would be determined during implementation, and the efficacy and adequacy of the model would be assessed on an ongoing basis to determine what changes or additions are needed. Progress toward the Plan's requirements for meeting the underlying health and well-being needs of children in state custody, service expansion, care coordination, and tracking performance data has not kept pace with these expectations.

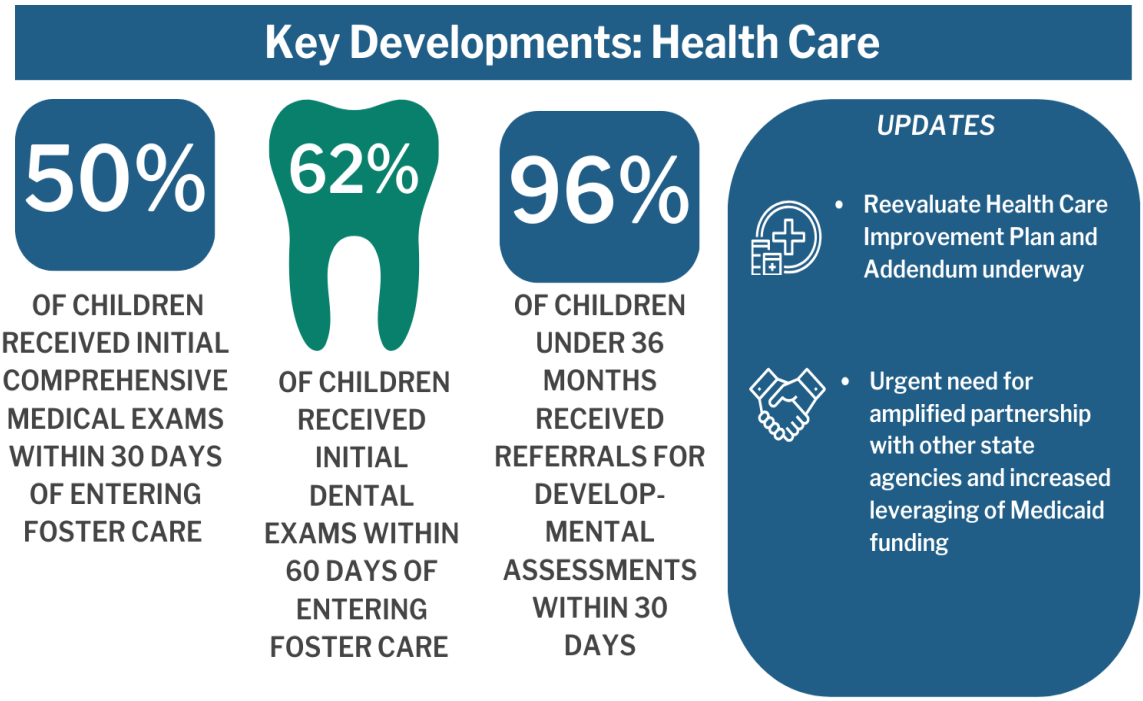
The responsibility of delivering health care to children in foster care is inherently a legal responsibility of the state in accordance with federal Medicaid mandates for Early, Periodic, Screening, Diagnosis and Treatment (EPSDT) for all children who are eligible for Medicaid, which includes children in foster care. New guidance issued on September 26, 2024, by the Centers for Medicare and Medicaid (CMS) affirms this obligation to children to provide treatment to meet their physical, developmental, mental, and behavioral health needs, and supports states as they work to strengthen their implementation of EPSDT requirements and ensure health outcomes for children enrolled in Medicaid.[141] It continues to be critical that DSS work with its state agency partners like DHHS, DMH, and DDSN; community partners; and its MCO partner to develop robust, accessible, community-based services and supports across the state that meet the underlying health and well-being needs of children and families. This includes strategies for assessing and meeting basic health care needs as well as needs for intensive in-home supports and therapeutic interventions.

[140] To view the Health Care Improvement Plan, see: https://dss.sc.gov/media/1980/8-23-2018-final-approved-dss-health-care-implementation-plan.pdf The Health Care Addendum is available at: https://dss.sc.gov/media/1962/2-25-2019-approved-health-plan-addendum.pdf

[141] To view the Centers for Medicare & Medicaid's new guidance in the form of a State Health Official letter entitled Best Practices for Adhering to Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Requirements, see: https://www.medicaid.gov/federal-policy-guidance/downloads/sho24005.pdf

Over five years after the Health Care Addendum was agreed upon (six years into the implementation of the Health Care Improvement Plan), there remains little clarity about care coordination roles and responsibilities. Work remains to be accomplished in the performance of key strategies, such as assessing and ensuring network adequacy with agency partners like the MCO and DHHS. During this monitoring period, DSS continued its efforts in making needed modifications to the Health Care Improvement Plan and related Addendum for improved performance. This work continues to be too slow, however DSS, DHHS, and its MCO partner Select Health have agreed to submit a revised Plan and Addendum to the Governor's Office by March 31, 2025, and to launch implementation of the Plan following its review and approval by the Co-Monitors and the Court.

As shown in the data below, while there have been improvements in access to medical and dental care for children in the state's custody, performance remains far below benchmarks and unacceptably low.



Health Care Performance Data

DSS continued its efforts to meet the health care needs of the children in its care. However, despite multiple actions, health care outcomes for children in foster care have yet to significantly improve, particularly for initial comprehensive medical assessments upon entering foster care and periodic well-child visits.

Health care data reporting timelines were adjusted again this period to accommodate delays in access to Medicaid administrative data. To provide the most up-to-date information, the most recent data are included in the areas in which they were available. For example, data on periodic well-child and dental visits are reported as of September 2024, and data on initial comprehensive medical and dental visits are reported for all children who entered care between March 1 and August 31, 2024. All data throughout are labeled accordingly.

In some areas, as indicated, the data included were collected by DSS's regional nurses from several sources and have not been independently validated by the Co-Monitors. DSS does not have the capacity to produce aggregate health care data related to initial health screens, mental health assessments (following a screening which identified a need for such an assessment), and follow-up care.[142,143,144]

Comprehensive Medical Assessments

In accordance with American Academy of Pediatrics (AAP) guidelines for health care delivery to children in foster care, comprehensive medical assessments are to be performed for the purpose of "reviewing all available data and medical history about the child or adolescent;" identifying medical, developmental, and mental health

[142] DSS ADR is currently working with CAPSS IT to extract data collected from the completion of the Family Advocacy and Support Tool (FAST) medical module to potentially utilize for this purpose.
[143] DSS has provided data on the *total* number of children who receive mental health assessments, but those assessments are not necessarily tied to an identified need for a mental health assessment from a comprehensive medical assessment. DSS is not yet able to report data on the number of children receiving mental health assessments after the *need* for such an assessment has been identified. As a result, the Co-Monitors have not reported these data.
[144] DSS has proposed collecting additional qualitative information using a case review process to measure follow-up care, based on the instrument used for the federal Child and Family Services Review, and is discussing potential approaches and review methodology with the Co-Monitors.

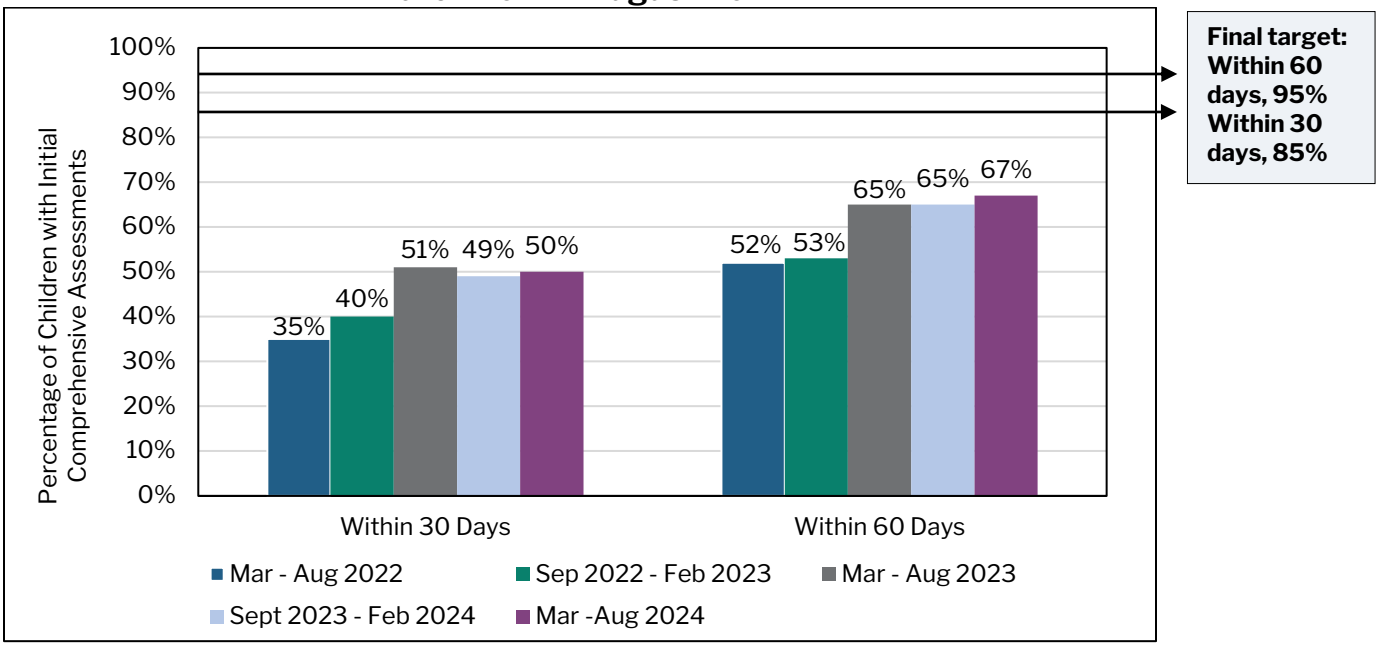
conditions requiring immediate attention; and developing an "individualized treatment plan."[145]

In DSS's Health Care Outcomes, approved by the Co-Monitors on December 21, 2018, based on AAP guidelines, DSS committed that *"at least 85% of Class Members will receive a comprehensive medical assessment within 30 days of entering care; at least 95% will receive a comprehensive medical assessment within 60 days of entering care*."[146] DSS committed to achieving these targets by March 2021.[147]

DSS reports that 50 percent (452 of 902) of children who entered foster care between March 1 and August 31, 2024, and were in foster care for at least 30 days received an initial comprehensive medical assessment within that time; and 67 percent (423 of 633) of children who entered foster care during the months cited and were in foster care for at least 60 days received an initial comprehensive medical assessment within 60 days (see Figure 44). Performance remains substantially below the final targets of 85 percent of children receiving an initial exam within 30 days, and 95 percent of children receiving an initial exam within 60 days.

[145] *Fostering Health: Health Care for Children and Adolescents in Foster Care*, 2d. ed (16-17). American Academy of Pediatrics (2003), p. 22.
[146] To view the Health Care Outcomes see: https://dss.sc.gov/media/c3ig211y/appendix-b-final-health-care-targets.pdf.
[147] The baseline performance data that were used to determine the benchmarks were, in some cases, extracted based upon methodologies that were different from those later approved by the Co-Monitors.

Figure 44: Initial Comprehensive Medical Assessments within 30 and 60 Days March 2022– August 2024



Source: Medicaid claims data provided by DSS

Developmental Assessments

In DSS's Health Care Outcomes, approved by the Co-Monitors on December 21, 2018, DSS committed that "*at least 90% of Class Members under 36 months of age will be referred to the state entity responsible for developmental assessments within 30 days of entering care; at least 95% shall be referred within 45 days.*" DSS committed to achieving these targets by March 2021.[148]

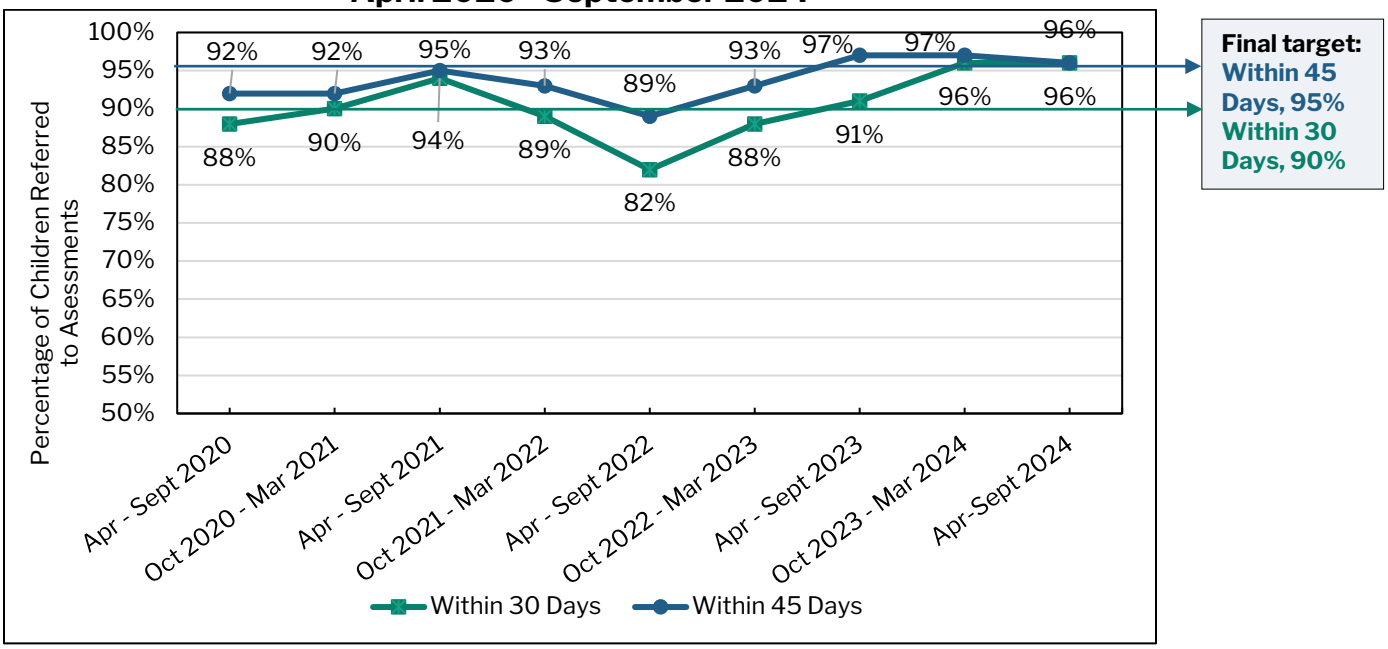
DSS reports that 96 percent (277 of 289) of children under 36 months of age who entered care between April 1 and September 30, 2024, and who were in care for at least 30 days were referred to BabyNet — the state entity responsible for developmental assessments — within 30 days of their entry into care; and 96 percent (268 of 278) of children who were in care for at least 45 days were referred to BabyNet within 45 days.

Current performance continues to meet the final targets for this measure (see Figure 45). On October 18, 2024, based on DSS achieving and demonstrating performance,

[148] To view the Health Care Outcomes see: https://dss.sc.gov/media/c3ig211y/appendix-b-final-health-care-targets.pdf.

the Court granted Maintenance of Efforts status for this measure.[149] These data only measure whether a child was referred for a developmental assessment and do not capture whether an assessment occurred. Although not an FSA commitment, DSS reports that the Office of Child Health and Well-Being is continuing its work on developing a process for tracking not only the referral to BabyNet, but whether the child received a timely assessment.

Figure 45: Referrals for Developmental Assessments within 30 and 45 Days April 2020– September 2024



Source: CAPSS data provided by DSS

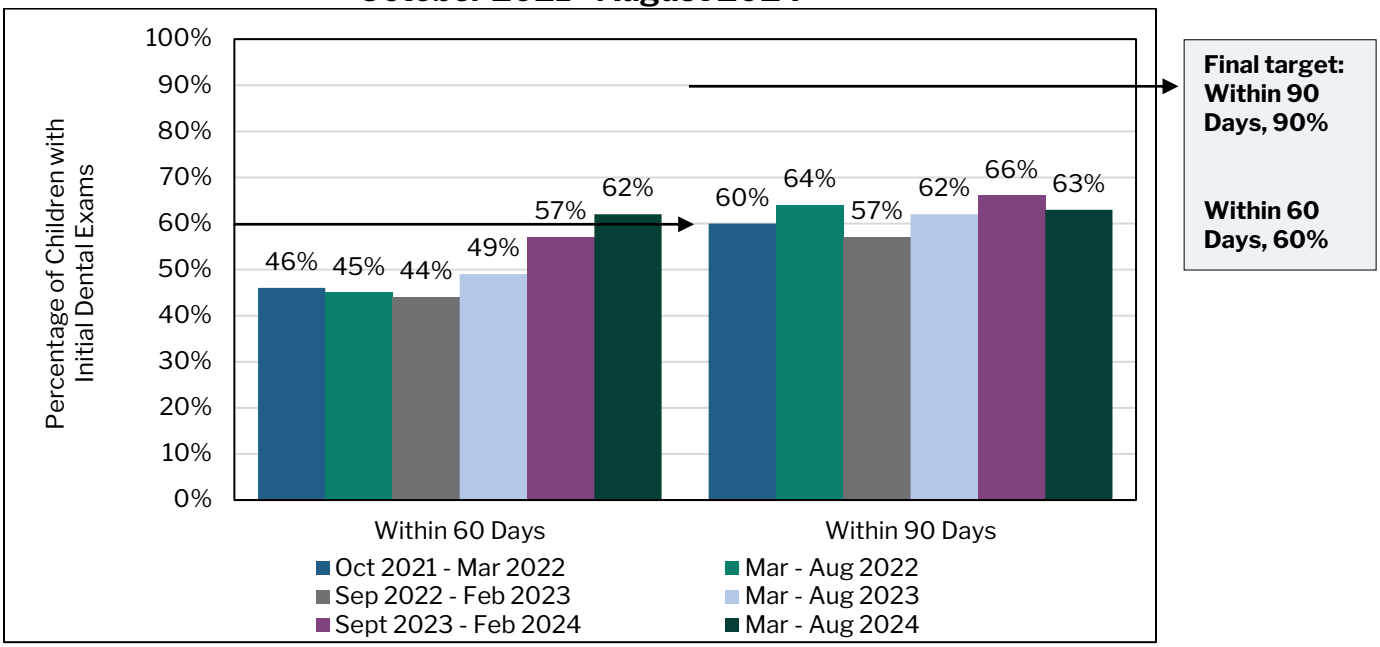
Initial Dental Examinations

In DSS's Health Care Outcomes, approved by the Co-Monitors on December 21, 2018, DSS committed that *"at least 60% of Class Members ages two and above for whom there is no documented evidence of receiving a dental examination in the six months prior to entering care will receive a dental examination within 60 days of entering care; at least 90% will receive a dental examination within 90 days of entering care*." DSS committed to achieving these targets by March 2021.[150]

[149] Order on Motion for Miscellaneous Relief (October 18, 2024, Dkt.329).
[150] The baseline performance data that was used to determine the benchmarks were, in some cases, extracted based upon methodologies that were different from those later approved by the Co-Monitors.

DSS reports that 62 percent (280 of 453) of children ages two and older who entered foster care between March 1 and August 31, 2024, and who were in foster care for at least 60 days had a dental exam within 60 days, and 63 percent (210 of 335) of children ages two and older who remained in care for at least 90 days had a dental exam within 90 days.[151] This performance meets the target for dental examination within 60 days of entering foster care but does not meet the target of 90 percent of children receiving a dental examination within 90 days of entering foster care, as shown in Figure 46.

Figure 46: Initial Dental Exams within 60 and 90 Days
October 2021– August 2024



Source: Medicaid claims data provided by DSS

Periodic Well-Child Visits

In accordance with AAP guidelines for ongoing health care delivery for children in foster care, periodic preventative well-child visits should be performed for the purpose of promoting "overall wellness by fostering healthy growth and development," as well as "regularly assess[ing] for success of foster care placement," and "identify[ing] significant medical, behavioral, emotional, developmental, and

[151] This excludes children who had a visit within three months of entering care.

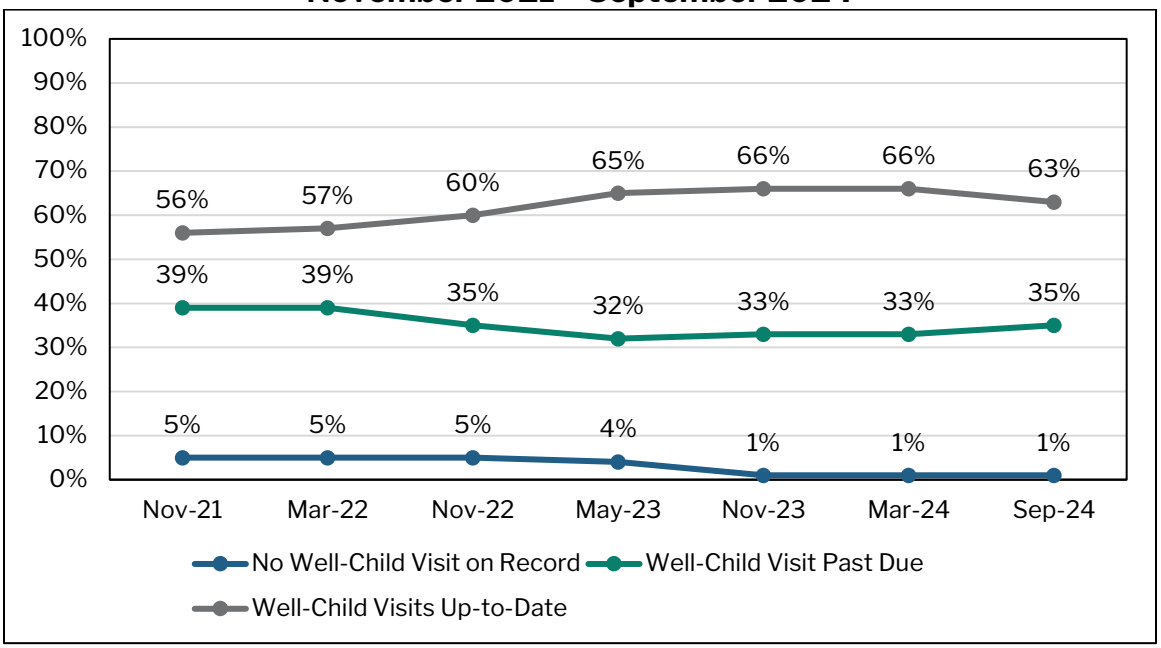
school problems through periodic history, physical examination, and screenings."[152] AAP guidelines for health care delivery for children in foster care recognize the increased needs of these children as compared with the general population.

DSS committed to several Health Care Outcomes based on the periodicity schedule required of different age groups pursuant to AAP guidelines for children in foster care.[153,154] Although DSS has consistently provided data in accordance with the agreed-upon methodology for calculating compliance with the periodicity schedule, DSS and the Co-Monitors have both determined that this methodology does not sufficiently reflect performance. As a result, the Co-Monitors have reported the health care data that DSS uses for day-to-day management and quality improvement. These data are validated by DSS regional nurses who review CAPSS for encounters entered by case managers and after-visit summaries completed by doctors. Data are also cross-checked with administrative data from DHHS and Select Health.

DSS reported that of all children under 18 years of age who were in foster care for at least 30 days, 63 percent (1,929 of 3,040) were up-to-date on their well-child visits as of September 2024. As depicted in Figure 47, of the remaining children, 35 percent (1,067) were past due for their well-child visits, and 44 (1%) children did not have a well-child visit on record.

[152] *Fostering Health: Health Care for Children and Adolescents in Foster Care*, 2d. ed (16-17). American Academy of Pediatrics (2003), p. 30.
[153] Bright Futures/American Academy of Pediatrics. Recommendations for Preventative Pediatric Health Care. See: https://downloads.aap.org/AAP/PDF/periodicity_schedule.pdf
[154] As of April 1, 2018, SC DHHS amended South Carolina's Title XIX state plan to update the medical and dental periodicity schedule to align with nationally recognized guidelines. To view the press release, see: https://www.scdhhs.gov/communications/public-notice-final-actions-update-periodicity-schedules

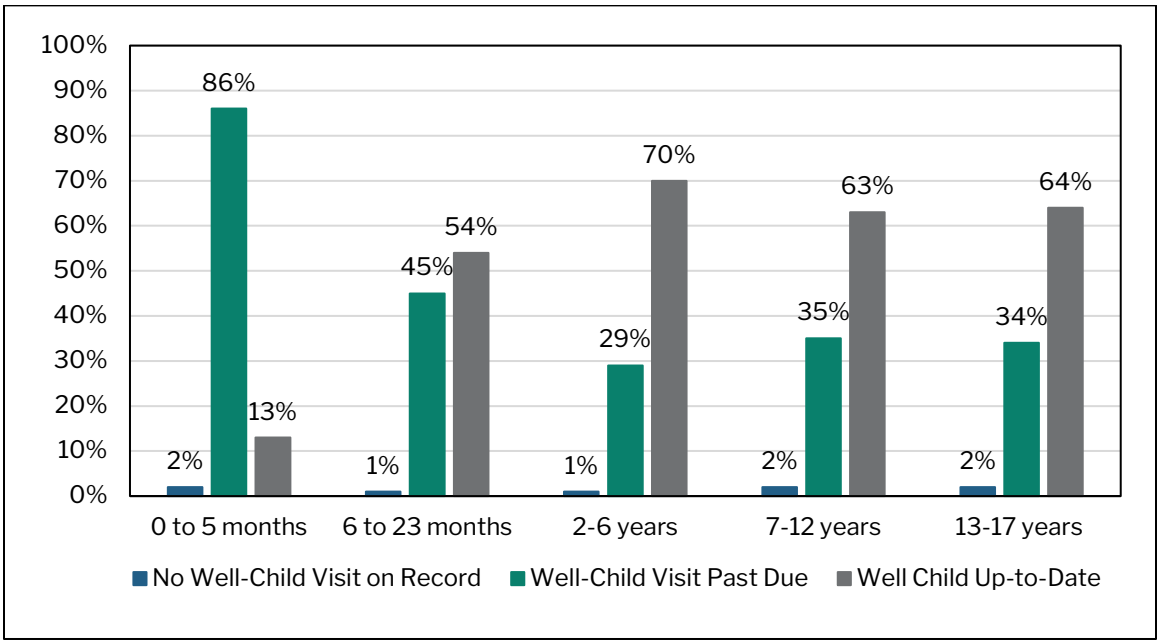
Figure 47: Well-Child Visits
November 2021 – September 2024



Source: CAPSS, DHHS, and Select Health data provided by DSS

These data are also reported to the Co-Monitors by ages of the children, as shown in Figure 48. As determined by DSS, 13 percent of children under six months of age were up-to-date on their well-child visits as of September 2024. This represents a significant decline in performance from March 2024, when 25 percent of children were determined to be up-to-date. For the age groups of six to 23 months, the percentage of children determined by DSS to be up-to-date declined, from 61 percent in March 2024 to 54 percent in September 2024. For children ages two to six, the percentage determined to be up-to-date remained the same as in the previous monitoring period at 70 percent. Performance slightly declined for children ages seven to 12 years old, from 66 percent in March 2024 to 63 percent in September 2024, and for children ages 13 to 17 years old — from 65 percent in March 2024 to 64 percent in September 2024.

Figure 48: Well-Child Visits, by Age as of September 2024
N = 3,040



Source: CAPSS, DHHS, and Select Health data provided by DSS

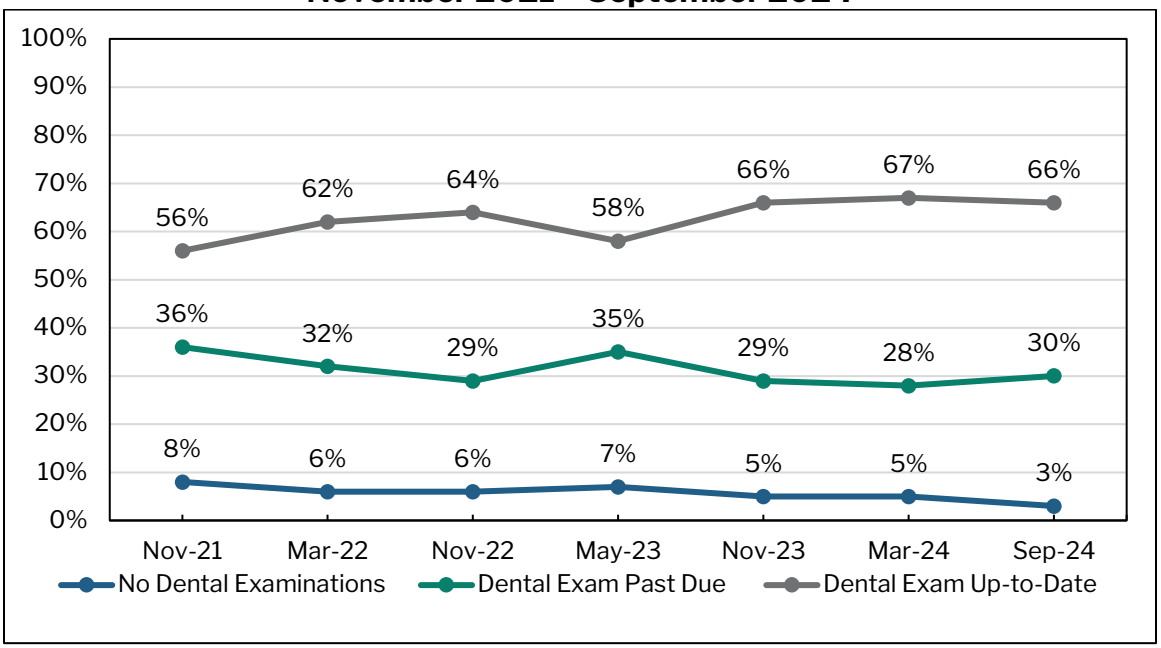
Periodic Dental Examinations

In DSS's Health Care Outcomes, approved by the Co-Monitors on December 21, 2018, DSS committed that "*at least 75% of Class Members ages two and older in care for six months or longer will receive a dental examination semi-annually; at least 90% will receive a dental examination annually.*" DSS committed to achieving these outcomes by March 2021.

DSS reports that of children between two and 17 years old who were in care for at least 30 days, 66 percent (1,769 of 2,667) were up-to-date on their semi-annual dental examination as of September 2024. As shown in Figure 49, 30 percent (813 of 2,667) of children were past due for their dental exam, and three percent (85 of 2,667) of children had no dental examination on record.[155]

[155] These data were collected and analyzed by DSS staff for internal management purposes and have not been validated by the Co-Monitors.

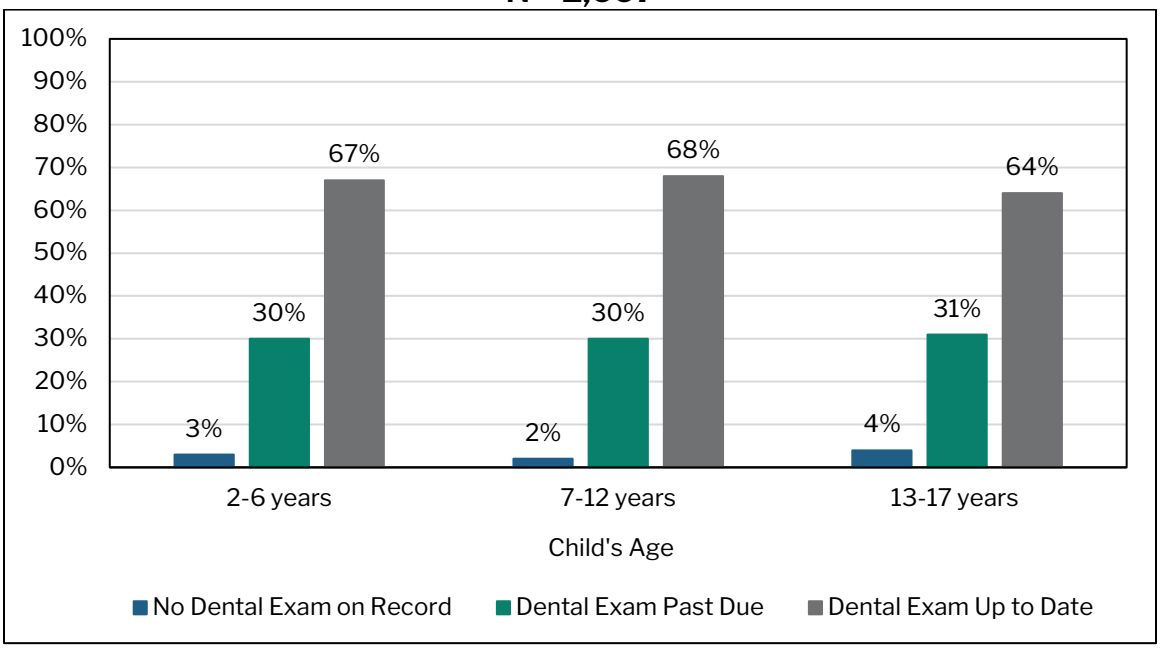
Figure 49: Periodic Dental Examinations
November 2021 – September 2024



Source: CAPSS, DHHS, and Select Health data provided by DSS

DSS also provided its internal management data for dental examinations by age group, as seen in Figure 50. Performance slightly declined for the age group of children two to six years old, with 67 percent up-to-date on their dental exams as compared to 70 percent during last monitoring period. Performance slightly decreased from 70 percent in March 2024 to 68 percent in September 2024 for children ages seven to 12 years old who were up-to-date; and slightly increased from 63 percent to 64 percent of children ages 13 to 17 years old who were up-to-date.

Figure 50: Periodic Dental Examinations, by Age as of September 2024
N = 2,667



Source: CAPSS, DHHS, and Select Health data provided by DSS
* Totals may not equal 100% due to rounding

X. Appendices

Appendix A – Monitoring Activities

The Co-Monitors are responsible for independent validation of data and documentation to compile and issue public reports on performance with respect to the terms of the FSA. In carrying out this responsibility, the Co-Monitors and their staff have worked closely with DSS leadership and staff. The Co-Monitors use multiple methodologies to conduct their work, including verification and analysis of information available through CAPSS; review of individual electronic case records of Class Members; review and validation of data aggregated by DSS; interviews and conversations with DSS leaders and staff; and conversations with external partners, including providers, advocates, and community organizations. The Co-Monitors worked with DSS to establish review protocols to gather performance data and assess current practice for some measures. The Co-Monitors conducted in-person site visits to county DSS offices where they met with DSS leadership and staff. The Co-Monitors also met with a range of involved parties throughout the monitoring period.

Other specific data collection and/or validation activities conducted by the Co-Monitors for the current period include the following:

- Review of monthly caseload reports for foster care, adoptions, and out-of-home abuse and neglect (OHAN) case managers and team leaders (FSA IV.A.2.(b)&(c));

- Review of all OHAN investigation records in CAPSS involving Class Members as an alleged victim and accepted in September 2024, to assess for timely initiation, contact with core witnesses, timely completion, and appropriateness of unfounded decisions (FSA IV.C.3.&4.);

- Review of case files of Class Members ages six and under who were placed in a congregate setting between April 1 to September 30, 2024 (FSA IV.D.2.);

- Review of a statistically valid sample of case records in CAPSS for Class Members in foster care for 30 days or more on September 30, 2024, and living

apart from a sibling also in foster care, to assess whether a sibling visit occurred in September 2024 (FSA IV.J.2.);

- Review of a statistically valid sample of case records in CAPSS for Class Members with a permanency goal of reunification, or with a permanency goal which had not yet been established in family court, and in foster care for 30 days or more on September 30, 2024, to assess whether the child visited with the parent(s) with whom reunification was sought during March 2024 (FSA IV.J.3.);

- Observation of 15 virtual CFTMs during the months of August, September, and October 2024, including three 25-day CFTMs, six 90-day CFTMs and six Placement CFTMs.

- Site visits to Richland County DSS office on April 3, 2023, and September 23 and 24, 2024, to attend DSS meetings with leadership and focus groups with staff.

Appendix B – Summary Table of Michelle H., et al. v. McMaster and Catone Final Settlement Agreement Performance

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Workload Limits for Foster Care:[156] 1a. At least 90% of caseworkers shall have a workload within the applicable Workload Limit. 1b. No caseworker shall have more than 125% of the applicable Workload Limit. (FSA IV.A.2.(b)&(c))	OHAN investigators: None within required limit. (September 2017) 100% had more than 125% of the limit. (September 2017)	OHAN investigators: 90% within the required limit Monthly range within the required limit: 68 – 96% 0% had more than 125% of the limit. Monthly range with caseloads more than 125% of the limit: 0 – 8%	OHAN investigators: 100% within the required limit Monthly range within the required limit: 71 – 100% 0% had more than 125% of the limit Monthly range with caseloads more than 125% of the limit: 0 – 4%	OHAN investigators:[161] 100% within the required limit Monthly range within the required limit 97 – 100% 0% had more than 125% of the limit Monthly range with caseloads more than 125% of the limit: 0%

[156] The FSA utilizes the term "caseworker" to refer to DSS case-carrying staff and "supervisor" to refer to DSS staff who oversee case-carrying staff. As part of its GPS Case Practice Model development and outlining enhanced job expectations, DSS now utilizes the terms "case manager" and "Team Leader," respectively. Where appropriate and for consistency with practice, this report utilizes the terms case manager and Team Leader.

[161] The Co-Monitors selected a random day in each month this period to measure caseload compliance for each type of case manager and team leaders. These random dates are as follows: April 22, 2024; May 14, 2024; June 9, 2024; July 16, 2024; August 27, 2024; September 31, 2024.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Approved Workload Limits:[157,158] • *OHAN worker* - 8 investigations • *Foster care worker* – 15 children • *Adoptions worker* – 15 children[159] • *New caseworker* – ½ of the applicable standard for first six months after completion of Child Welfare Certification training	Foster care case managers: 28% within the required limit. (September 2017) 59% had more than 125% of the limit. (September 2017) IFCCS case managers:[160] 10% within the required limit. (September 2017) 77% had more than 125% of the limit. (September 2017)	Foster care case managers: 58% within the required limit Monthly range within the required limit: 53 – 58% 31% had more than 125% of the limit. Monthly range with caseloads more than 125% of the limit: 22 – 31%	Foster care case managers: 68% within the required limit Monthly range within the required limit: 60 – 68% 16% had more than 125% of the limit. Monthly range with caseloads more than 125% of the limit: 16 – 26%	Foster care case managers: 70% within the required limit Monthly range within the required limit: 69 – 75% 16% had more than 125% of the limit. Monthly range with caseloads more than 125% of the limit: 13 – 16%

[157] These limits were approved by the Co-Monitors on December 6, 2016, after completion of the Workload Study.

[158] Caseload limits and methodologies to calculate performance for case managers with mixed caseloads, both Class and Non-Class Members, were approved in December 2017. Non-Class Members include children receiving family preservation services while remaining in the home with their parent or caregiver, Adult Protective Services cases, families involved in CPS assessments, and children placed by ICPC. Performance for foster care case managers with mixed caseloads is calculated by adding the total number of foster care children (Class Members) the case manager serves to the total number of families (cases) of Non-Class Members the case manager also serves; the total number should not exceed 15 children and cases.

[159] Prior to 2019, DSS's workforce was structured so that case management responsibilities remained with the foster care case manager, even when an adoptions case manager was assigned, until a placement agreement was signed. As a result, the approved caseload standard for adoptions workers was 1:17. In 2019, DSS began transitioning case management responsibility to adoptions workers once children became legally eligible for adoption. This transition was complete in January 2020; thus, adoptions case manager caseload performance is assessed at a standard of 1:15, the same standard applied to foster care case managers.

[160] The IFCCS case manager and supervisor positions were eliminated as of January 2020, with staff positions and cases transferred to county foster care case manager and team leaders' positions and caseloads in December 2019.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
	Adoptions case managers: 23% within the required limit. (September 2017) 62% had more than 125% of limit. (September 2017)	Adoptions case managers: 44% within the required limit Monthly range within the required limit: 27 – 44% 34% had more than 125% of the limit. Monthly range with caseloads more than 125% of the limit: 34 – 49%	Adoptions case managers: 67% within the required limit Monthly range within the required limit: 37 – 67% 22% had more than 125% of the limit. Monthly range with caseloads more than 125% of the limit: 21 – 35%	Adoptions case managers: 66% within the required limit Monthly range within the required limit: 62 - 67% 17% had more than 125% of the limit. Monthly range with caseloads more than 125% of the limit: 17 - 22%
Workload Limits for Foster Care: 2a. At least 90% of team leaders shall have a workload within the applicable Workload Limit.[162] 2b. No team leader shall have more than 125% of the applicable Workload Limit. (FSA IV.A.2.(b)&(c))	OHAN team leaders: 100% within the required limit. (March 2018) None were more than 125% of the limit. (March 2018)	OHAN team leaders: 80% within the required limit each month this period Monthly range within the required limit: 60 – 83% 0% had more than 125% of the limit.	OHAN team leaders: 40% within the required limit each month this period Monthly range within the required limit: 40 – 100% 0% had more than 125% of the limit each month this period.	OHAN team leaders: 100% within the required limit each month this period Monthly range within the required limit: 100 – 100% 0% had more than 125% of the limit each month this period.

[162] In the FSA, the term "supervisor" refers to DSS staff who oversee case-carrying staff. As part of its Guiding Principles and Standards (GPS) Case Practice Model development and work to define enhanced job expectations, DSS now utilizes the term "team leader" for this role, effective May 2023.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Approved Team Leader Limits: • *OHAN team leaders* – 6 investigators • *Foster Care*, *IFCCS*,[163] and *Adoptions* supervisors – 5 case managers	Foster care team leaders: 42% within the required limit. (March 2018) 36% had more than 125% of the limit. (March 2018) Adoptions team leaders 38% within the required limit. (March 2018) 19% had more than 125% of the limit. (March 2018) IFCCS Supervisors:[164] 57% within required limit. (March 2018) 29% had more than 125% of the limit. (March 2018)	Foster care team leaders: 90% within the required limit. Monthly range within the required limit: 90 – 97% 2% had more than 125% of the limit. Monthly range supervising more than 125% of the limit: 1 – 2% Adoptions team leaders: 88% within the required limit Monthly range within the required limit: 88 – 96% 0% had more than 125% of the limit.	Foster care team leaders: 91% within the required limit. Monthly range within the required limit: 91 – 92% 1% had more than 125% of the limit. Monthly range supervising more than 125% of the limit: 1– 4% Adoptions team leaders: 100% within the required limit Monthly range within the required limit: 93 – 100% 0% had more than 125% of the limit each month this period.	Foster care team leaders: 91% within the required limit. Monthly range within the required limit: 91 – 95% 0% had more than 125% of the limit. Monthly range supervising more than 125% of the limit: 0% Adoptions team leaders: 83% within the required limit Monthly range within the required limit: 83 – 100% 0% had more than 125% of the limit each month this period.

[163] Ibid.
[164] Ibid.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Visits Between Case Managers and Children: 3. At least 90% of the total minimum number of face-to-face visits with Class Members by caseworkers during a 12-month period shall have taken place. (FSA IV.B.2.)	24% of cases reviewed had all agreed-upon elements of a visit. (September 2019)	Upon agreement of all Parties, the Co-Monitors suspended a review of a statistically valid sample of records and reporting on this measure for at least four monitoring periods, or until DSS reports there has been substantial increase in performance.	Upon agreement of all Parties, the Co-Monitors suspended a review of a statistically valid sample of records and reporting on this measure for at least four monitoring periods, or until DSS reports there has been substantial increase in performance.	Upon agreement of all Parties, the Co-Monitors suspended a review of a statistically valid sample of records and reporting on this measure for at least four monitoring periods, or until DSS reports there has been substantial increase in performance. This review has not yet resumed.
Visits Between Case Managers and Children: 4. At least 50% of the total minimum number of monthly face-to-face visits with Class Members by caseworkers during a 12-month period shall have taken place in the residence of the child. (FSA IV.B.3.)	22% of documented face-to-face contacts with children had all agreed upon elements of a visit and took place in the child's residence. (September 2019) 92% of face-to-face contacts took place in the child's residence. (September 2019)	Upon agreement of all Parties, the Co-Monitors suspended a review of a statistically valid sample of records and reporting on this measure for at least four monitoring periods, or until DSS reports there has been substantial increase in performance.	Upon agreement of all Parties, the Co-Monitors suspended a review of a statistically valid sample of records and reporting on this measure for at least four monitoring periods, or until DSS reports there has been substantial increase in performance.	Upon agreement of all Parties, the Co-Monitors suspended a review of a statistically valid sample of records and reporting on this measure for at least four monitoring periods, or until DSS reports there has been substantial increase in performance. This review has not yet resumed.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Investigations - Intake: 5. At least 95% of decisions not to investigate a Referral of Institutional Abuse or Neglect about a Class Member must be made in accordance with South Carolina law and DSS policy. (FSA IV.C.2.)	44% of screening decisions to not investigate were determined to be appropriate. (March 2017)	100% of screening decisions not to investigate were determined to be appropriate.	98% of screening decisions not to investigate were determined to be appropriate.	100% of screening decisions not to investigate were determined to be appropriate.
Investigations - Case Decisions: 6. At least 95% of decisions to "unfound" investigations of a Referral of Institutional Abuse or Neglect must be based upon DSS ruling out abuse or neglect or DSS determining that an investigation did not produce a preponderance of evidence that a Class Member was abused or neglected. (FSA IV.C.3.)	47% of applicable investigation decisions to unfound were determined to be appropriate. (March 2017)	88% (42) of 48 applicable investigation decisions to unfound were determined to be appropriate.	97% (29) of 30 applicable investigation decisions to unfound were determined to be appropriate.	100% (34) of 34 of applicable investigation decisions to unfound were determined to be appropriate.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Investigations - Timely Initiation: 7. The investigation of a Referral of Institutional Abuse or Neglect must be initiated within twenty-four (24) hours in accordance with South Carolina law in at least 95% of the investigations. *Investigations - Contact with Alleged Child Victim:* 8. The investigation of a Referral of Institutional Abuse or Neglect must include face-to-face contact with the alleged victim within twenty-four (24) hours in at least 95% of investigations, with exceptions for good faith efforts approved by the Co-Monitors.[165] (FSA IV.C.4.((a)&(b))	78% of applicable investigations were timely initiated. (March 2017)	94% (49) of 52 applicable investigations were timely initiated.	90% (27) of 30 applicable investigations were timely initiated.	93% (37) of 40 applicable investigations were timely initiated.

[165] The Co-Monitors' interpretation of the FSA requires that investigations be initiated within 24 hours of receipt of the referral by DSS, not within 24 hours of the decision to accept the referral, and that initiation is completed by making face-to-face contact with the alleged victim child(ren). As a result, the performance for both FSA measures IV.C.4.(a) and (b) are measured using the same methodology and timeframes – the time between receipt of referral and face-to-face contact with alleged child(ren) victim must be within 24 hours.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Investigations - Contact with Core Witnesses: 9. Contact with core witnesses must be made in at least 90% of the investigations of a Referral of Institutional Abuse or Neglect, with exceptions approved by the Co-Monitors. (FSA IV.C.4.(c))	27% of applicable investigations included contact with all necessary core witnesses. (March 2017)	69% (36) of 52 applicable investigations included contact with all necessary core witnesses.	77% (23) of 30 applicable investigations included contact with all necessary core witnesses.	75% (30) of 40 applicable investigations included contact with all necessary core witnesses.
Investigations - Timely Completion: 10.a. At least 60% of investigations of a Referral of Institutional Abuse or Neglect shall be completed within forty-five (45) days of initiation of an investigation, unless the DSS Director or DSS Director's designee authorizes an extension of no more than fifteen (15) days upon a showing of good cause.[166]	95% of applicable investigations reviewed were appropriately closed within 45 days. (March 2017)	93% of investigations reviewed were appropriately closed within 45 days.	100% of investigations reviewed were appropriately closed within 45 days.	90% of investigations reviewed were appropriately closed within 45 days.

[166] For the purposes of this measure, an investigation is not completed if DSS determines the report is unfounded because the deadline to complete the investigation has passed.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
(FSA IV.C.4.(d)) ***Final target by March 2021: 95% closure in 45 days***				
Investigations - Timely Completion: 10.b. At least 80% of investigations of a Referral of Institutional Abuse or Neglect shall be completed within sixty (60) days of initiation of the investigation, and all investigations not completed within sixty (60) days shall have authorization of the DSS Director or DSS Director's designee of an extension of no more than thirty (30) days upon a showing of good cause.[167] (FSA IV.C.4.(e)) ***Final target by March 2021: 95% closure in 60 days***	96% of investigations reviewed were closed within 60 days. (March 2017)	100% of investigations reviewed were closed within 60 days.	100% of investigations reviewed were closed within 60 days.	100% of investigations reviewed were closed within 60 days.

[167] Ibid.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Investigations - Timely Completion: 10.c. At least 95% of all investigations of a Referral of Institutional Abuse or Neglect not completed within sixty (60) days shall be completed within ninety (90) days.[168] (FSA IV.C.4.(f))	93% of investigations reviewed were closed within 90 days. (September 2017)	100% of investigations reviewed were closed within 60 days.	100% of investigations reviewed were closed within 90 days.	100% of investigations reviewed were closed within 90 days.
Family Placements for Children Ages Six and Under: 11. No child age six and under shall be placed in a congregate care setting except with approved exceptions. (FSA IV.D.2.)	Baseline data for this measure are not available.	The circumstances of all children met an agreed upon exception. A total of 17 Class Members ages six and under were placed in congregate care.	The circumstances of all children met an agreed upon exception. A total of 9 Class Members ages six and under were placed in congregate care.	The circumstances of all children placed in a congregate setting met an agreed upon exception. A total of 11 Class Members ages six and under were placed in congregate care.

[168] Ibid.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Phasing-Out Use of DSS Offices and Hotels: 12. No child shall be placed or housed in a DSS office, hotel, motel, or other commercial non-foster care establishment. (FSA IV.D.3.)	Baseline data for this measure are not available.	DSS reports there were 1,012 overnight placements in a DSS office (for 216 unique children).	DSS reports there were 1,565 overnight placements in a DSS office (for 249 unique children)	DSS reports there were 844 overnight placements in a DSS office (for 188 unique children)
Congregate Care Placements: 13. At least 86% of the Class Members shall be placed outside of Congregate Care Placements on the last day of the Reporting Period. (FSA IV.E.2.)	78% of children in foster care were placed outside of a congregate care setting. (March 2018)	88% of children in foster care were placed outside of a congregate care setting.	88% of children in foster care were placed outside of a congregate care setting.	87% of children in foster care were placed outside of a congregate care setting.[169]

[169] Twenty-three children resided in other institutional settings and were removed from the universe. Specifically, DSS reports that 12 children were incarcerated in correctional or juvenile detention facilities, 10 children were hospitalized, and one child was in a DDSN Community Training Home.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Congregate Care Placements - Children Ages 12 and Under: 14. At least 98% of the Class Members 12 years old and under shall be placed outside of Congregate Care Placements on the last day of the Reporting period unless an exception pre-approved or approved afterwards by the Co-Monitors is documented in the Class Member's case file. (FSA IV.E.3.)	92% of children ages 12 and under in foster care were placed outside of a congregate care setting. (March 2018)	98% of children ages 12 and under in foster care were placed outside of a congregate care setting.	98% of children ages 12 and under in foster care were placed outside of a congregate care setting.	98% of children ages 12 and under in foster care were placed outside of a congregate care setting.[170]
Emergency or Temporary Placements for More than 30 Days: 15. Class Members shall not remain in any Emergency or Temporary Placement for more than thirty (30) days.	Baseline data for this measure are not available.	24 children remained in an initial Emergency or Temporary Placement for more than thirty (30) days.	25 children remained in an initial Emergency or Temporary Placement for more than thirty (30) days.	22 children remained in an initial Emergency or Temporary Placement for more than thirty (30) days.

[170] This includes eight children under the age of six who resided with their parent in a residential facility.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
(FSA IV.E.4.) ***Dates to reach final target and interim benchmarks to be added once approved.***				
Emergency or Temporary Placements for More than Seven Days: 16. Class Members experiencing more than one Emergency or Temporary Placement within twelve (12) months shall not remain in the Emergency or Temporary Placement for more than seven (7) days. (FSA IV.E.5.) ***Dates to reach final target and interim benchmarks to be added once approved***.	Baseline data for this measure are not available.	Of the 320 children who experienced more than one Emergency or Temporary Placement in a 12-month period, 158 (49%) children experienced at least one subsequent Emergency or Temporary Placement for more than seven (7) days.	Of the 323 children who experienced more than one Emergency or Temporary Placement in a 12-month period, 170 (53%) children experienced at least one subsequent Emergency or Temporary Placement for more than seven (7) days.	Of the 391 children who experienced more than one Emergency or Temporary Placement in a 12-month period, 216 (55%) children experienced at least one subsequent Emergency or Temporary Placement for more than seven (7) days.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Placement Instability: 17. For all Class Members in foster care for eight (8) days or more during the 12-month period, Placement Instability shall be less than or equal to 3.37. (FSA IV.F.1.)	3.55 moves per 1,000 days. (October 1, 2016, to September 30, 2017).	6.07 moves per 1,000 days. (October 1, 2022, to September 30, 2023).	Data for this measure are produced on an annual basis.	6.64 moves per 1,000 days. (October 1, 2023, to September 30, 2024).
Sibling Placements: 18. At least 85% of Class Members entering foster care during the Reporting Period with their siblings or within thirty (30) days of their siblings shall be placed with at least one of their siblings unless an exception applies (FSA IV.G.2.)	63% of children entering foster care with siblings were placed with at least one of their siblings on the 45th day after entry. (March 2018)	77% of children entering foster care with siblings were placed with at least one of their siblings on the 45th day after entry.	75% of children entering foster care with siblings were placed with at least one of their siblings on the 45th day after entry.	70% of children entering foster care with siblings were placed with at least one of their siblings on the 45th day after entry.[171]

[171] Exceptions have been approved, though not applied during this monitoring period, therefore, actual performance may be higher than reported.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Sibling Placements: 19. At least 80% of Class Members entering foster care during the Reporting Period with their siblings or within thirty (30) days of their siblings shall be placed with all their siblings, unless an exception applies. (FSA IV.G.3.)	38% of children entering foster care with siblings were placed with all their sibling on the 45th day after entry. (March 2018)	50% of children entering foster care with siblings were placed with all their siblings on the 45th day after entry.	50% of children entering foster care with siblings were placed with all their siblings on the 45th day after entry.	44% of children entering foster care with siblings were placed with all their siblings on the 45th day after entry.[172]
Youth Exiting the Juvenile Justice System: 20. When Class Members are placed in juvenile justice detention or another Juvenile Justice Placement, DSS shall not recommend to the family court	Baseline data for this measure are not available.	See Section VIII. *Placements*.	See Section VIII. *Placements*.	See Section VIII. *Placements*.[173]

[172] Ibid

[173] As discussed in Section VIII. Placements, the complexities of tracking performance in this area have meant that the Co-Monitors have historically had to rely significantly on reports by DSS and stakeholders to assess performance. In November 2022, the Co-Monitors and DSS, with DJJ's permission and collaboration, published a report of findings from their joint comprehensive review of the experiences of children involved with both DSS and DJJ, see: https://cssp.org/wp-content/uploads/2022/10/FINAL-Children-Concurrently-Involved-withSC-DJJ-and-DSS-Joint-Review-Findings-002.pdf

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
or DJJ that a youth remain in a Juvenile Justice Placement without a juvenile justice charge pending or beyond the term of their plea or adjudicated sentence for the reason that DSS does not have a foster care placement for the Class Member. DSS shall take immediate legal and physical custody of any Class Member upon the completion of their sentence or plea. DSS shall provide for their appropriate placement. (FSA IV.H.1.)				

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Therapeutic Foster Care Placements - Referral for Staffing and/or Assessment: 21. All Class Members that are identified by a Caseworker as in need of interagency staffing and/or in need of diagnostic assessments shall be referred for such staffing and/or assessment to determine eligibility for therapeutic foster care placement and/or services within thirty (30) days of the need being identified. (FSA IV.I.2.) ***Dates to reach final target and interim benchmarks to be added once approved***.	Baseline data for this measure are not available.	Data are not available for this period.	Data are not available for this period.	Data are not available for this period.[174] Parties agreed to a modification of the FSA provision that will require new monitoring methodology to be co-developed with Plaintiffs.

[174] At the time of finalization of the Placement Implementation Plan, the Co-Monitors and Parties determined that, because the process of assessing and identifying the need for more intensive supports and placements would likely be modified as DSS began implementation, DSS would wait to propose benchmarks and timelines. These modifications have not yet occurred. As discussed in Section VIII. Placements, the Co-Monitors have made recommendations that DSS consider alternatives to the current leveling approach, which is frequently based only on placement availability and a child's current behavior, rather than on the child's underlying needs. Parties have expressed a commitment to redefining the FSA requirements in this area so that a baseline can be established and work towards improved performance is aligned and measurable.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Therapeutic Foster Care Placements - Receipt of Recommendations for Services or Placement: 22. All Class Members that are referred for interagency staffing and/or needed diagnostic assessments shall receive recommendations for specific therapeutic foster care placement and/or services within forty-five (45) days of receipt of the completed referral. (FSA IV.I.3.) ***Dates to reach final target and interim benchmarks to be added once approved***.	Baseline data for this measure are not available.	Data are not available for this period.	Data are not available for this period.	Data are not available for this period.[175] Parties agreed to a modification of the FSA provision that will require new monitoring methodology to be co-developed with Plaintiffs.

[175] Ibid.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Therapeutic Foster Care Placements - Level of Care Placement: 23.a. Within 60 Days: At least 90% of children assessed as in need of therapeutic foster care placement shall be in the Therapeutic Level of Care and specific placement type that matches the Level of Care for which the child was assessed within sixty (60) days following the date of the first Level of Care Placement recommendation. (FSA IV.I.4.) ***Dates to reach final target and interim benchmarks to be added once approved***	Baseline data for this measure are not available.	Data are not available for this period.	Data are not available for this period.	Data are not available for this period.[176] Parties agreed to a modification of the FSA provision that will require new monitoring methodology to be co-developed with Plaintiffs.

[176] Ibid.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Therapeutic Foster Care Placements - Level of Care Placement: 23.b. At least 95% of children assessed as in need of therapeutic foster care placement shall be in the Therapeutic Level of Care and specific placement type that matches the Level of Care for which the child was assessed within ninety (90) days following the date of the first Level of Care Placement recommendation. (FSA IV.I.5.) ***Dates to reach final target and interim benchmarks to be added once approved***.	Baseline data for this measure are not available.	Data are not available for this period.	Data are not available for this period.	Data are not available for this period.[177] Parties agreed to a modification of the FSA provision that will require new monitoring methodology to be co-developed with Plaintiffs.

[177] Ibid.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Family Visitation - Siblings 24. At least 85% of the total minimum number of monthly sibling visits for all siblings not living together shall be completed, unless an exception applies. (FSA IV.J.2.)	66% of all required visits between siblings occurred for those who were not placed together. (March 2018)	Upon agreement of all Parties, the Co-Monitors suspended a review of a statistically valid sample of records and reporting on this measure for at least four monitoring periods, or until DSS reports there has been a substantial increase in performance.	73% of siblings in foster care and living apart visited each other (including exceptions).	80% of siblings in foster care and living apart visited each other (including exceptions.[178]
Family Visitation - Parents: 25. At least 85% of Class Members with the goal of reunification will have in-person visitation twice each month with the parent(s) with whom reunification is sought, unless an exception applies. (FSA IV.J.3.)	12% of children with a permanency goal of reunification visited twice with the parent(s) with whom reunification was sought. (March 2018)	Upon agreement of all Parties, the Co-Monitors suspended a review of a statistically valid sample of records and reporting on this measure for at least four monitoring periods, or until DSS reports there has been a substantial increase in performance.	60% of children with a permanency goal of reunification visited twice with the parent(s) with whom reunification was sought (including exceptions.[179]	49% of children with a permanency goal of reunification visited twice with the parent(s) with whom reunification was sought (including exceptions.[180]

[178] Data are from a CAPSS record review conducted by Co-Monitor and DSS staff of a statistically valid sample designed to produce results at a 95% confidence level with a +/- 5% margin of error.
[179] Ibid.
[180] Ibid.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care - Immediate Treatment Needs: 26. Within forty-five (45) days of the identification period, DSS shall schedule the necessary treatment for at least 90% of the identified Class Members with Immediate Treatment Needs (physical/medical, dental, or mental health) for which treatment is overdue. (FSA IV.K.4.(b))	Baseline data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.[181]

[181] FSA IV.K.4.(b)). required that by August 31, 2016, DSS "identify Class Members with Immediate Treatment Needs (physical/medical, dental, or mental health) for which treatment is overdue." Though initially intended to apply to children in DSS custody at the time of entry into the agreement in October 2016, DSS lacked a mechanism for measuring performance with respect to this requirement. On October 28, 2019, DSS and Plaintiffs entered into the Joint Agreement on the Immediate Treatment Needs of Class Members (Dkt. 162), which set out a timeline for specific action steps DSS would take to comply with and ultimately measure performance with respect to, a new set of standards that would replace the initial FSA IV.K.4(b) requirements.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care - Initial Medical Screens 27. At least 90% of Class Members will receive an initial medical screen prior to initial placement or within 48 hours of entering care. ***Dates to reach final target and interim benchmarks to be added once approved.***[182]	Baseline data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.
Health Care - Initial Comprehensive Assessments 28. At least 85% of Class Members will receive a comprehensive medical assessment within 30 days of entering care.	36% of children received a comprehensive medical assessment within 30 days. (March 2019)	51% of children received a comprehensive medical assessment within 30 days.	49% of children received a comprehensive medical assessment within 30 days.	50% of children received a comprehensive medical assessment within 30 days.

[182] Pursuant to the DSS Addendum to the Health Care Improvement Plan, approved February 25, 2019, DSS was to present approvable interim benchmarks for Initial Medical Screens and Initial Mental Health Assessments to the Co-Monitors by May 31, 2020. Given the delay in production of baseline data, benchmarks have not yet been proposed.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care - Initial Comprehensive Assessments 29. At least 95% of Class Members will receive a comprehensive medical assessment within 60 days of entering care.	52% of children received a comprehensive medical assessment within 60 days. (March 2019)	65% of children received a comprehensive medical assessment within 60 days.	65% of children received a comprehensive medical assessment within 60 days.	67% of children received a comprehensive medical assessment within 60 days.
Health Care - Initial Mental Health Assessments 30. At least 85% of Class Members ages three and above for whom a mental health need is identified during the comprehensive medical assessment will receive a comprehensive mental health assessment within 30 days of the comprehensive medical assessment. ***Dates to reach final target and interim benchmarks to be added once approved.***	Baseline data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care - Initial Mental Health Assessments 31. At least 95% of Class Members ages three and above for whom a mental health need is identified during the comprehensive medical assessment will receive a comprehensive mental health assessment within 60 days of the comprehensive medical assessment. ***Dates to reach final target and interim benchmarks to be added once approved.***	Baseline data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.
Health Care –Referral to Developmental Assessments 32. At least 90% of Class Members under 36 months of age will be referred to the state entity responsible for developmental assessments within 30 days of entering care.	19% of children under 36 months of age were referred within 30 days. (July-December 2017)	91% of children under 36 months of age were referred within 30 days.	96% of children under 36 months of age were referred within 30 days.	96% of children under 36 months of age were referred within 30 days.

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care –Referral to Developmental Assessments 33. At least 95% of Class Members under 36 months of age will be referred to the state entity responsible for developmental assessments within 45 days of entering care.	20% of children under 36 months of age were referred within 45 days. (July to December 2017)	97% of children under 36 months of age were referred within 45 days.	97% of children under 36 months of age were referred within 45 days.	96% of children under 36 months of age were referred within 45 days.[183]
Health Care – Initial Dental Examinations 34. At least 60% of Class Members ages two and above for whom there is no documented evidence of receiving a dental examination in the six months prior to entering care will receive a dental examination within 60 days of entering care.	35% of children ages one and above received a dental exam within 60 days. (March 2018)	49% of children ages two and above received a dental exam within 60 days.	57% of children ages two and above received a dental exam within 60 days.	62% of children ages two and above received a dental exam within 60 days.

[183] Order on Motion for Miscellaneous Relief (October 18, 2024, Dkt.329).

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care – Initial Dental Examinations 35. At least 90% of Class Members ages two and above for whom there is no documented evidence of receiving a dental examination in the six months prior to entering care will receive a dental examination within 90 days of entering care.	48% of applicable children ages one and above received a dental exam within 90 days. (March 2018)	62% of applicable children ages two and above received a dental exam within 90 days.	66% of applicable children ages two and above received a dental exam within 90 days.	63% of applicable children ages two and above received a dental exam within 90 days.
Health Care – Periodic Preventative Care (Well visits) 36. At least 90% of Class Members under the age of six months in care for one month or more will receive a periodic preventative visit monthly.	49% (40) of 82 children under the age of six months received a periodic preventative visit monthly. (March 2019) 30% (42) of 137 children under the age of six months who entered care between October 1, 2018, and March 31, 2019, received a periodic preventative visit monthly.	See Section IX. *Health Care*	See Section IX. *Health Care*	See Section IX. *Health Care*

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care - Periodic Preventative Care (Well visits) 37. At least 90% of Class Members between the ages of six months and 36 months in care for one month or more will receive a periodic preventative visit in accordance with current American Academy of Pediatrics (AAP) periodicity guidelines.	38% of children between the ages of six and 36 months received periodic preventative visits in accordance with the periodicity schedule. (March 2019)	See Section IX. *Health Care*	See Section IX. *Health Care*	See Section IX. *Health Care*
Health Care – Periodic Preventative Care (Well visits) 38. At least 98% of Class Members between the ages of six months and 36 months in care for one month or more will receive a periodic preventative visit semi-annually.	62% of children between the ages of six and 36 months received a periodic preventative visit semi-annually. (March 2019)	See Section IX. *Health Care*	See Section IX. *Health Care*	See Section IX. *Health Care*

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care – Periodic Preventative Care (Well visits) 39. At least 90% of Class Members ages three and older in care for six months or more will receive a periodic preventative visit semi-annually.	12% of children ages three years and older received a periodic preventative visit semi-annually. (March 2019)	See Section IX. *Health Care*	See Section IX. *Health Care*	See Section IX. *Health Care*
Health Care – Periodic Preventative Care (Well visits) 40. At least 98% of Class Members ages three and older in care for six months or more will receive a periodic preventative visit annually.	58% of children ages three years and older received an annual preventative visit. (March 2019)	See Section IX. *Health Care*	See Section IX. *Health Care*	See Section IX. *Health Care*
Health Care – Periodic Dental Care 41. At least 75% of Class Members ages two and older in care for six months or longer will receive a dental examination semi-annually.	54% of children ages two years or older received a dental exam semi-annually. (March 2019)	See Section IX. *Health Care*	See Section IX. *Health Care*	See Section IX. *Health Care*

Summary Performance on Settlement Agreement Requirements				
Final Settlement Agreement (FSA) Requirements	**Baseline Performance**	**April –September 2023 Performance**	**October 2023– March 2024 Performance**	**April – September 2024 Performance**
Health Care – Periodic Dental Care 42. At least 90% of Class Members ages two and older in care for six months or longer will receive a dental examination annually.	81% of children ages two years or older received an annual dental examination. (March 2019)	See Section IX. *Health Care*	See Section IX. *Health Care*	See Section IX. *Health Care*
Health Care - Follow-Up Care 43. At least 90% of Class Members will receive timely accessible and appropriate follow-up care and treatment to meet their health needs. ***Dates to reach final target and interim benchmarks to be added once approved.***[184]	Baseline data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.	Data for this measure are not available.

[184] Pursuant to the DSS Addendum to the Health Care Improvement Plan, approved February 25, 2019, DSS was to present approvable interim benchmarks to the Co-Monitors by November 30, 2019.

Appendix C – Glossary of Acronyms

AAP: American Academy of Pediatrics
ADR: Office of Accountability, Data, and Research
CAPSS: Child and Adult Protective Services System
CFTM: Child and Family Team Meeting
DDSN: Department of Disability and Special Needs
DHHS: Department of Health and Human Services
DMH: Department of Mental Health
DJJ: Department of Juvenile Justice
DSS: Department of Social Services
EPC: Emergency Protective Custody
EPSDT: Early, Periodic, Screening, Diagnosis and Treatment
FAST: Family Advocacy and Support Tool
FFCRA: Families First Coronavirus Response Act
FFPSA: Family First Prevention Services Act
FMAP: Federal Medical Assistance Percentage
FFY: Federal Fiscal Year
FSA: Final Settlement Agreement
FFE: Full-Time Equivalent
GPS: Guiding Principles and Standards Case Practice Model
HRSN: Health-Related Social Need
MCO: Managed Care Organization
MST: Multi-Systemic Therapy
OHAN: Out-of-Home Abuse and Neglect Unit
SACWIS: State Automated Child Welfare Information System
SFY: State Fiscal Year
SDM: Structured Decision Making
STOC: Small Test of Change
U of SC CCFS: University of South Carolina's Center for Child and Family Studies
USDA: United States Department of Agriculture