

County of Financial Responsibility (COFR) Dispute Resolution Committee - Case 2010-1

Committee:	Doug Ward	Community Mental Health for Central Michigan
	Cindy Lowe	Kalamazoo Community Mental Health
	Mark Kielhorn	Department of Community Health

The Committee met on February 5, 2010 concerning a dispute involving three county CMHSP's. CMHSP representatives from the counties participated to explain the case and the rationale for each CMHSP's position.

Issue: A child was placed into foster care in County B in 2000 by DHS from County A. In July 2002, her parental rights were terminated and she was made a ward of the County A court. Later that year she moved to County C. In 2006 she was seen by the CMH in County C for an assessment but was not provided service because they believed that they were not the COFR. In 2007 she was referred to County B CMH for a guardianship evaluation. There have been subsequent requests for service. She now lives in County B. The costs under dispute relate to 2007 and later.

County A maintains that the COFR should be County B, based on the contract amendment in effect in 2006 when she first presented for service in County C. That amendment said "When all parental rights have been terminated, the COFR shall be where the child resides." Since she was living in County B when the parental rights were terminated in 2002, they assert that County B should be the COFR.

Counties B and C maintain that this question should be answered under the amendment in effect since 2007, which says that "For temporary and permanent wards of the court (including tribal), the COFR is the county served by the 'court of record', which is where the child was made a ward of the court..." The first contact about which there is any disagreement was in 2007 and should be decided based on the current revised language. On this basis, the court of record was in County A and County A should be the COFR.

In rebuttal, County A asserts that if the revised language is used to decide this case, it will result in reopening many prior agreements based on the old contract language.

Resolution: The costs subject to this appeal are from 2007 and later and have not been subject to any COFR agreement. Since this is a new question, the current language from the contract amendment is applicable in this case - "For temporary and permanent wards of the court (including tribal), the COFR is the county served by the 'court of record', which is where the child was made a ward of the court..." Therefore, County A is the COFR.

Furthermore, the old language resulted in the wrong answer. Choosing the county of residence based on where the child was when the parental rights were terminated penalizes counties with facilities that attract persons from around the state. This panel's conclusion in a prior case was that this initial language was in error and it was corrected.

There will be no reopening of prior COFR agreements or decisions by the COFR appeal panel. When an agreement was made based on the initial language, either directly or through appeal to this panel, that decision will not be overridden.

Contract: The contract language under "Children" should be broadened to explicitly include court wards who are aging out of the children's system.