

July 2, 2018

Ms. XXXXX
Adoption Assistance Caseworker

RE: Adoption Subsidy Request Involving XXXXX (DOB XXXX)

Dear Ms. Ortiz:

I am writing on behalf of my clients, XXXX, in reference to an adoption subsidy request for Ethan XXXXXX. Ethan has been with my clients since April 1, 2017 through an adoptive placement involving the licensed nonprofit child placement agency, Bethany Christian Services of Colorado. This placement was made following an adoption disruption in Virginia whereby the previous prospective adoptive parents chose not to proceed with the adoption given that the child's special needs were too extensive and beyond their abilities. My clients would very much like to adopt this child but need adoption assistance to remove the financial barriers to proceeding with this adoption.

Please note that this subsidy proposal is being offered for purposes of settlement only and to resolve the subsidy negotiations and is likewise not admissible in a court of law. My understanding is that you will be reviewing this letter, the accompanying documents, and your agency file consisting of previously tendered reports and documents and letting me know if the proposed subsidy request herein is acceptable. If needed, my clients and I are available to participate in a subsidy negotiation conference. Accordingly, if your department desires to set a subsidy negotiation conference, please contact me directly for scheduling purposes. Alternatively, if the subsidy request herein is acceptable to your department, please prepare the subsidy contracts and applications for my and my client's review and approval before all parties execute it.

Please note that that my clients are formally requesting an adoption subsidy for the child pursuant to Title IV-E. My understanding is that Michelle Lopez with the Colorado Department of Human Services has already determined that the child is IV-E eligible and has forwarded this matter to your department to negotiate and pay the subsidy given that my clients are residents of Weld County. The specific assistance that my clients are requesting on behalf of the child includes the following: (1) a monthly long-term maintenance subsidy in the amount of \$ 20.75/day (17.25/daily for a child 0-10 plus an additional monetary assistance in the amount of \$3.50/daily given the child's developmental disability; (2) Medicaid; (3) non-recurring adoption expenses in the amount of \$800.00; and (4) respite care reimbursement for up to \$ 1,200.00/year. I will briefly outline the justifications for this request given that my clients have already provided you extensive documentation supporting their request. Moreover, please review the information and reports contained in your agency's file as further support for the subsidy request.

CHILD'S SPECIAL NEEDS AND THERAPUETIC INTERVENTIONS

It is clear that Ethan has special needs as defined in the Colorado Code of Regulations and your county guidelines.

Colorado Code of Regulations § 7.306.4 and your county guidelines outline special needs factors that result in a barrier to a child's adoption. Here, the child qualifies as a special needs child due to meeting multiple criteria.

First, the child qualifies for a subsidy based upon being high risk as a result of drug-exposure in utero. See CCR § 7.306.4(A)(3)(d)(7) (special needs children include children drug-exposed and alcohol-exposed). Here, the birth mother used oxycodone/subtex, wellbutrin, zoloft, alcohol, tobacco and THC during her pregnancy. This contributed to the child being born premature and having to spend several weeks in the Neo Natal Intensive Care Unit where he was treated with methadone for withdrawal symptoms. Likely due to the prenatal drug and alcohol exposure, the child's Apgar Scores were extremely low at the time of delivery.

The child also qualifies as special needs child as a result of heredity factors that have been documented. See CCR § 7.306.4(A)(3)(d)(6). It has been documented that the birth mother suffered from anxiety, depression, and polysubstance abuse. Similarly, the birth father had mental health issues and suffered from suicidal ideation, aggression and polysubstance abuse. The birth parents' mental health diagnosis raises considerable concern that the child may well have mental health needs as he grows up and becomes an adolescent.

The child also experiences significant developmental delays and has been diagnosed with global developmental delay which classifies him also as a special needs child. 7 CCR §§ 7.306.4(A)(3)(d)(2) and (3) (special needs include a developmental disability and speech/language disability). These delays include, but are not limited to, receptive and express language delays, communication delays, and cognitive delays.

Ethan also has physical delays as noted by his physical and occupational therapists. 7 CCR § 7.306.4(A)(3)(d)(1)(special needs include a physical disability). His therapists note that he has significant gross motor delays, fine motor delays, sensory issues, and decreased strength and coordination.

Ethan also has special needs as a result of having an emotional disturbance as defined in CCR § 7.306.4(A)(3)(d)(5). He has been diagnosed with Other Specified Trauma-and Stressor-Related Disorder and has experienced considerable difficulty in bonding and attachment and poor regulation. He also exhibits tantrums and behaviors well outside of age appropriate development. These diagnosis and emotional behaviors indeed classify him as a special needs child.

Finally, Ethan has a physical disability/impairment consisting of Dysphagia and

Gastroesophageal Reflux with Aspiration Risk. 7 CCR § 7.306.4(A)(3)(d)(1)(special needs include a physical disability). These conditions are currently being treated by putting on a commercial liquid thickener which is not covered by health insurance.

Ethan has multiple wrap around medical and mental health treatment services to address all of the above noted special needs. Currently, he receives weekly speech, occupational, and developmental therapies in the home provided by Early Intervention Colorado. He also weeks physical therapy every four to six weeks. My clients and/or Ethan also participate in weekly attachment and EMDR therapy with Andrea Shindle, MA, NCC. Ethan is also seen approximately quarterly at Children's Hospital to monitor his emotional and physical development. Further, he regularly visits his pediatrician to address his swallowing issues and respiratory infections. My clients, particularly, Mrs. XXXX, spends considerable time orchestrating the above treatment team as well as spending lots of time with Ethan reinforcing the therapists' recommendations, exercises, and follow-up care.

LONG-TERM MONTHLY MAINTENANCE SUBSIDY

A long-term monthly maintenance subsidy for the child is warranted and appropriate in this case. A monthly maintenance subsidy is based upon the child's needs and the family circumstances. 7 CCR § 7.306.4(A)(3)(f). The circumstances of the adoptive parents pertain specifically to the parents' ability to incorporate the child into their household in relation to their lifestyle, standard of living and future plans and their overall capacity to meet the immediate and future needs of the children. See generally, Human Development Services, U.S. Dept. of Health and Human Services, Policy Interpretation Question ACYF-CB-PA-01-01 (Jan. 23, 2001); Human Development Services, U.S. Dept. of Health and Human Services, Policy Interpretation Question ACYF-PIQ-90-02 (Oct. 2, 1990). Further, the subsidy "payment that is agreed upon should combine with the parents' resources to cover the *ordinary and special* needs of the child projected over an extended period of time and *should cover anticipated needs*, e.g., child care. Anticipation and discussion of these needs are part of the negotiation of the amount of the adoption assistance payment." U.S. Department of Health and Human Services Child Welfare Policy Manual, § 8.2D.4. (emphasis added). Colorado law similarly provides that a subsidy should cover both the "ordinary" and "special needs" of the child by stating, "payments may include but are not limited to the maintenance costs, medical and surgical expenses, and other costs incidental to the adoption, care, training and education of the child. C.R.S. § 26-7-104(1).¹ Moreover, state regulations provide that a long-term subsidy should be authorized "*when the family's financial situation precludes adoption and is unlikely to change or when a child's needs take an excessive toll on the family's financial and emotional resources.*" 7 CCR § 7.306.4(A)(3)(h)(emphasis added).

¹ Colorado regulations also support a subsidy providing for both the "ordinary needs" and "special needs" by stating, "Adoption assistance is intended to help remove financial or other barrier to the adoption of Colorado child with special needs by providing assistance to the parent(s) in *caring for and raising of the child*. Volume VII 7.306.4(A)(3) (emphasis added).

Here, we would submit that my clients should receive \$20.75 per day (approximately \$623.00/month) as a long-term monthly subsidy as a result of the child having extensive special needs, the fact that Ethan's ordinary and special needs have and will likely continue to take an excessive toll on the family's financial and emotional resources, and the fact that the child has already experienced a prior adoption disruption with a family member in Virginia.

The family estimates it currently expends the following monthly financial resources for the *direct care of the child*: (1) child care and respite care in the current amount of about \$300.00 per month; (2) attachment therapy with Andrea Shindle in the current amount of \$ 300.00 per month; (3) liquid thickeners in the amount of \$70.00 per month; (4) United Health Care premiums for solely Ethan in the amount of \$52.00 per month (in addition there are co-pays of \$25 per office visit and \$50 for urgent care and specialists with a family deductible of \$2,700.00); (5) Dental insurance for Ethan in the amount of \$9.00 per month (with a \$150.00 deductible for family and subject to a 50% coverage for in-network major dental work and 80% covered for basic dental care); (6) clothing in the amount of \$25.00 per month; (7) diapers in the amount of \$30.00 per month; (8) food in the approximate amount for Ethan in the amount of \$75.00 per month; (9) Neurofeedback in the amount of \$ 400.00 per month (recently suspended due to costs but clients desire and expect to reinstate this process); (10) mileage to/from doctor appointments (including Children's Hospital/Denver 4-5 times per year) averaging about 45 miles per month which at the IRS reimbursement rate is about \$ 23.00 per month for gasoline; and (11) miscellaneous expenses, including but not limited to, car seats, high chair, booster chair, toys, books, furniture, etc. in the approximate monthly amount of \$100.00. Thus, the amount expended by my clients for the current care of the child is approximately \$ 1,400.00 per month (not included insurance deductibles and co-payments) which totals about \$16,800.00 per year.

Further, with respect to anticipated equipment needs not covered by insurance, which must be factored into a subsidy negotiation as referenced above, my clients expect to provide and pay for the following items which have been recommend by multiple therapists and his pediatrician: (1) It Takes Two to Talk Speech Program (\$75); (2) Baby Signing Time (\$85); (3) Weighted Blanket (\$125); (4) Weighted Vets (\$70); (5) Sensory Tent (\$100); (6) Therapy Ball (\$25); (7) At least four (4) Oral Tools estimated at \$20 each (\$80); (8) At least three Special PT shoes yearly estimated at \$45.00 each (\$135); and (9) Pacifiers for soothing (\$30). The total of the above medically recommended equipment for the coming year is thus approximately \$725.00.

Additionally, concerning anticipated therapeutic classes in the future, as recommended by the child's current therapists, which again must be considered in a subsidy negotiation, my clients expect to provide the following: (1) music classes (to assist with coordination, brain development and verbal learning) in the amount of \$35.00 per month; (2) swimming lessons (to enhance muscular development) in the amount of \$45.00 per month; (3) tumbling classes (for muscular growth and coordination) in the amount of \$54.00 per month; and (4) Equine therapy to assist with attachment in the amount of \$250.00 per month. Additionally, my clients expect to enroll Ethan in a day camp in the future for his special needs and socialization in the approximately amount of \$400.00 (or more). Collectively, these additional therapeutic classes would be about

an additional \$400.00 per month.

Factoring in all the special and ordinary expenses outlined above both currently and prospectively, it is expected that my clients will incur almost \$1,900.00 per month for the direct care of the child or about \$23,000.00 per year

My clients also have additional monthly expenses allocated for themselves as outlined herein: (1) mortgage in the amount of \$2,093.00 per month; (2) \$259.00 per month for utilities (water, gas, and electric); (3) internet/landline monthly service in the amount of \$116.00; (4) cell monthly service in the amount of \$60.00 per month; (5) home owner's insurance in the amount of \$75.00 per month; (6) home security in the amount of \$60.00 per month; (7) home and car insurance in the amount of \$146.00 per month; (8) food expenses averaging \$600/month; and (9) gasoline expenses in the monthly amount of \$200.00. These expenses for solely for my clients are about \$ 3,609.00 per month or about \$ 43,308.00 per year.

My clients are committed to providing the support, care, and nurturance that the child needs to provide him the best opportunity to heal, develop, and be successful in life. The family, however, is currently struggling to meet the above referenced expenses. Mr. XXXX recently experienced an employment change in March 2018. Currently he is earning \$37.25 per hour for approximately 65 hours of pilot training per month. Upon completion of his training, he will then earn the same hourly wage but will be compensated for 75 hours per month. Thus, his current gross monthly income is about \$2,421.00 which will be increased to \$2,793.00 per month upon successful completion of his training. Mrs. XXXX, since receiving Ethan into her home in April 2017, has had to reduce her work schedule to about 12-13 hours weekly (average over the past 12 months). She works as a contractor providing services to a pharmaceutical company. Her pay rate is \$85.00 per hour. Thus, her gross monthly income is approximately \$4,200.00. After payroll taxes, the current net family income is approximately \$ 4,300.00 per month. It should be noted that prior to the child coming into my clients' care, Mrs. XXXX was working full-time. She has drastically reduced her hours and income so she could be more readily available to stay at home and care for Ethan. Because Ethan has and will to continue to have multiple therapeutic interventions, my clients determined that the child's best interests would be served by having Mrs. XXXX to continue to work part-time for the foreseeable future.

Because caring for Ethan has and will continue to take an excessive toll on the family's financial circumstances, they are requesting that a long-term maintenance monthly subsidy in the amount of \$20.75 per day be provided. The family would use the maintenance subsidy towards meetings all of the child's expenses previously identified. Based upon the child's history and the financial resources that will be necessary in the future to maintain this adoptive placement, the request for the long-term cash assistance is both warranted and necessary. While this subsidy rate will not nearly cover all the expenses related to caring for the child in the future, it will partially assist the family in this endeavor. Without a subsidy in the amount requested, the family would have to significantly change their lifestyle and standard of living which is directly contrary to federal and state law. It is noteworthy that even with the requested subsidy amounts, the family will still need to modify, albeit more modestly, their lifestyle and standard of living to meet all the family

and child's expenses.

MEDICAID

Medicaid is critically important for the child as my clients anticipate using both Medicaid and their private insurance, United Health Care, to better ensure that the child's medical and mental health care needs can be met. Since all children receiving a federal (or state) subsidy are entitled to receive Medicaid, my understanding is that providing Medicaid in this case should not be problematic. CCR § 7.306.42.

NON-RECURRING ADOPTION EXPENSES

My clients are also seeking non-recurring adoption expenses in the amount of \$800.00. My clients have legal expenses in connection to retaining legal counsel to assist them with negotiating the subsidy on behalf of the child and advising them in connection to their adoption finalization. Additionally, my clients will incur court filing costs and birth certificate expenses. Pursuant to state law and your county policy, such expenses are reimbursable under the adoption assistance program. CCR § 7.306.53.

ADOPTION ASSISTANCE CASE SERVICES

My clients are also requesting that your department reimburse my clients up to \$ \$1,200.00 per year for the child for respite care should it be required. Pursuant to CCR § 7.306.52(D), respite care is a reimbursable case service. My clients have used respite care in the past and anticipate needing it in the future as well. My clients believe that respite care is critically important to the continued stability of their relationship and to be reenergized periodically to better attend to the child's needs. My clients are committed on only hiring respite care providers that the child knows and can meet his special needs and behavioral challenges. My clients anticipate paying \$25.00 per hour for up to four hours per month of respite care in the future. My clients anticipate at this time utilizing one night of four hours of respite care per month to allow them one night out per month. This would result in a yearly respite care expense of \$1,200 per child per year.

MEDICAL RECORDS AND DOCUMENTS

I have enclosed herein some additional documents in support of my clients' subsidy request that I understand have not previously been tendered to your department. These include the following:

- Letter dated June 17, 2018 from Peggy Allsup-Armstrong, CCC-SLP
- Letter dated May 14, 2018 from Dr. M Meshelle Kolanz, MD
- Special Needs Assessment Worksheet for Adoption Assistance
- Adoptive Family Resource Questionnaire (with attached letter from Patrick and Karrie

XXXX)

- 2017 Tax Form (1st two pages) (**This information will change considerably in 2018 as noted above)
- Updated Annual Colorado Individualized Family Service Plans from April and May 2018.
- Paystubs for Mr. XXXX (please note that Ms. XXXX is self-employed and does not have pay stubs)

I understand that your department has already received extensive medical reports previously tendered to Ms. Lopez at the Colorado Department of Human Services such that I have not enclosed those herein again.

CLOSING

As you are well aware, pursuant to state and federal regulations, the adoption can only be finalized after the subsidy has been agreed upon and the contract fully executed. Your assistance, therefore, in timely reviewing this request and responding would be greatly appreciated. The child is now legally available for adoption and has been so for quite a while and thus deserve the legal, social, psychological, and inheritance benefits associated with a full and final adoption.

I look forward to hearing from you in connection to setting a subsidy negotiation meeting, if necessary. Please note that if the request herein is acceptable, my clients are amenable to waiving a subsidy negotiation meeting. In that case, please prepare the subsidy documents for my review. Please, however, ensure that the adoption assistance documents contain a complete description of the child's special needs such that if an additional subsidy request needs to be made in the future, it will relate back to the child's diagnoses and needs prior to the adoption.

In advance, thank you for your consideration of this proposal. If you need any additional documentation, please do not hesitate to contact me.

I look forward to hearing from you in the very near future.

Very Truly Yours,

Seth A. Grob

cc: Clients (without enclosures)

Enc.