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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

March 3, 2016

The Honorable Sylvia Mathews Burwell
Secretary
Department of Health and Human Services
Washington, DC 20201

Dear Secretary Burwell:

Last week, the Committee held a hearing to review the current unaccompanied alien children (UAC) crisis and address the Administration's plan to stop the border surge and monitor the children.¹ Among other issues addressed, the Committee requested information about the use of Child Abuse and Neglect (CA/N) checks—an important tool to vet potential sponsors to ensure children are not placed with a sponsor who may abuse or harm them.

During the hearing, Acting Assistant Secretary Mark Greenberg testified about the use of CA/N checks and waivers. When asked about the situations in which waivers are used and whether they were used to increase efficiency in discharging children to sponsors, Greenberg responded: “we would not do a waiver to speed a discharge in any circumstances . . . where we believe that it presented a risk . . . to the health or safety of the child.”² However, reports to the Committee suggests senior managers are pushing the use of waivers to increase discharges and avoid overcrowding, citing urgency as the reason for their instruction.

Moreover, in answers provided to the Committee following the February 23rd hearing, your Department said that since September 2015, 730 CA/N waivers have been approved. It is concerning that, in the last 6 months, more than 730 children have been placed with an unrelated sponsor who has not been vetted against child abuse and neglect registries.

¹ *The Unaccompanied Children Crisis: Does the Administration Have a Plan to Stop the Border Surge and Adequately Monitor the Children?*; Hearing before the S. Comm. on the Judiciary, 114th Cong. (2016).

² *The Unaccompanied Children Crisis: Does the Administration Have a Plan to Stop the Border Surge and Adequately Monitor the Children?*; Hearing before the S. Comm. on the Judiciary, 114th Cong. (2016) (statement of Mark Greenberg, Acting Assistant Secretary of the Department of Health and Human Services).

Further, your Department stated that that CA/N checks can take 30-45 days, but “often go far longer than that.” Specifically, it was reported to the Committee that “in cases where a waiver is approved, the CA/N check is still completed but we do not require the report to be received before release to a sponsor.”

These answers seem to conflict with Greenberg’s testimony, which suggests that concern for health and safety of the child is the driver of the decision to use a waiver. To clarify why CA/N check waivers are utilized and to allow for a better understanding of the process, please answer the following questions.

1. What is the purpose of a CA/N check? What is the purpose of a CA/N waiver? What is the process an official must undergo when requesting a CA/N waiver? Please explain. How are decisions made about whether to allow for a waiver of the check?
2. How does HHS ensure the health and well-being of a child when a waiver is utilized and the sponsor is not vetted against child abuse and neglect registries? Please explain.
3. Does HHS place children with sponsors while these checks are pending? If so, what happens if a CA/N check comes back with derogatory information? Rushed or waived CA/N checks may lead to less-than-thorough background checks. Is HHS aware of any cases in which a CA/N waiver led to an instance of abuse or any other adverse effect on a UAC? If yes, please provide details of these cases.
 - i. Will HHS take custody of a child after a waiver is permitted but the initial check eventually comes back with a hit?
 - ii. How many children have been rescued after a CA/N check came back with derogatory information?
4. Are CA/N waivers ever used to promote efficiency in discharge? What happens when a waiver is rejected, meaning the child must remain in HHS custody for weeks to months? Please explain.
5. Which sponsor category are CA/N waivers used for?
6. Do you conduct CA/N checks on all members of a sponsor’s household? Please explain.

Please provide your responses no later than March 17, 2016. Please contact Katherine Nikas of my Committee staff at (202) 224-5225 should you have any questions. Thank you for your cooperation in this important manner.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" and last name "Grassley" clearly legible.

Charles E. Grassley
Chairman
Senate Committee on the Judiciary

cc:

The Honorable Patrick Leahy
Ranking Member
Senate Committee on the Judiciary