

Florida foster kids are given powerful medications, but state oversight lacking

September 29 2023, by Christopher O'Donnell, KFF Health News



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The powerful anti-seizure drug the 5-year-old boy had been taking for more than a year made him "almost catatonic," his new foster mom from Florida's Pinellas County worried.

And there was no paperwork showing that the boy's biological mother or a judge had authorized the [psychotropic medication](#), Keppra, as required by [state law](#).

"I was caught between a rock and a hard spot," she said. "You can't just stop that cold turkey."

The child's medical records showed he had seizures only when he had a fever, suggesting he was not epileptic. The foster mom asked the boy's neurologist if they could wean him off the drug.

He has not had a seizure since.

The account from the foster mother was confirmed by the boy's biological mother, who said she was not asked nor would she have consented to put him on the anti-seizure drug. The Tampa Bay Times and KFF Health News are not using their names to protect the identity of the boy, who is still in foster care.

The use of powerful psychotropic and [opioid medications](#) in Florida's child welfare system is supposed to be strictly regulated and documented.

But a federal audit of 115 records of children prescribed those medications selected at random by the U.S. Department of Health and Human Services found lax record-keeping and multiple cases of child welfare workers failing to follow Florida regulations on psychotropic or opioid [medication](#).

Federal audits in Indiana, Michigan, and Ohio also uncovered inadequate oversight of the use of psychotropic drugs among foster kids. In Maryland, the American Civil Liberties Union and other nonprofits filed a class-action lawsuit accusing the state of not maintaining medical

records. The suit says as many as 34% of the state's foster children are given psychotropic drugs but that most of them don't have a documented psychiatric diagnosis.

Child advocates fear such examples reflect a national failure to closely monitor the use of drugs among a vulnerable population already more likely to be on medication than other children.

"We shouldn't have to have a tragedy to make sure the system is paying attention," said Robin Rosenberg, deputy director of Florida's Children First, a nonprofit that advocates for kids in foster care.

Medication records missing

More than 2,200 foster children in Florida—roughly 1 in 10 of the state's foster care population—are given medication typically prescribed for [mental health disorders](#) such as schizophrenia, depression, bipolar disorder, and attention-deficit/hyperactivity disorder, state reports show.

That includes 73 children age 5 and younger. Among foster children 13 and older, the rate is almost 1 in 3, more than double the rate among similarly aged children in the general population.

But in close to half the cases, auditors found no records of the psychotropic medications prescribed in the case file in the state's primary case management system.

Logs that record the frequency and dosage of—and any adverse reactions to—psychotropic medication were missing from 66% of case files reviewed, and authorization records were not found in more than one-third of the case files.

Documentation of the use of opioids was even more lax, with no record

of what medication was prescribed in nearly every case reviewed.

The high turnover of case managers in foster care means accurate paperwork is critical, Rosenberg said. Foster children, especially teenagers, often move between different foster families and group homes, which can mean they may be treated by doctors who know little about their medical histories.

That raises the risk of overdoses or dangerous drug interactions, Rosenberg said.

The FDA in 2016 warned that the wrong combination of opioids and psychotropics can result in "serious side effects, including slowed or difficult breathing and death."

"Doctors need to have correct information to make the best decisions for children," Rosenberg said.

'Health and safety may have been at risk'

In response to the audit findings, the Florida Department of Children and Families is looking at more streamlined ways for records to be uploaded into the state's child welfare system, said spokesperson Miguel Nevarez. It also plans to enhance its monitoring and is looking to use other sources of data to cross-check the information in case files.

In Florida's privatized system, the Department of Children and Families contracts with local nonprofits to run the state's foster care system in 20 distinct districts. The department has an oversight role.

"We will hold the lead agencies responsible for the work they are contracted to do and ensure that they adhere to Department policies," Nevarez said in an email.

Children with mental disorders are often prescribed a combination of medications, including antidepressants, stimulants, antipsychotics, anti-convulsants, lithium, and sedative hypnotics. In foster care, the cost is covered by Medicaid in most cases.

Florida's child welfare system has long required strict record-keeping for such drugs. Lawmakers added safeguards after a 7-year-old foster child named Gabriel Myers died by suicide in 2009. At the time of his death, Gabriel had been prescribed two psychotropic medications.

Physicians or psychiatric nurses prescribing medication must complete a medical report and attempt to obtain consent from the child's parent or legal guardian. When parents cannot be reached or their parental rights have been terminated, the foster care agency must submit the medical report to a court for authorization.

Case managers are required to document the use of medication, including the prescription name, quantity, number of refills, and dosage, and record it in the state's primary record system within three business days. Every time a child is given a pill or experiences side effects, it should be recorded on a medication log by the child's caregiver, according to the Florida Administrative Code. Case managers are required to obtain the logs at each home visit and add them to the child's case file.

But that was not happening consistently, the federal review found. One child who was prescribed stimulants and antidepressants had no record of them in their case file. Other case files had records of some prescribed drugs, but not all.

In another example, medication logs were missing for a child prescribed antipsychotic and anti-anxiety drugs. When asked by federal auditors to provide them using supporting paperwork, the foster care agency could

not find any, the report said.

The state relies on these records to flag cases it may need to oversee for psychotropic medication use. When missing, those children's cases were not monitored, the audit found.

Another concern for auditors was that the Department of Children and Families did not have access to all the state's Medicaid data that federal auditors used to cross-check case files, meaning it had no way to ensure authorizations were on file.

Also, the training curriculum for child protective investigators and case managers did not specifically address the requirements for maintaining medication logs in the children's case files, auditors found.

"The State agency could not ensure that children in foster care received the necessary monitoring and care. As a result, the children's quality of care and health and safety may have been at risk," the report states.

The Department of Children and Families is working to obtain Medicaid claims data for all children in foster care, Nevarez, the agency spokesperson, said.

The challenge of getting the right care

The review did not look at whether the use of psychotropic or opioid medication was justified. But the lack of oversight has brought renewed scrutiny to the higher rates of medication use in the child welfare system.

Marlene Bloom, a Tampa psychologist who has worked with foster children for 25 years, said it makes sense that a higher proportion of foster kids would need medication. The children of parents with mental

health disorders are more likely to be in foster care and some disorders are genetic, she said.

But she also sees children on medication whose main issue is trauma, either from their home situation or from being removed from their families.

Among foster families, Bloom said, she doesn't see as much resistance to giving kids medication as she does from the parents of her private clients. They also don't push to get kids off the drugs as quickly as possible.

"In foster care, if it's the difference between literally having no placement, or some medication that may not be necessary but does help you to maintain a placement, what's the right thing to do?" she said.

Jenn Petion, CEO of Family Support Services, a nonprofit that serves as the lead foster care agency in Jacksonville and parts of Tampa Bay, said the additional paperwork required to get medication prescribed in the child welfare system can make it harder to give foster kids the same mental health care that is available to other children.

But for some families, the concern is not about lack of care—but about improper care. Dunedin resident Giselle Espinet said she believes her adopted daughter was overmedicated while in Florida's foster care system. A former high school teacher, Espinet reached out to the [foster care](#) system four years ago hoping to adopt a teenager.

She was matched with Liliana, then 14, and attended two get-to-know-you meetings. But Espinet was not allowed to review Liliana's disclosure file, including her medical history, until she agreed to move forward with the adoption.

Liliana regularly showed aggressive behaviors, which had led to her removal from some foster homes and schools.

She had been diagnosed with bipolar disorder and was taking 1,200 milligrams of lithium a day, the maximum recommended daily dose for [children](#) 12 and up, according to the Mayo Clinic.

Even with the medication, Liliana was unhappy and struggling. Espinet paid \$1,500 out of her own pocket for a neuropsychiatric evaluation.

It found signs of ADHD and mild post-traumatic stress disorder but no evidence of bipolar disorder, she said.

A new psychiatrist weaned Liliana off the drug. She still needs other medications but is back at school and pushing to graduate. She is happier and making friends, Espinet said.

"My child is a completely different person from the one I met four years ago," she said. "For the first time, she feels like her brain isn't wrapped up in rubber bands."

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Citation: Florida foster kids are given powerful medications, but state oversight lacking (2023, September 29) retrieved 9 May 2024 from <https://medicalxpress.com/news/2023-09-florida-foster-kids-powerful-medications.html>

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