

Congress of the United States
House of Representatives
Washington, DC 20515-0305

September 10, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Becerra,

Recent media reports indicating that the Department of Health and Human Services (HHS) “has lost contact with thousands of migrant children released from its custody” are extremely troubling.¹ And what is more troubling is the response given by an HHS spokesman to Axios in which he or she stated “While we make every effort to voluntarily check on children after we united them with parents or sponsors . . . we no longer have legal oversight once they leave our custody[.]”² This cavalier and dismissive response to questions regarding the Department’s inability to ascertain the whereabouts of unaccompanied alien children (UACs) whom it has placed with sponsors is appalling.

Instead of dismissing questions about whether HHS knows the whereabouts of children that it has placed with sponsors, your spokesperson should be able to provide the American people with assurances that HHS is taking its responsibility for placing children with responsible sponsors seriously. Every staffer involved in placing UACs with sponsors should be focused on ensuring that each child the Department has placed with a sponsor is safe.

According to HHS policy:

Care providers must conduct a Safety and Well Being Follow Up Call with an unaccompanied alien child and his or her sponsor 30 days after the release date. The purpose of the follow up call is to determine whether the child is still residing with the sponsor, is enrolled in or attending school, is aware of upcoming court dates, and is safe. The care provider must document the outcome of the follow up call in the child’s case file, including if the care provider is unable to contact the sponsor or child after reasonable efforts have been exhausted.³

¹ Stef W. Kight, *Exclusive: Government can’t reach one-in-three released migrant kids*, Axios, Sept. 1, 2021, <https://www.axios.com/migrant-children-biden-administration-a597fd98-03a7-415c-9826-9d0b5aaba081.html>.

² *Id.*

³ U.S. Dep’t of Health and Human Services, Office of Refugee Resettlement, Policy and Guidance, Children Entering the United States Unaccompanied: Section 2 (2015), <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied-section-2>.

The fact that “[r]oughly one-in-three calls made to released migrant kids or their sponsors between January and May went unanswered” raises serious concerns about those children’s welfare.⁴ If sponsors are unable or unwilling to answer the phone when HHS calls, then HHS should not be approving them as sponsors in the first place. HHS must improve its vetting procedures to ensure that sponsors understand their obligation to respond when the U.S. government contacts them.

Earlier this year CNN reported: “The Biden Administration is trying to fast-track the process for parents or guardians, many of whom are undocumented, to collect their children[.]”⁵ While this fast-tracking may reduce the number of UACs in HHS custody, it is extremely questionable whether it is in the best interest of the children. It is beyond cavil that HHS has no way of knowing if such placements are in the best interest of the children if it is unable to contact the sponsor after the children have been released.

U.S. Customs and Border Protection (CBP) has encountered nearly 100,000 UACs so far this calendar year, nearly all of whom will be placed with sponsors by HHS. If the response rate reported by Axios is representative of the response rate for all Safety and Well Being Follow Up Calls, then HHS must take immediate action to ensure that the children it places with sponsors are safe. If HHS is unable to contact one third of the sponsors of the nearly 100,000 children it has placed with sponsors, then the Department has failed and individuals responsible for the program must be held accountable.

HHS policy requires that all sponsors enter into a Sponsor Care Agreement with the Federal Government that lays out the sponsor’s responsibilities. These responsibilities include attending a Legal Orientation Program for Custodians and ensuring that the UAC attends all immigration proceedings.⁶ While I appreciate that HHS requires sponsors to sign an agreement, it is unclear who enforces the agreement given the fact that HHS care providers close the UAC’s case file 30 days after the UAC is placed with the sponsor. It is also unclear whether HHS will require the sponsor to return the child to HHS custody if the sponsor fails to comply with his or her responsibilities under the agreement.

HHS appears more focused on releasing UACs to sponsors as quickly as possible and closing the case file than ensuring that sponsors are complying with their agreements and that the children are safe. The concern that HHS is placing UACs with sponsors who are using the children as forced labor or otherwise abusing the children is not hypothetical. Bloomberg Law recently reported that “Federal law enforcement officials are investigating whether unaccompanied migrant teenagers have been released from government custody to labor traffickers who sent them to work in agricultural processing facilities in numerous cities.”⁷ How can HHS know that the children are safe if it is unable to contact nearly one third of the sponsors it has approved? HHS must change its policies to ensure that it is properly monitoring all children placed with sponsors to ensure that they are safe and that the sponsors are fulfilling their obligations.

⁴ Kight, *Exclusive: Government can't reach one-in-three released migrant kids*, <https://www.axios.com/migrant-children-biden-administration-a597fd98-03a7-415c-9826-9d0b5aaba081.html>.

⁵ Priscilla Alvarez et al., *How the Biden administration is responding to a record number of unaccompanied children at the US-Mexico border*, CNN, Apr. 23, 2021, <https://www.cnn.com/interactive/2021/04/politics/biden-administration-border-crisis/>.

⁶⁶ U.S. Dep’t of Health and Human Services, Office of Refugee Resettlement, Policy and Guidance, Children Entering the United States Unaccompanied: Section 2 (2015), <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied-section-2>.

⁷ Ben Penn & Ellen M. Gilmer, *U.S. Probes Trafficking of Teen Migrants for Poultry-Plant Work*, Bloomberg Law, Aug. 19, 2021, <https://news.bloomberglaw.com/daily-labor-report/u-s-probes-trafficking-of-teen-migrants-for-poultry-plant-work>.

Please provide answers to the following questions by September 24, 2021.

1. How many UACs has HHS placed with sponsors since January 20, 2021?
2. How many UACs has HHS placed with sponsors who are not lawfully present in the United States?
3. How many UACs has HHS placed with sponsors who are not the child's parent or legal guardian?
4. How many UACs has HHS placed with sponsors who are not the child's relative?
5. Does HHS place conditions on the releases of UACs to sponsors?
6. How many Safety and Well Being Follow Up Calls has HHS conducted since January 20, 2021?
7. How many sponsors has HHS been unable to contact since January 20, 2021?
8. What steps does HHS take to ensure the safety and well-being of a UAC if the care provider is unable to contact the sponsor?
9. What changes were made by HHS to its sponsor-vetting procedures in response to the Department's efforts to fast-track the UAC placement process?
10. How many sponsors have failed to attend Legal Orientation Program for Custodians since January 20, 2021?
11. How many sponsors have had their Sponsor Care Agreement terminated for failure to attend the Legal Orientation Program for Custodians since January 20, 2021?
12. How many sponsors have had their Sponsor Care Agreement terminated for failing to ensure that the UAC attend immigration proceedings since January 20, 2021?
13. What steps is HHS taking to contact the sponsors who failed to respond to Safety and Well Being Follow Up Calls?

I look forward to receiving your responses.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andy Biggs", with a stylized flourish at the end.

Andy Biggs
Member of Congress