

Child Welfare Services

Current Program

Child abuse or neglect is defined as any act, failure to act, or pattern of behavior on the part of a parent or primary caretaker that results in the physical, sexual, or emotional harm, or presents an imminent risk of harm, to a child under age 18. The majority of cases that come into the child welfare system involve some form of neglect. According to data from the National Child Abuse and Neglect Data System (NCANDS), during 2002, 60.5 percent of victims known to the child protection system experienced neglect (including medical neglect), 18.6 percent were physically abused, 9.9 percent were sexually abused, and 6.5 percent were emotionally or psychologically maltreated.

In 2002, state child protective services agencies received an estimated 2.6 million referrals alleging child maltreatment. An estimated 896,000 of the children referred were found to be victims. As of September 2002, 532,000 children were in foster care and 126,000 children were awaiting adoption.

The child welfare system provides different levels of assistance to families and children in crisis, based on their needs. Removing a child from home is an option only when necessary to protect a child's safety. Prevention, family support, or whenever possible, early intervention to avoid removal from home, are the optimal means of providing assistance for families and children in need of help. The child welfare system provides intensive in-home services to families whose situation does not require removal of the child; out-of-home services when a child must temporarily be removed from home to ensure safety; and continued services as needed to prevent re-entry into the system after the child has been reunified, adopted, or placed with a guardian.

The courts are a vital part of the child welfare safety net. Children cannot be removed from home, reunited with their family, placed in guardianship, emancipated, or adopted without the approval of a judge. According to the Adoption and Safe Families Act (ASFA), within 60 days of a child's removal, the state must present evidence to the court that "reasonable efforts" were made to keep a family intact. Furthermore, a permanency hearing must be held within 12 months of the child's entry into foster care, and additional hearings held every 12 months thereafter. Judges have a serious responsibility since they ultimately determine, within statutory timeframes, if parents' rights to their children should be terminated. Judges, attorneys, guardians ad litem, and all other court personnel

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who work with families and children in the child welfare system must receive the support needed to work effectively with the child welfare agency.

While the federal government provides financial matching funds and a variety of grants to states for these services, the majority of the services for these vulnerable children and families are funded by state governments.

In-home services are intensive and can either be court-ordered or voluntary, depending on the nature of the case. Out-of-home services can lead to reunification, adoption, or guardianship or, as a last resort, a child aging out of the foster care system. According to the latest available Adoption and Foster Care Analysis and Reporting System (AFCARS) data, during fiscal year 2002, 54 percent of children exiting foster care were reunified with parents or primary caretakers, 17 percent were adopted, 10 percent lived with other relatives, 4 percent were released to guardians, and 7 percent were emancipated. Families and children can benefit immensely from the array of services provided by child welfare and other supporting systems.

States provide a broad array of core services to children and families who come to the attention of the child welfare system. These services include:

- **Prevention/Family Support**—Services to keep children and families from entering the system in the first place. Public child welfare administrators believe that children belong with their families in a safe and stable home whenever possible.
- **Early Intervention/Family Preservation**—Services to address the needs of families at risk or in crisis. These programs seek to strengthen families, stabilize families, and prevent entry into the system.
- **Child Protective Services**—Investigate cases of suspected abuse and neglect and provision of treatment services.
- **Foster Care**—Placement of children in out-of-home care.
- **Permanence**—Determine a permanent home for a child: reunification with the biological family, placement with an adoptive family or relatives, or guardianship.
- **Post-Permanency Services/After Care**—Services to support a permanent placement, such as reunification services, post-adoption or guardianship services, or services to children and families in kinship care arrangements.
- **Independent Living**—Services to prepare older youths or those who are aging out of the foster care system for self-sufficiency.

While the federal government provides financial matching funds and a variety of grants to states for these services, the majority of the services for these vulnerable children and families are funded by state governments. While the federal government provides entitlement funding for children in the foster care system and those who are adopted from the system, state reimbursement for services to these children is limited by an outdated federal standard pegged to the former Aid to Families with Dependent Children (AFDC) program. States may only receive federal reimbursement for services if the child is from a family that would have met a 1996 AFDC eligibility standard. Since this eligibility standard is not adjusted for inflation, federal reimbursement to states has declined. States pay 100 percent of the costs for children whose care is not eligible for federal reimbursement.

The major federal funding stream is Title IV-E of the Social Security Act, established in 1980. Title IV-E Foster Care and Adoption Assistance provides matching funds to states to cover the costs of

room and board for foster care; subsidize adoptions of children with special needs; train public agency staff and foster and adoptive parents; administer the program; and provide the statutory protections assured for all children (e.g., a case plan or permanency hearing). In comparatively smaller amounts, Title IV-B, Subpart 1, provides discretionary funding for child welfare services, and Subpart 2 (known as Promoting Safe and Stable Families, or PSSF) provides capped entitlement funding for family preservation services, family support services, reunification services, and adoption promotion and support services. To a lesser extent, the Child Abuse Prevention and Treatment Act (CAPTA) state grant program, enacted in 1974, provides \$27 million for state agencies to improve prevention, investigation, and treatment of child abuse and neglect. The Chafee Foster Care Independence Program provides funding for support services, job training, housing, and other skills needed for older youths moving from foster care to independence.

In 1997, ASFA was enacted into law and made significant and numerous policy changes to Titles IV-B and IV-E. One important provision was a requirement that states file termination of parental rights petitions for children who have been in foster care for the past 15 of 22 months with certain exceptions (unless the child is with a relative, if it is not in the best interests of the child to do so, or if services have not been provided consistent with the case plan). It also required states to hold permanency hearings for children at 12 months rather than 18 months. Another provision required the U.S. Department of Health and Human Services (HHS) to submit an annual report to Congress to assess states' performance in operating child welfare programs on a number of child welfare outcomes related to safety, permanence, and well-being.

In 2000, HHS issued regulations that set up a new outcomes-focused federal review system for monitoring state conformance with Title IV-B and IV-E, known as the Child and Family Services Reviews (CFSRs). These regulations addressed provisions of ASFA and the Multi-Ethnic Placement Act. The CFSRs assess state child welfare systems on seven outcomes related to children's safety, permanency, and well-being as well as systemic factors. For states, the CFSRs and Program Improvement Plans (PIP) are consistent with their commitment to improving outcomes and increasing accountability in the public child welfare system. As of April 2004, all states, the District of Columbia, and Puerto Rico have completed the first round of CFSRs and are all currently undertaking PIPs based on the findings in their reviews.

The regulations also included a separate review of the federal Title IV-E foster care program with a focus on whether a child meets the eligibility requirements for federal foster care maintenance payments. As of September 2004, all states, the District of Columbia, and Puerto Rico have undergone the initial primary Title IV-E eligibility reviews ASFA requires.

Since publication of the 2001 edition of *Crossroads*, several child welfare laws have been reauthorized and created.

- **The Promoting Safe and Stable Families Amendments of 2001** extended the program through FY 2006, created a new grant for mentoring programs for children of incarcerated parents, and created the Education and Training Voucher program for youths aging out of foster care as a sixth purpose under the Chafee Foster Care Independence Program.
- **The Keeping Children and Families Safe Act of 2003** extended and amended CAPTA, the Adoption Opportunities Act, the Abandoned Infants Assistance Act, and the Family Violence Prevention and Services Act through FY 2008. The CAPTA amendments included several additional requirements under the program, including citizen review panels, new policies and procedures regarding drug-affected infants, and new data and training requirements.

- **The Adoption Promotion Act of 2003** reauthorized the adoption incentive program under Title IV-E through FY 2008. The legislation included APHSA's recommendations for continuing to reward states for all special-needs adoptions, updating the baselines used to award the bonuses, and incorporating a three-tiered bonus system. The law now provides bonuses for the new category of older child adoptions (defined as children age 9 and up), preserves the previous bonuses for total and special-needs adoptions, and includes a new penalty provision that requires states to submit AFCARS data within six months.

Challenges

The work of state child welfare agencies is one of the most important and demanding that government performs. Child welfare professionals respond to millions of reports of potential abuse or neglect each year. They protect children from neglect or abuse; provide specialized services to children and families; place children with caring foster or adoptive families, guardians, and relatives; reunite families; and work to preserve them. Recruitment and retention of child welfare staff is an on-going

challenge, due to the extraordinary demands of the job, increased caseloads, and modest compensation. In addition to a well-trained and qualified workforce, funding for critical support services for these children and families is essential.

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The federal financing structure established in 1980 no longer works. Since the early 1990s, states have raised concerns that the current structure of federal child welfare funding does not adequately support the outcomes for the children and families that public child welfare agencies, Congress, the federal government, child advocates, and the public seek to achieve.

The bulk of federal funding is disproportionately directed toward funding out-of-home care—the very part of the system that agencies are seeking to minimize to achieve greater permanence for children. At the same time, even with the creation of Title IV-B Subpart 2 in 1993, services that protect child safety and promote reunification remain under funded by the federal government. When the Title IV-E financing structure was created almost 20 years ago, the assumption was that Title IV-B service funding would grow significantly—an assumption unfulfilled.

In addition to the challenges outlined above with respect to the federal financing structure and the misdirected incentives, the federal eligibility rules for Title IV-E are another state concern. For many years, states have questioned why the federal government has demonstrated—in entitlement funding for foster care and subsidized adoption—a financial interest only for children from poor families. Furthermore, states are required to achieve the same positive outcomes for non-IV-E children and provide the federally mandated “protections,” and are at risk for losses of federal funding, regardless of whether the federal government has participated financially in that child's case (i.e., whether the child is IV-E or non-IV-E). It is only reasonable that federal funds be provided for the care of all children in foster care. Under the welfare reform law, states are required to “look back” to old AFDC rules in effect on July 16, 1996, to determine Title IV-E eligibility. Not only is this administratively burdensome, but as the law does not allow the 1996 income standards to grow with inflation, eligibility for federal reimbursement will continue to decrease over time, resulting in a loss of federal funding to states.

States also need administrative flexibility. The new federal regulations pose implementation and practice challenges for states. New requirements on foster family licensing and judicial orders have been mandated in unrealistic timeframes and may result in unwarranted financial penalties that will further challenge state capacity to provide needed services for children and families. Furthermore, the licensing regulations send a mixed message that states do not support. While federal law explicitly gives preference to relatives as caretakers, the regulations raise the bar on their qualifications—beyond just those related to safety.

The Adoption and Safe Families Act places numerous new requirements on states to move more children to permanence in shortened timeframes, but provides no additional resources to support states' efforts to meet the new mandates. Furthermore, ASFA holds states accountable for achieving outcomes for children with respect to safety, permanence, and well-being, with an annual report to Congress on state-by-state performance and a federal review system with penalties tied to outcomes. The federal law and the prevailing focus on improving outcomes makes the need for comprehensive federal financing and programmatic and administrative changes even more imperative. Since ASFA's enactment, states have demonstrated significant progress, not only because of the new law but also because of state initiatives that were in place prior to the law. These accomplishments have occurred even though the current financing structure is not supportive.

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To meet current challenges, additional requirements posed by ASFA, increased expectations of state performance, and to sustain and expand the significant progress that has been made, states will require greater flexibility in using current funding or increased resources in the form of new federal investments, and an increased capacity to get the job done.

Many elements need to be in place to build and strengthen capacity to achieve outcomes.

- A sufficient quantity and quality of a comprehensive array of services, including prevention, family preservation and support, treatment, reunification, aftercare, post-adoption, substance abuse, mental health and other services targeted to the specialized needs of individual children and families.
- A well-trained, well-supervised, competent, sufficient workforce with manageable caseloads, employing best practice approaches to working with families.
- An adequate pool of well-prepared foster and adoptive parents.
- Partnerships with private agencies that focus on performance and partnerships with the community to support the goals of the system.
- A partnership with the juvenile court system as well as adequate resources for the courts and legal staff to move cases in a timely way.

In recent years, public child welfare has increasingly focused on outcomes and achieving positive results for children and families. The 1997 changes to federal law under ASFA have heightened this attention to outcomes and accountability. The child welfare field has agreed upon safety, permanence, and well-being as desired outcomes for children in the child welfare system. The field also has emphasized increasing the number of adoptions, reunifications, and guardianships; decreasing the length of time in foster care and the length of time for achieving permanent placements; and reducing the number of children in foster care and incidence and recurrence of abuse and neglect. To improve

outcomes for children and to attain positive results, the child welfare system must have the necessary capacity to achieve those goals, i.e., enough of the appropriate resources to conduct the appropriate interventions and best practices that will yield results. Notable progress has been made toward achieving permanency outcomes, particularly in the adoption arena.

The number of adoptions from the public child welfare system nationwide increased from 28,000 in 1996 to 53,000 in 2002. States are continually working to develop and sustain new and ongoing creative programs that seek to assure safety and permanence. In addition, a heightened focus on measuring state program outcomes, developing quality standards, and undertaking accreditation is providing child welfare agencies with new tools to assess performance and refine strategies to achieve safety and permanence for children.

Even with these substantial strides, the system lacks the full capacity for achieving outcomes. Child welfare practice has become more and more complex, with tremendous demands on the system, including challenging populations, caseloads, and resources; interstate issues; perceived conflicts between child safety and family preservation; overrepresentation of children of color; and increased expectations and requirements. In recent years, children and families who come to the attention of child welfare increasingly exhibit multiple problems that require a coordinated response from multiple public agencies and service systems outside of child welfare. Of serious concern is the magnitude of families with substance abuse, mental illness, and domestic violence problems. These increased demands are straining agency capacity. At the same time, there is increased scrutiny by elected officials, the media, advocates, and litigators regarding the performance of public child welfare agencies, as well as new mandates and expectations resulting from ASFA.

It is important to recognize that the system itself encompasses more than the state public child welfare agency. Many of the children and families who come to the attention of the child welfare system are touched by the complicated and distressing issues of substance abuse, mental health, domestic violence, housing, special education, and poverty. The courts, other state human service agencies, private agencies, and most importantly, communities, are also partners in providing for the safety, permanence, and well-being of children. Child welfare needs cannot be met without collaboration with other systems and access to their services.

Recommendations

PROPOSAL

Maintain the Title IV-E open-ended entitlement; extend the federal government's commitment for foster care and adoption to all children in out-of-home care, not just those from AFDC-eligible families, allowing flexibility for reinvesting foster care funding into services.

Restructure federal child welfare financing to provide states with additional federal investments in services and the ability to redirect existing resources to achieve quality outcomes, and to recognize that states are statutorily required to provide services to all children regardless of current federal financial eligibility standards.

Maintain the open-ended entitlement under Title IV-E, the protections for children, and accountability measures embodied in federal law.

Eliminate income eligibility (AFDC-eligible as of July 16, 1996) as a criterion to determine which children placed in foster care or subsidized adoption are eligible for federally reimbursed foster care and adoption assistance under Title IV-E (i.e., “delinking”).

Consequently, all such children would be eligible for Title IV-E, and in turn, Medicaid.

Amend Title IV-E to give states the option to use federal revenue for maintenance payments for the types of child welfare services allowed under Title IV-B, whenever the numbers of children or lengths of stay in foster care are reduced.

Federal funding for foster care services is disproportionately directed at out-of-home care.

EXPLANATION

Federal funding for foster care services is disproportionately directed at out-of-home care. Reduced out-of-home care is a practical result of a number of good outcomes for children—reduced lengths of stay; increased permanence (adoptions, reunifications, and guardianship); a reduction in the number of children entering care; and less restrictive settings. If states had up-front funding to reinvest foster care expenditures in the kinds of services that reduce the need for foster care, better outcomes could be achieved while allowing more efficient use of current resources.

An open-ended entitlement is necessary to ensure that needed resources are available to support states in carrying out the critical function of protecting children. Additionally, federal financial support must be available for every child in need of protection, since it is the circumstances of abuse and neglect, and not the income of their parents, that brought them to the attention of child protection services. Extending access to Title IV-E funds for all children would also demonstrate a more equitable federal-state partnership in working toward achieving the goals of safety, permanence, and well-being for all children in the child welfare system.

PROPOSAL

If income eligibility for Title IV-E federal financial support cannot be immediately eliminated, then Title IV-E eligibility standards should be adjusted for inflation prospectively and beginning retrospectively to the date of enactment of the Personal Responsibility and Work Opportunity Reconciliation Act. Establish a state option to “re-link” Title IV-E eligibility to TANF or Medicaid eligibility.

EXPLANATION

The federal accountability measures under which states are reviewed and the subsequent PIP goals apply to every child in the child welfare system. However, federal financial participation for every child in the child welfare system does not currently exist. APHSA has consistently supported the idea of a full federal and state partnership for every child in the child welfare system.

The current AFDC eligibility standard for children in foster care and adoption assistance is eroding over time due to the non-indexed link to July 16, 1996. States have seen a decrease in the amount of federal funds due to this erosion and should be afforded the opportunity to regain those lost funds. A temporary solution would be to establish a state option to retrospectively and prospectively adjust the eligibility standard for inflation. The adjustment could be a “re-link” to TANF or Medicaid eligibility.

Congressional proposals that would cap the amount of federal funding available for foster care and adoption assistance maintenance funds have been introduced in previous congressional sessions with the promise of an adjustment to account for potential increases in foster care and adoption assistance costs. If such proposals are introduced in future congressional sessions, any adjustment of a capped allotment must be based on projections of state caseloads and future cost increases in services.

PROPOSAL

Clarify Title IV-E administrative costs in cases where general overhead would continue to be claimed at the 50 percent match rate, while administrative costs for public and private child welfare staff as well as for foster parent recruitment and licensing could be claimed at the Federal Medical Assistance Percentage (FMAP) rate.

EXPLANATION

Legislation introduced in the 108th Congress proposed a cap on federal IV-E administrative and training funds, thus compromising a child welfare system's ability to support the very workforce needed to achieve improved outcomes for children and families. States strongly oppose any cap on funds that support the child welfare workforce. States on the lower end of the staffing scale, as well as those

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that are able to secure staffing increases in the future, would be disadvantaged due to the pitting of child welfare staff resources against resources for the critical child welfare services they provide. Funds in the Title IV-E administration category can currently be claimed for both general overhead expenditures and costs for child welfare staff. It is necessary to clarify the purposes for which Title IV-E administrative funds can be used. Congress might consider bifurcating administrative funds and clarifying the difference in expenditures. Federal funds for general overhead administrative costs would continue to be matched at the 50 percent rate. Funds available under the administrative category for public and private agency child welfare staff and foster parent recruitment and licensing would be available for services provided to any child in the child welfare system and would be matched at the rate of the FMAP currently available under IV-E maintenance.

PROPOSAL

Provide new incentive funds to reward states that achieve improvements in their CFSR.

EXPLANATION

The CFSRs have been in effect since 2001, and states have worked cooperatively with the federal government to monitor progress on safety, permanency, well-being, and systemic indicators. All states have undergone the first round of CFSRs and have subsequently implemented PIPs. Just as states are in jeopardy of penalties for not achieving goals, they should also be rewarded for the goals that they do achieve. A higher federal match, at an 80–20 rate, would provide a strong incentive for states to continue activities that can be demonstrated to have achieved improvements in CFSR measures.

PROPOSAL

Increase Title IV-B funding by \$1 billion over five years and expand the types of allowable expenditures.

EXPLANATION

The \$27 million in CAPTA funds appropriated by Congress have not been sufficient to provide an adequate amount of prevention dollars for all 50 states and the District of Columbia. The small amount of funding and an increase in the mandates required under CAPTA have caused states to reconsider the benefits of accessing CAPTA. To decrease the incidence of child maltreatment, states must implement broader initiatives for prevention that require additional resources. Title IV-B funds can be used to support prevention activities in child welfare. However, Title IV-B funding is also limited; it is capped and is not entirely mandatory. An increase in federal support for child abuse prevention can be accomplished by expanding the allowable expenditures in Title IV-B. Additionally, separate congressional proposals have also been introduced to address the need for substance abuse, mental health, domestic violence, and other services necessary to help children and families in the child welfare system. Another avenue to provide these services would be to expand Title IV-B to fund these services.

The \$27 million in CAPTA funds appropriated by Congress have not been sufficient to provide an adequate amount of prevention dollars for all 50 states and the District of Columbia.

Proposals in several budget requests have looked to increase the IV-B program by \$200 million per year over five years. This increase would bring IV-B, Subpart 2 funding to a level of \$505 million, the full amount authorized by the Promoting Safe and Stable Families Amendments of 2001. APHSA supports \$505 million in mandatory, not discretionary, funding. Additionally, IV-B funds should be available to help states cover costs for services currently not supported by the federal funding including child maltreatment investigation and post-adoption services.

PROPOSAL

Ensure flexibility and support for permanency options for children placed in guardianship arrangements.

Title IV-E should be amended to authorize federal participation in a state option to fund private guardianship or other legal permanency arrangements for children who otherwise would have remained in long-term foster care.

EXPLANATION

Under ASFA, permanency can include family reunification or placement with an adoptive family, a fit and willing relative, a legal guardian, or another planned permanent living arrangement. Adoption is generally viewed as the preferred plan for children who cannot be reunified with their parents. This option, however, may not be desirable or available for all children. For example, some older children in foster care want to maintain a connection to their family of origin and sometimes resist adoption because it represents a permanent break from their parents. In addition, relatives are an important

placement resource for children. Both best practice and federal law indicate that a safe placement with relatives is the preferred placement for children who must be removed from their parents. Approximately 20 to 23 percent of foster children are placed with relatives, although in some states (e.g., California, Illinois, and New York), this number increases to 40 percent to 50 percent. Although many relatives are interested in adopting their kin, others are not inclined to undertake the adversarial process of terminating parental rights of their child or relative. When placement with a relative is not possible, a foster family that can provide a permanent legal home for a child in foster care is the next best alternative when reunification or adoption are not options. Several states have Title IV-E waivers, and others are using state-only funds to support permanent guardianship arrangements as an alternative permanency option. Results from several waiver demonstration projects show that permanency can be increased without reducing the number of adoptions.

PROPOSAL

Federal child welfare regulations should be amended to ensure no abridgement of permanency and family continuity for children placed with relatives.

1. HHS should withdraw the policy changes that require relatives to be licensed to the same standard as non-relatives, and that prohibit provisional licensing. If an evaluation completed prior to or at the time of placement indicates no risk to the child's safety or other reason why the child should not be placed in the home, the state should have the option of either claiming Title IV-E for children in provisional or approved homes beginning on the date of placement or retroactively to the date of placement once all eligibility criteria have been met. Until policy changes have been made and sufficient time has been given to modify current practice, states should be held harmless for any financial disallowances associated with these provisions.
2. Title IV-E regulations concerning the definition of foster family home should be amended to provide states with the flexibility to establish certification or approval standards and payment rates for kinship homes separate from those for foster family homes. States should retain the flexibility to decide which children with relatives receive TANF and which children receive Title IV-E.
3. States oppose limiting the application of, or circumventing through statutory changes, the *Rosales v. Thompson* decision, which upholds that a foster child's Title IV-E eligibility can be based on the home of a relative specified in the AFDC statute.

EXPLANATION

In December 2004, HHS published proposed federal rules that would prohibit Title IV-E reimbursement for children placed in relative homes that have not been licensed in the same way non-relative homes are licensed. APHSA opposes limiting federal reimbursement for relative placements, particularly in light of the fact that the federal ASFA states that relative placements should be given priority. Placing children with relatives maintains a connection to family and a sense of identity and minimizes separation and attachment issues. This policy change, if finalized, will have a significant negative impact on states' efforts to promote and support kinship care. In addition, these new requirements may have the effect of discouraging relative placements, causing both a delay in placement and an increased number of placements.

Also, it is important to note that provisional licensure does not mean that safety has not been assured. In granting provisional licenses, states run background and safety checks, make home visits, and conduct family assessments. States often use provisional licenses as an effective incentive to bring providers into compliance with licensing issues that do not risk the health or safety of the children in

placement, or to address administrative issues. States do not grant provisional licenses in situations that would jeopardize a child's health or safety. A probationary license is often routinely issued to new group home facilities for a certain time period. In such situations, the facility has met all licensing requirements but must go through a trial period with children in placement before a full license is issued. The same safety assurances are in place for probationary providers as for fully licensed providers.

In March 2003, the *Rosales v. Thompson* decision in the U.S. Court of Appeals for the Ninth Circuit held that the statute governing the former AFDC foster care program contains no explicit requirements that AFDC eligibility only be established based on the home from which a child was removed due to child maltreatment. According to the court, when determining IV-E eligibility for a child that comes into care, states could consider the eligibility home as that of a specified relative in whose home the child may have resided within six months of removal. The Rosales decision supports federal law that cites relatives as preferred caregivers when a child is removed from its home. The decision would make it possible for children to live with relatives who otherwise may not have been able to afford to take care of them under the narrow interpretation HHS had been applying for establishing Title IV-E eligibility. HHS has limited application of this decision to states within the jurisdiction of the Ninth Circuit. Every state has entered into a state plan to access the Title IV-E entitlement program, and therefore any federal court decisions impacting Title IV-E should be applied to all states.

PROPOSAL

Expand IV-E waivers and increase their flexibility.

Substantial modifications to the Title IV-E waiver process are required to allow more flexibility, a broader scope, and to foster system change, including:

1. Eliminate the limit on the number of waivers HHS can approve;
2. Eliminate approval criteria that require random assignment and control groups that limit statewide approaches;
3. Eliminate the limited number of states that may conduct waivers on the same topic;
4. Eliminate the limited number of waivers that may be conducted by a single state;
5. Allow states the option to continue their waivers beyond five years;
6. Allow approval of alternative baselines, such as the use of historical baselines based on foster care use, to calculate cost-neutrality; and
7. Provide a mechanism, once a waiver demonstration project has been shown effective, for approval of the project as an allowable expenditure under Title IV-E for all states.

EXPLANATION

Although states can apply for Title IV-E waivers, they believe the current waiver process limits innovation and is not responsive to the urgency of changing the child welfare system. HHS views waivers as demonstrations to test and evaluate new ideas, not broad-based projects to allow states more flexibility to achieve system change and to better serve children and families. States are also concerned with current policies prohibiting approval for multiple states to test similar innovations, such as subsidized guardianship; restrictive research, control groups, and random assignment requirements; cost-neutrality methodology; and limitations on statewide approaches. HHS waiver policy today is now more prescriptive and rigid than it was for the original 10 waivers. Many states have indicated they will not seek a waiver or have withdrawn applications because, with the current limitations, pursuing a waiver is not worth the effort.

During the ASFA debate in 1997, states called for an expansion of IV-E waivers, which at that time were available to only 10 states. The law allows for 10 waivers to be approved each year for five years (FYs 1998–2002), theoretically enabling each state to have a waiver. In actuality, however, some states may not be able to receive a waiver because when a state receives more than one; HHS counts the additional waiver(s) as one of the 10. In addition, if HHS approves fewer than 10 waivers in a year, the remaining slots are lost. The waiver program has enabled some states to reinvest federal foster care funding in services and other activities to improve their systems and promote permanence. Waivers provide an avenue to demonstrate the effectiveness of activities that lead to improvements in child welfare.

Although states can apply for Title IV-E waivers, they believe the current waiver process limits innovation and is not responsive to the urgency of changing the child welfare system.

A process should be implemented to assess which activities should become an allowable expenditure under federal funding sources for all states. However, as currently implemented, it is a promise unfulfilled and will not meet states' needs for the flexibility necessary to achieve broad systems change.

PROPOSAL

The Interstate Compact on the Placement of Children (ICPC) should be revised; congressional proposals to impose federal timetables or penalties should be opposed.

EXPLANATION

For over 40 years, states have developed and administered compacts for the interstate placements of children in foster care and for adoption and medical assistance. In recent years, concerns about the timeliness of the ICPC process coupled with an outdated administrative process and procedures have given rise to a great dissatisfaction with ICPC. In an effort to address state concerns on the need to reform the ICPC, APHSA convened a task force to update compact. The task force completed its work in 2004 and will seek state legislative adoption of the revised compact in 2005. In the interim, congressional proposals to impose federal timelines for home studies and penalties should be opposed. The interstate compact mechanism has been a recognized and appropriate tool for promoting interstate cooperation in this area. State governments should not be forced to operate under a confusing, costly, multi-layered system of judicial, state, and federal policies.

PROPOSAL

Reforms to the system of federal penalties and bonuses are necessary.

1. States should be allowed to reinvest disallowances related to Title IV-E eligibility reviews to correct any errors in eligibility processing and improve program performance. Also, states should be allowed to reinvest any future CFSR penalties into the child welfare system.
2. Baseline formulas, such as those in the federal adoption incentives, must be updated periodically to ensure states are adequately rewarded for maintaining high performance as well as improvements.
3. States should be permitted to access incentive funds unexpended by the close of the federal fiscal year for related services, e.g., for post-adoption services in the case of adoption incentives.

EXPLANATION

If a disallowance is issued, a state must pay back all or a portion of the federal funds received to provide foster care to abused and neglected children. Disallowances undermine state efforts to correct the deficiencies found in the review. There is also concern that part of any disallowance can be based on technical violations which cannot be fixed retroactively (i.e., the language in the court order was not correct). States disagree with the policy of reducing federal funds when aggressive efforts are clearly being made to meet the growing needs of abused and neglected children.

Baseline formulas for incentives must be updated regularly to remain contemporary as states make improvements to programs or maintain high performance standards to meet the incentive goals. Any incentive funds that have already been dedicated to supporting services for children in foster care and adoption assistance, and which remain unexpended at the end of the federal fiscal year, should become available to support services that improve conditions for children in the child welfare system.

PROPOSAL

Youths aging out of foster care need strong connections to education, housing, health care, and the workforce to achieve self-sufficiency. The Chafee Foster Care Independence program, including Education and Training Vouchers, should be maintained.

1. Expand the funding and flexibility of the Chafee Foster Care Independent Living Program.
2. Chafee funds should be accessible for a wide range of applications for children in foster care ages 14 and older so that they may successfully make the transition into adulthood.
3. The use of funds and program rules should be flexible enough to allow coordination with other federally funded programs, such as the Workforce Investment Act and the Food Stamp Employment and Training Program.
4. Enhanced match should be provided for the option in Medicaid that allows states to extend coverage for youths in transition from foster care to independent living.

EXPLANATION

Children leaving custody because they are in transition from the child welfare system to adulthood are particularly vulnerable. These children at age 18 often have few or no resources, may not have a family that is available or willing to offer any kind of support to them, and often have been affected by the difficult histories that brought them into the child welfare system. In addition to meeting their basic needs for food, shelter, and care, we must ensure that young people receive training and support for acquiring the knowledge, skills, and attitudes needed for independence and self-sufficiency.

PROPOSAL

Refine the CFSR process and incorporate related program goals into the process.

1. The current methodology to assess state systems under CFSRs must be revised; federal-state workgroups should be established to ensure the new measures and methodology accurately measures state performance.
2. Any new federal data collection reporting requirements must be supported with enhanced federal funding and must be consistent with the revised CFSR measures.
3. Congress should repeal existing child welfare penalties, including the Multi-Ethnic Placement Act (MEPA) and geographic barriers, and use the CFSR system to assess states' performance and compliance.

EXPLANATION

States are committed to quality services for children and families and accountability for achieving outcomes. States support the outcomes-focused approach to the federal CFSR, and the use of both qualitative and quantitative information to judge performance. However, reviews must serve as an accurate and fair measure of state performance. National standards on which performance is determined must be based on accurate data so that the fairness of these reviews is not compromised.

This review process is very data intensive, as is the annual outcomes report that also measures state performance. Congress and the federal government are likely to seek more state data in the near future to expand their capacity to measure outcomes, particularly in the areas of well-being and children aging out of foster care.

By contrast, in the CFSR system, which is results-focused and based on overall state compliance, Congress has, at the same time, imposed provision-specific penalties for noncompliance. These include substantial penalties for single-case violations of MEPA or the geographic barriers provision that are not equal to penalties for other requirements. The disjointed nature of these penalties is the wrong approach to encouraging good state practice, and the cumulative effect of these penalties is significant. States should be held accountable for outcomes, not saddled with penalty upon penalty for single-case violations.

PROPOSAL

Workforce preparation, recruitment, and retention are key to achieving improved outcomes; federal support for administrative costs and training should be revised and remain open ended.

1. The Title IV-E training statute and regulations should be amended to support state efforts to build and sustain a competent, skilled, and professional child welfare workforce by providing a solid and restructured federal funding stream that would support comprehensive training. The training must include all aspects of child welfare—child protective services and service provision, private agency providers, court personnel (including judges and court-appointed special advocates) and health providers—and must not be allocated based on whether a child is Title IV-E-eligible.
2. APHSA opposes any caps on the amount of administrative or training funds available to support child welfare workforce. Placing limits on funding for caseworkers that directly assist children and families would be detrimental to the field and to the outcomes that must be achieved to improve the lives of children and families.

EXPLANATION

Congress can help assure child safety and positive outcomes for children and families by helping to create a stable, well-trained, and ample workforce. It is critical to prepare new child welfare workers adequately for this very difficult job in which their day-to-day decisions affect the lives and well-being of children. There is extremely high turnover among workers as well as an inadequate number of workers, leading to high caseloads and a lack of continuity that affects practice. Findings from the initial CFSRs indicate the importance of caseworker visits with children and parents in achieving improved outcomes.

Federal policy provides a 75 percent match for training funding only in proportion to the number of children who are Title IV-E eligible. Workers must be trained to the same standards whether or not

they are serving IV-E children. Further, this match is available only for training for activities directly related to the statutory purposes of Title IV-E. Since Title IV-E cannot be used for services or investigations, the federal training funds may not be used to train workers to provide services or make safety assessments. Workers must be skilled in these other areas as well as trained to protect children and to meet their needs for safety, permanence, and well-being. This federal match is also unavailable for training private agency workers with whom the state has contracted to provide services. These workers are acting as the states' agents and are serving the same children, and the outcomes for those children are equally as important. Current regulations and cost-allocation requirements are barriers to state efforts to ensure a competent, skilled workforce critical to the goal of achieving improved outcomes.

As mentioned above, federal funding is not available to train judges or court personnel. The courts play a critical role in moving children to permanence and must be knowledgeable about the new permanency requirements. Further, states are dependent on the courts meeting their statutory obligations; otherwise, states are subject to penalties under the new federal review system.

Even though great strides have been made in developing and implementing best practices, the field must expand its body of knowledge to hone in on when and what interventions work best with which populations, within mandated timeframes, to yield desired results.

PROPOSAL

A national research agenda should be developed and adequately funded.

1. Investments in more targeted child welfare research are critical as the field looks to move forward to achieve positive outcomes. Longitudinal data is critical to realizing the possibilities of what can be done in child welfare practice.
2. States should be supported, through the flexibility in the funding available and in the technical assistance available through HHS, in using their Statewide Automated Child Welfare Information Systems (SACWIS) to glean useful longitudinal data to improve practice and programming.
3. States should be allowed to provide local data to support the measures in the CFSRs in addition to AFCARS data used by HHS.

EXPLANATION

Even though great strides have been made in developing and implementing best practices, the field must expand its body of knowledge to hone in on when and what interventions work best with which populations, within mandated timeframes, to yield desired results. Research and its practical applications play a critical role in ensuring outcomes in most professional disciplines, and they are needed in child welfare as well. AFCARS is currently required by HHS, but the system does not track changes in data over time and hinders states' ability to strategically use and refine information to make systemic adjustments and improvements. Federal resources should support data systems that capture longitudinal data that can be used to set and monitor performance goals, test the impact of policies and services, and link financial decision-making to outcome measures. Federal resources must also be targeted toward capturing best practices that can drive the field of child welfare forward by sharing strategies and avenues to achieve improved outcomes across child welfare systems.