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Welfare - Child Welfare

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This memo explains all the laws -

Memorandum
Federal Child Welfare Programs and
Current Program Authorizations and Appropriations

~~the info provided~~

I'm in
my office
if you have
questions.
Lyn

To: Carol Rasco
Jeremy Ben-Ami

cc: Elizabeth Drye

From: Lyn Hogan

Date: July 5, 1996

Summary

* See stars for
key leg.

This memo includes background information on child welfare services, a breakdown of child welfare programs under the Social Security Act, a breakdown of non-Social Security child welfare programs, an update on pending legislation, and the legislative history of child welfare programs. This memo **does not** include child welfare programs run by agencies outside of HHS or DOJ, nor does it include a review of child welfare system problems, reforms, or recommendations. However, I will cover these issues in subsequent memos.

Background

Child welfare services focus on improving the conditions of children and their families and on improving or providing substitutes for functions the parents have difficulty performing. Many private, nonprofit and government entities work to provide a range of child welfare services to families and children in need. However, the primary government responsibility for child welfare services rests with the states. Each state has its own legal and administrative structures and programs, and there are many differences among the states.

The Federal government has also been involved in improving the welfare of children in areas of national concern since the 1900s. Numerous Federal programs provide support for child welfare services, the largest of which fall under titles IV-B and IV-E of the Social Security Act.

Title IV-B authorizes funds to states for a broad range of child welfare services, including family preservation and family support services. Title IV-E authorizes foster care, independent living, and adoption assistance programs. Titles IV-B and IV-E are intended to operate together to prevent the need for out-of-home placements, and, when that is not possible, to offer support services and permanent placements. Funds for these programs include both non-entitlement authorizations and authorized entitlements.

Additionally, funding is provided under foster care to assist states with the maintenance costs of AFDC children in foster care. Child welfare program funding is also available to states through the title XX social services block grant program, which allows states to provide services relating to child welfare at their discretion.

The federal government spends approximately \$4 billion annually in FY 1995 to subsidize foster care, some adoptions, and, to a smaller extent, child protection programs. CBO breaks down FY 1995 spending to \$3.28 billion for foster care and adoption assistance (state claims for IV-E Foster Care represent the bulk at around \$2.9 billion while title IV-E Adoption Assistance state claims were only around \$378 million); \$295 million for child welfare, and \$150 million for Family Preservation.

There are about half-a-million children in foster care on any given day. As of 1993, reports of possible child abuses had risen to almost 3 million a year, of which roughly 1 million abuse and neglect cases were confirmed. About 1,300 of those cases ended in a child's death. (National Committee to Prevent Child Abuse; HHS.) The number of reported cases of child abuse and neglect have more than quadrupled since 1976 (Ways and Means Greenbook, 1994).

Child welfare encompasses a variety of services including child protection, care of the homeless and neglected, child social and nutritional development, and children in out-of-home care. Services provided may be supportive, supplementary, or substitutive.

The current school of thought in the child welfare world says that it is in the best interests of children to live with their families. Most child welfare programs are designed around family preservation and family reunification. PL 96-272 requires that reasonable efforts be taken to prevent placement of a child in foster care, prevent the need for foster care, and make it possible for that child to eventually return home. Determining reasonable efforts is left up to the states and varies substantially from state to state. To receive title IV-E funding, a State plan must include these provisions.

Child Welfare Programs Under the Social Security Act

Child Welfare Services (Title IV-B, Subpart 1): Permanently authorizes grants to states for child welfare services. States have wide discretion in designing programs, but must provide certain protection for all foster children as a condition of funding. The federal matching rate is 75 percent and state allocations are based on per capita income and population age 21 and under. This program is not an entitlement, but is subject to

the discretionary appropriations process. *FY 1996 funding: \$277 million. FY 1997 Administration request: \$292 million.*

* Family Preservation and Family Support (Title IV-B, Subpart 2): Authorizes grants to states for family preservation and family support services through FY 1998. The program is a capped entitlement to states. The ceiling began at \$60 million in FY 1994 and is scheduled to increase to \$255 million in FY 1998. (Beginning in FY 1995, a certain percentage of funds are reserved for grants to state courts to assess and improve their child welfare proceedings.) The federal matching rate is 75 percent, and state allocations are based on the number of children receiving food stamps. *FY 1996 funding: \$225 million. FY 1997 Administrative request: \$240 million.*

* Foster Care (Title IV-E): Federal matching funds are permanently authorized and provided to states on an open-ended entitlement basis for costs of maintaining children in foster care, whose biological families are eligible for AFDC, and for related administrative, child placement, and training costs. States are required to provide foster care maintenance payments to AFDC-eligible children removed from the home if a child received, or would have been eligible for AFDC prior to removal from the home. (Children in the foster care AFDC program are eligible for Medicaid.) The federal matching rate for title IV-E foster care is the state's Medicaid matching rate, which varies according to state per capita income. Foster care may be provided in homes or institutions and must meet certain requirements. Eligible administrative and child placement costs are matched at 50 percent, and the federal match rate for training is 75 percent. *FY 1996 funding: \$3.7 billion; FY 1997 Administration request: \$3.8 billion.*

* Adoption Assistance (Title IV-E): Authorizes federal matching funds on a permanent basis to states to provide adoption assistance to parents who adopt children with special needs and are eligible for SSI or AFDC. Federal matching is available on an open-ended entitlement basis for adoption assistance and for related administrative, child placement, and training costs. Matching rates are the same as under foster care. *FY 1996 funding: \$510 million; FY 1997 Administration request: \$568 million.*


Independent Living (Title IV-E): Authorizes grants to states for services to older foster children to help them make the transition to life on their own. The program is permanently authorized as a capped entitlement to states. State allocations are based on each state's share of title IV-E foster children in FY 1994, and states must provide a 50 percent match for their share of the first \$45 million in federal appropriations. *FY*


1996 funding: \$70 million; 1997 Administration request, \$70 million.

Title XX: This is an authorized entitlement of which 100 percent is federally funded, with a ceiling. At their discretion, States may provide services relating to child welfare using title XX funds. Detailed data on child welfare services spending by states is not available. Funds available to states from title XX may be used for services to families and children without regard to their eligibility for AFDC.

Non-Social Security Act Child Welfare Programs

Abandoned Infants Assistance Act: Authorizes discretionary grants to states for activities related to babies who have been abandoned by their biological families, particularly infants with AIDS. FY 1996 funding: \$12 million; FY 1997 Administration request: \$14 million.

 Adoption Opportunities Act: Authorizes discretionary funding for a range of adoption activities facilitating the adoption of special needs children and providing post-legal adoption services. FY 1996 funding \$12 million; FY 1997 Administration request: to consolidate this program with child welfare research and training, and CAPTA discretionary activities to form a new Child Welfare Innovation Program to be funded at the programs' combined FY 1995 funding level: \$39 million.

 Child Abuse Prevention and Treatment Act (CAPTA) state grants: Authorizes grants to help states improve their child protective service systems. As a condition of funding, requires states to establish mandatory child abuse and neglect reporting systems, FY 1996 funding: \$21 million; FY 1997 Administration request: \$23 million

Community-Based Family Resource Centers: Grants for community-based family resource centers are authorized under CAPTA. FY 1996 funding: \$23 million; FY 1997 Administration request: \$50 million for consolidation of community-based family resource center grants, temporary child care and crisis nurseries, and family support centers authorized under the Stewart McKinney Homeless Assistance Act.

Child Abuse Prevention and Treatment Act discretionary grants:

Authorizes research and demonstration activities. FY 1996 funding: \$14 million; FY 1997 Administration request, that this program be consolidated with adoption opportunities and child welfare research and training to form a new Child Welfare

Innovative Program to funded at the programs' combined funding levels in FY 1995 (\$39 million).

Temporary Child Care for Children with Disabilities and Crisis Nurseries Act: Authorizes state demonstration grants for temporary nonmedical child care for children with special needs to alleviate stress among children and their families; and crisis nurseries to provide short-term care for abused and neglected children or those at risk of abuse. *FY 1996 funding: \$10 million; FY 1997 Administration request, included in funding requested for consolidation of community-based family resource center grants, temporary child care and crisis nurseries, and family support centers, discussed above.*

Title V of the Juvenile Justice Delinquency Prevention Act: Sends money to states, with few restrictions, for use in juvenile delinquency prevention. The money may be used for Family Preservation. The money is subgranted out at the local level. Most of the dollars are currently used for traditional prevention programs such as after school programs. *FY 1996 funding: \$20 million, of which \$19 million goes out to the states; FY 1997 Administration Request: \$20 million.* DOJ Office of Juvenile Justice and Delinquency Prevention and the HHS Administration on Children, Youth and Families have been exploring ways to coordinate their own programs and help states and local communities build a continuum of services aimed at prevention and early intervention.

Non-Welfare Reform Pending Child Welfare Legislation, 104th Congress

H.R. 3286 (Molinari): The Adoption Promotion and Stability Act of 1996. Offers up to a \$5,000 tax credit for adoption expenses incurred during the year that the adoption is formalized. Only families who make less than \$75,000 annually are eligible for the full \$5,000 tax credit. Also removes barriers to inter-ethnic adoption. The Administration issued a SAP on May 9, 1996 strongly supporting HR 3286, without the inclusion of Title III (Title III--would allow state courts to pre-empt tribal governments in decisions regarding the custody of Indian children.) Introduced May 1996, referred to Finance Committee.

H.R. 586 (Maloney): Omnibus Foster Care Improvement Act. Amends Title IV-E, introduced January 19, 1995, referred to Ways and Means.

H.R. 709 (Maloney): Standby Guardianship Act. Amends Title IV-E.

to allow chronically ill or dying parents to name a standby guardian for minor children without relinquishing parental rights. Introduced January 26, 1995, referred to Ways and Means.

H.R. 1044 (Fawell): At-Birth Abandoned Baby Act, amends title IV-E to prevent abandoned infants from experiencing prolonged foster care. Introduced February 24, 1995, referred to House Ways and Means.

H.R. 1263 (Payne): Abandoned and Medically Fragile Infants Assistance Act, introduced March 16, 1995, referred to House Economics and Educational Opportunities Committee.

S. 1201(Coats), similar bill introduced in House, H.R. 2387 (Wyden): Kinship Care Act of 1995. Amends Title IV-E to promote kinship care, and to authorize kinship care demonstrations. Introduced September 21, referred to House Ways and Means Committee.

S 919, (Coats): Child Abuse Prevention and Treatment Act Amendments (CAPTA): Reauthorizes CAPTA and related programs through FY 2000, included in HR 4 on August 11, 1995, passed Senate September 19, 1995, vetoed by President.

S. 637 (McCain): Adoption Anti-Discrimination Act, introduced march 28, 1995, referred to Senate Finance Committee.

Legislative History of Child Welfare Programs

Federal assistance for foster care first became available in 1961 under what was then called ADC (later renamed AFDC) under title IV-A of the Social Security Act.

The Adoption Assistance and Child Welfare Act of 1980 and Amendments to It (Public Law 96-272)

In 1980, title IV-A of the Social Security Act was amended by Public Law 96-272. This legislation continued foster care funding but transferred it to title IV-E. This law also changed child welfare services under IV-B by creating linkages between the two programs. AFDC foster care remained an entitlement, but funding was made contingent on title IV-B.

Also, under title IV-E, a new Federal matching grant program for payments to parents who adopt special needs children was established and *permanently* authorized. Funding for adoption assistance is on an open-ended entitlement basis.

Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, Amendments to Child Welfare Programs (PL 99-272)

In the 99th Congress, COBRA established a new entitlement program--the independent living program--under title IV-E to help states facilitate the transition of children age 16 and older from AFDC foster care to independent living.

PL 100-647, Extension of COBRA Changes

In the 100th Congress, legislation was enacted to expand the independent living program for children 16 and older who are in any foster care situation, and to provide services for such children for six months after foster care or foster care payments end.

Tax Reform Act of 1986 (PL 99-514)

Also in the 99th Congress under the Tax Reform Act, the adoption assistance program under title IV-E was amended to provide Federal matching funds for the one-time adoption expenses of children with special needs, whether or not the children are eligible for AFDC or SSI.

Omnibus Reconciliation Act of 1989 (PL 101-239), 1990 (PL 101-508) and 1993 (PL 103-66)

During the first session of the 101st Congress authorization levels for title IV-B were increased from \$266 million to \$325 million; and extended the independent living program through 1992, increasing the entitlement ceiling from \$45 to \$50 million in FY 90 to \$60 for FY '91 and \$70 million for '92, and establish a state match beginning FY '91.

During the second session of the 101st Congress states were required to distinguish between administrative costs and child placement costs (which previously had been counted as administrative costs).

During the 103rd Congress new legislation created a capped entitlement under IV-B for a broad range of services to families (including foster, adoptive and extended families). Termed family preservation and family support services, the legislation was designed to buttress the goals of Federal child welfare programs of strengthening family life for children, and ensuring more children in the child welfare system have a stable, permanent home on a timely basis. The legislation also includes a set-aside for grants to State courts for assessments and improvements of judicial child welfare proceedings. This new law also authorized a three-year enhanced match to States for planning, designing, developing or installing child welfare data collection systems. The legislation permanently authorizes the independent living program and authorizes a 75 percent matching rate for certain State training expenses.