



August 2016

There are 17,452 children in foster care in New York State (NYS), 82.5% of whom are being cared for in foster family homes. This is the lowest number since 1995 when there were 53,902 children in care. NYS is one of very few states to have invested state general fund dollars to incentivize the development of prevention programs to avoid the need for placement in to foster care. Historically, NYS has provided open-ended state reimbursement to counties to invest in such services. When there is a need for a foster care child to be placed in either a foster home or in a residential program, state reimbursement is through the foster care block grant. The main federal funding stream for states to reimburse counties for a portion of the foster care costs for eligible children is Title IV-E funding. NYS annually receives \$550 million in Title IV-E funding in total.

Recently, the Family First Prevention Services Act (H.R. 5456), was introduced in Congress. The Act would allow states to use Title IV-E funding to provide certain preventive services for a limited time period, but it also contains major provisions that would significantly reduce the likelihood of receiving federal funding for many foster children placed in residential programs (congregate care placements). Approximately 17.5% of NYS foster children are in congregate care settings. The availability of Title IV-E funding for prevention services has appealed to many child advocacy organizations, however, many state child welfare agencies, including NYS and California, county child welfare directors' organizations, and some child welfare advocates identified flaws in the bill and voiced their opposition. The bill passed the U.S. House of Representatives by voice vote in Committee less than two days after the bill language was revealed, and again by voice vote on the House floor. The U.S. Senate will likely consider and pass the bill in early September and pass it in its current form without debate unless there is a strong ground swell in opposition. NYS is concerned about the potential loss of federal support for foster children and opposes this bill as written for the following reasons:

Title I – Providing New, Limited Title IV-E Funding for Some Preventive Services (Optional)

- The bill establishes a 12-month time limit per child on eligibility for new federal preventive funding. This time frame is too short for some proven preventive services, especially when a parent needs substance, alcohol or mental health treatment or is incarcerated. Some of New York's most promising primary prevention programs, like the home visiting program which serves at-risk children from birth through five years of age, are provided over multiple years.
- Many preventive services are provided on a family basis and cannot be tracked by child as required.
- The bill requires that services be trauma-informed and that an increasing portion of the funds be spent on evidence-based practices as described in the bill. These types of services are not available in all areas of the state, especially in less densely populated areas. They also are costly to provide, and the bill limits who can receive them.
- The new maintenance of effort (MOE) provision is inequitable and unfair. It penalizes states, like NYS, that historically have spent large amounts of state and local dollars for primary prevention services with limited federal participation.
- The MOE impact for New York State is estimated at \$300 million: \$36 million state share and \$264 million local share.
- The bill provides for new data reporting that would require significant costly changes to New York State's child welfare data base systems and impose additional administrative burdens on caseworkers, further diverting them from their primary responsibilities of working directly with families. The additional reporting requirements may force states to invest additional dollars to participate in and comply with the extensive "optional" new federal Comprehensive Child Welfare Information System (CCWIS) requirements.
- The bill also requires the federal government to establish national foster home standards. In NYS, some homes are jointly certified and approved as both foster and pre-adoptive homes. The new federal standards could result in some children having to move from their currently appropriate foster homes where they are awaiting adoption; unnecessarily disrupting their care, detrimentally impacting their well-being and possibly delaying their permanent placements. OCFS is also concerned about the potential adverse impact of national standards on relative/kinship foster homes.



Title II – Significant Limitations on Federal Funding for Congregate Care Placements (Mandatory)

- Because NYS has significantly reduced its foster care population by providing flexible preventive services funding, the remaining children in care require a wide variety of placements to meet their needs. The bill limits federal reimbursement beyond 14 days for children placed in congregate care. In addition, the bill limits federal reimbursement to certain categories of congregate care, one type being the Qualified Residential Treatment Program (QRTP), without addressing the specialized needs of foster children who need other types of congregate care. This would likely lead to a significant reduction in federal financial participation for the care and maintenance of many foster children in congregate care placements or significantly increase the costs of such placements.
- To be fundable, QRTPs must have a trauma-informed treatment model and have licensed nursing and clinical staff on duty during business hours and available 24 hours a day. This medical model is costly and unnecessary for many children in group homes and agency-operated board homes (AOBHs), who may not need such care and traditionally are in school during those hours.
- The bill also increases the costs to the foster care system for QRTPs by mandating that they be accredited by specified organizations and provide at least six months of post-discharge aftercare support.
- Even for children placed in QRTPs, federal Title IV-E funding would not be available unless care in the particular residential program is determined necessary based on an assessment made by an independent evaluator in conjunction with a family and permanency team within 30 days of placement, and the need for the placement is confirmed by a family court assessment within 60 days of placement.
- Failure to complete a timely 30-day assessment would result in the loss of IV-E funding for the duration of the congregate care placement.
- Under the current state foster care block grant financing system, the counties will bear any loss of federal funding for children placed in ineligible residential programs and/or who do not have both required assessments completed in a timely manner.
- The 30- and 60-day assessments may lead to multiple changes of placements, which are detrimental to children. It may be difficult to find sufficient qualified individuals in all areas of the state who meet both the federal independent evaluator criteria and can complete the required assessments within the prescriptive time frame. The cost of these evaluators will be borne by the state and/or the counties. It is questionable whether courts have the appropriate expertise to make the required assessments, which also would further burden NYS' family court system. The increased training and other judicial costs would fall on the state and/or the counties.
- Potentially, youth in juvenile justice placements would not be eligible to receive federal financial participation, leaving all the costs to the state and counties.

Titles III and IV – Reauthorization of Various Funding Streams for Children's Services

NYS' only concerns with these provisions are that the identified funding streams are level funded; any increased costs due to inflation would have to be borne by the state and localities.

Title V – Technical amendments pertaining to data collection and exchange standards

NYS is still considering whether there is any advantage to participating in the new federal funding for Comprehensive Child Welfare Information Systems. This bill provision could force the issue on the states by mandating new reporting requirements for children under age five without providing additional federal funding.

Title VI – Delay in eliminating the AFDC look back provisions for federal Adoption Assistance

The bill postpones scheduled increased federal participation in adoption assistance for young children and those children with special needs.



The Family First Prevention Services Act Would Impact New York State by Nearly \$250 Million

\$248 Million Impact

If the Family First Prevention Services Act is implemented as currently written, the following costs would impact NYS and its counties:

- (\$195M) Increased service costs for those youth shifted to QRTPs and lost federal financial support for youth remaining in current congregate care facilities
(\$28M) to comply with six-month post-placement mandate for children exiting QRTPs
(\$20M) to support administrative costs including hiring costs associated with providing oversight for licensing and technical assistance to and training for not-for-profits, and compliance with system changes
(\$3M) to comply with placement assessments, assuming all youth in congregate care settings require assessment to determine who transitions into QRTPs, as this is not currently performed
(\$2M) for Adoption Incentive Delinking annual loss of federal funding due to delayed delinking of adoption incentive eligibility criteria in the years prior to the effective date
Fiscal impacts for the New York State Unified Court System to add staff to comply with the 60-day requirement for a court assessment after a youth is placed in a congregate care placement are not yet final; however, this mandate would drive approximately 5,500 additional hearings in the first year

Table with 2 columns: Changes from current practice in NYS, Costs (in millions \$). Rows include: Assumes NYS receives Federal Reimbursement for QRTPs, Service costs for shifted youth & lost FFP (195), Compliance with 6-months post-placement activities (28), Conduct mandated placement assessments (3), Adoption Delinking lost FFP (2), Fiscal impact * (248).

* Note- Additional costs would also result from the 60-day court assessment mandate. These costs (to be determined) would drive several thousand (4-6K) additional hearings in Year 1. Hearings should diminish to 2-3K in subsequent years.

Maintenance of Effort (MOE) Impact

- The MOE provision in the bill is unfair to states like New York that have expended significant amounts of funding on prevention activities, with little or no federal participation
The MOE impact on New York State is estimated at \$300 million

New York State does not anticipate being in a position to increase its already-significant investment in child welfare to offset these cost impacts. Accordingly, the cost of compliance with this federal mandate will likely fall to counties and New York City.