
FAMILY FIRST PREVENTION SERVICES ACT OF 2018

PRESENTATION FOR VERMONT HOUSE COMMITTEE ON HUMAN SERVICES

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NATIONAL CONFERENCE OF STATE LEGISLATURES



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FAMILY FIRST PREVENTION SERVICES ACT OF 2018

Family First Prevention Services Act of 2018 (Family First)

Overview of FFPSA and Legislative Role in FFPSA Implementation and Oversight

Prevention Services

Congregate/Residential Care

Other Important Provisions

State Legislative Response

FFPSA Planning: CO, HI, MT, NE, OK, OR, VA, WA

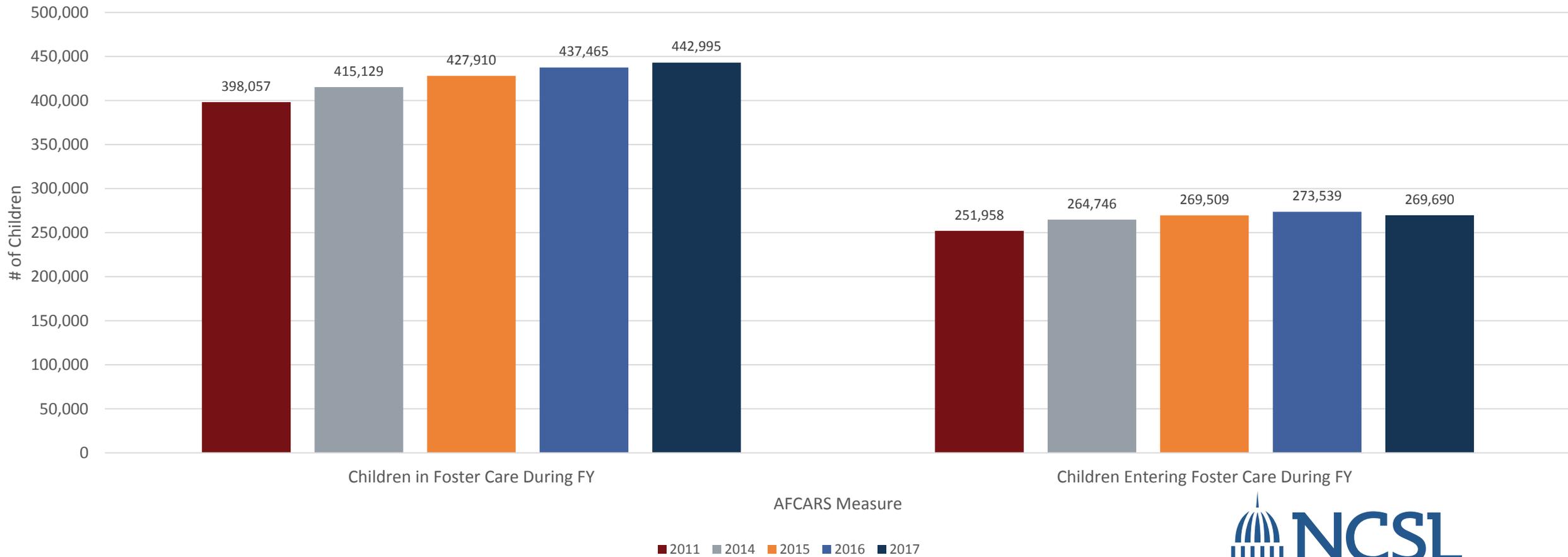
2019 Introductions: NE, NH, NM, OK, TX, VA, WA, WY

Next Steps/First Steps for Lawmakers to Consider



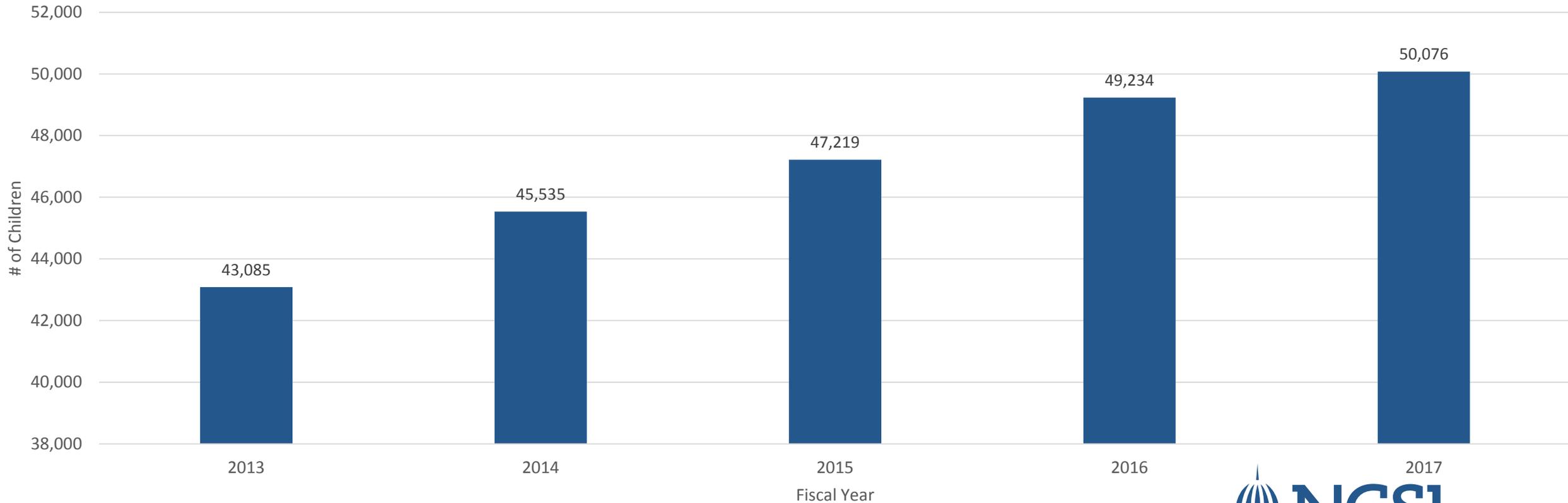
IN FY2017, THERE WERE APPROXIMATELY 442,995 CHILDREN IN FOSTER CARE IN THE U.S., THE HIGHEST CASELOAD SINCE 2008. IN THE SAME YEAR, MORE THAN 269,000 CHILDREN ENTERED CARE

Number of Children in Foster Care and Number of Children Entering Foster Care



THE NUMBER OF CHILDREN UNDER THE AGE OF 1 ENTERING FOSTER CARE IS INCREASING, THE HIGHEST PERCENTAGE, BY AGE GROUP, OF CHILDREN ENTERING FOSTER CARE

of Children Under Age 1 Entering Foster Care during FY
Represents 19% of all Entries



FAMILY FIRST PREVENTION SERVICES ACT OF 2018

On Feb. 9, 2018 Bipartisan Budget Act of 2018 (H.R. 1892) (P.L. 115-123) signed into law; included in the act is the **Family First Prevention Services Act (Family First):**

Potential to dramatically change child welfare systems across the country.

- **New:** States and Tribes can claim Title IV-E funds for certain prevention services beginning October 1, 2019. This policy is optional for states.
- **New:** Policy for residential/congregate care placements for children in foster care beginning October 1, 2019.
- New funding/existing funding for prevention, courts, and substance abuse prevention grant funding.

- A monumental shift in child welfare funding and structure.
- Child welfare experts agree that many children and youth can safely remain at home while their parents receive necessary community services, and that removing children from their homes often subjects them to trauma and grief.
- To ensure the safety, permanency and well-being of children and their families, and to begin to address the current opioid and substance abuse crisis, the federal government is now allowing states to use money previously used only for foster care to pay for prevention services for children at imminent risk of entry into foster care.
- Legislators can play key roles in educating members, convening stakeholders, planning, implementation and oversight.
- Time is critical.



FAMILY FIRST PREVENTION SERVICES ACT OF 2018

BEFORE Family First	AFTER 2018 Family First
Most federal Title IV-E money designated for foster care	Title IV-E money: in-home parenting skills, services, substance abuse prevention and treatment, and mental health treatment, kinship navigators
Services only for the child	Prevention services for child, parents, kinship care providers
Income test	No income test
Title IV-E funding for children placed in group homes with little oversight	Congregate care/residential homes must be quality, appropriate settings to qualify for Title IV-E funds
No funds for children placed with parents in residential treatment	12 months of Title IV-E money for these placements

PREVENTION SERVICES

Allows the use of Title IV-E funds (through reimbursement) for the following evidence-based services to prevent the placement of children and youth into the foster care system.

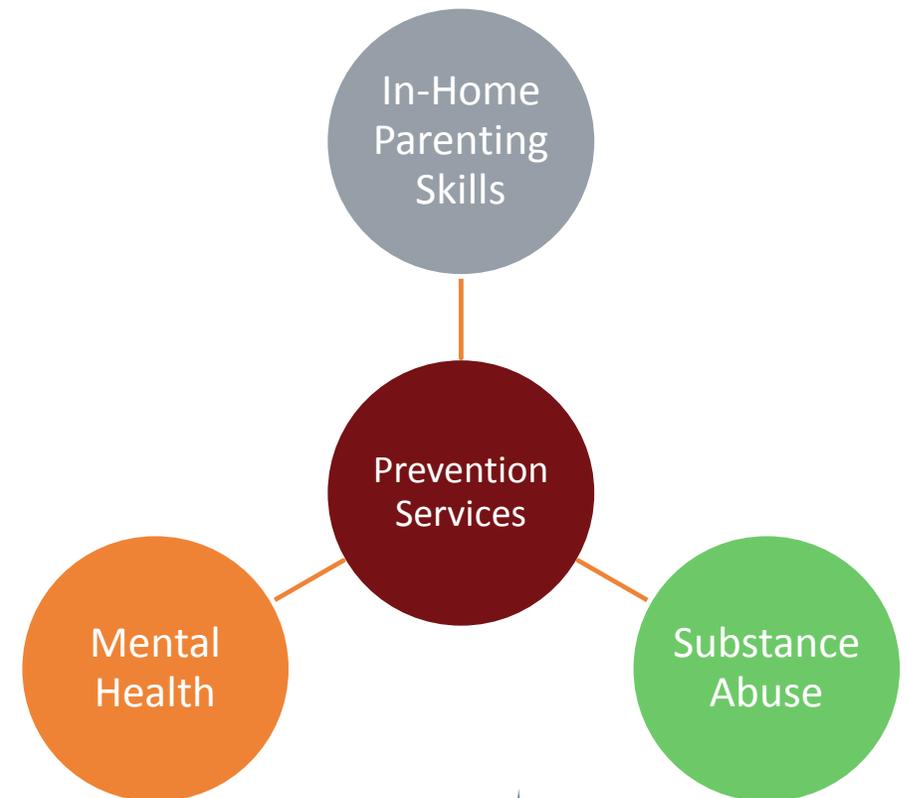
- Children can receive services for up to 12 months.
- Mental health and substance abuse treatment and services have to be provided by a qualified clinician.
- There is no limit on how many 12 month periods a child and family can receive prevention services.

Title IV-E funds can only be used in this capacity for 12 months for:

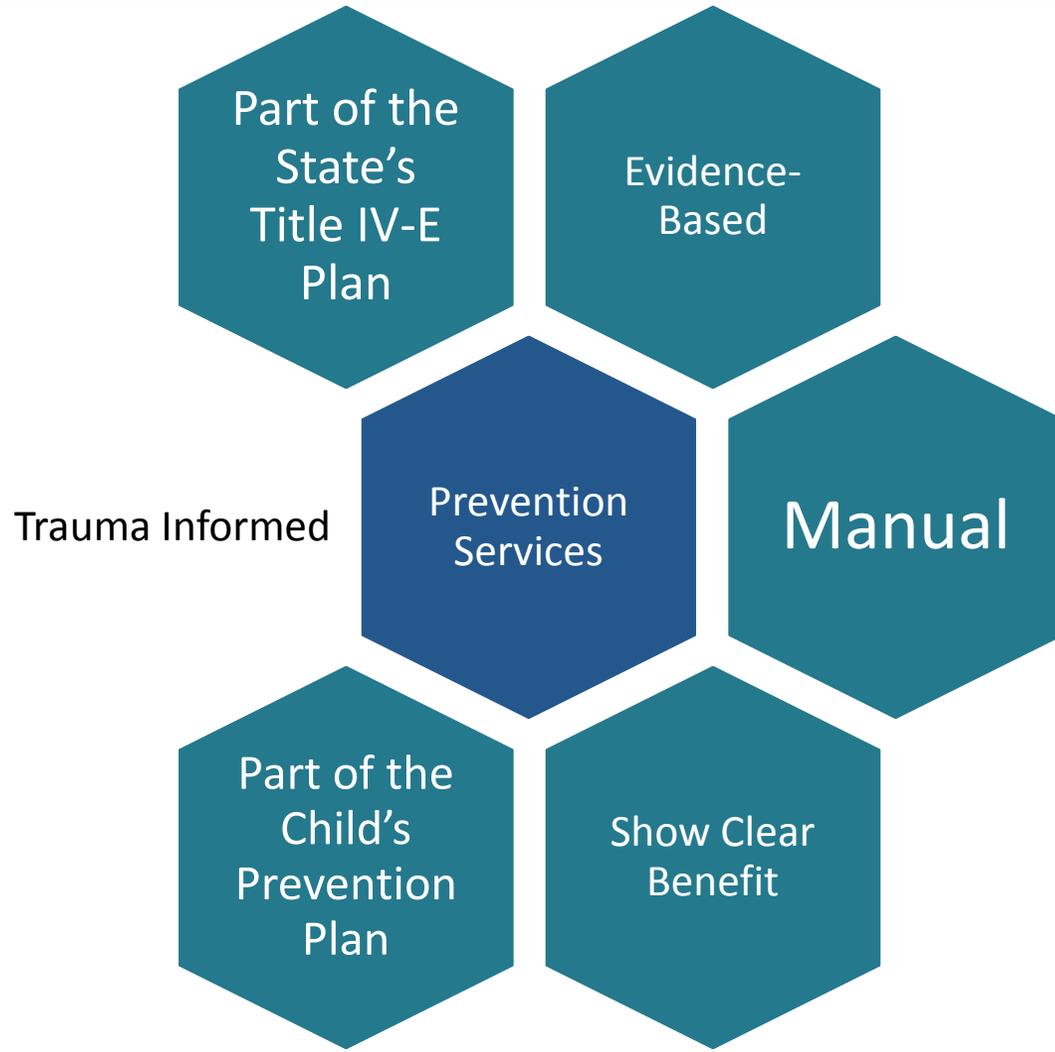
- Children who are “candidates for foster care”
- Pregnant or parenting foster youth
- Parents of these children and youth (both biological and adoptive parents)
- Kinship caregivers of these children and youth

Candidates for foster care: Children who can remain safely at home or in a kinship placement with receipt of services.

No income test for eligibility.



PREVENTION SERVICES



Family First required the U.S. Department of Health and Human Services to create a pre-approved list of services that will qualify for reimbursement by **October 1, 2018.**



EVIDENCE-BASED SERVICES CRITERIA

Well-Supported

A randomized-controlled trial or rigorous quasi-experimental design that demonstrates sustained effect for at least a year after treatment.

Supported

A randomized-controlled trial or rigorous quasi-experimental design shows sustained effect for at least six months after treatment.

Promising Practice

An independent systematic review has been conducted using some form of control group.

PREVENTION SERVICES

HHS is Determining Eligibility for the Following 12 Programs by Spring 2019

Mental Health

- Parent-Child Interaction Therapy
- Trauma Focused-Cognitive Behavioral Therapy
- Multisystemic Therapy
- Functional Family Therapy

Substance Abuse

- Motivational Interviewing Multisystemic Therapy
- Families Facing the Future
- Methadone Maintenance Therapy

In-Home Parent Skill-Based

- Nurse Family Partnership
- Healthy Families America
- Parents as Teachers

Kinship Navigator Programs

- New Jersey Children's Home Society
- Children's Home Inc. KIN-Tech

PREVENTION SERVICES: THE BASICS

Timeline

- Title IV-E reimbursement for the optional prevention services begins on October 1, 2019.

Non-Supplantation

- These services must not supplant or replace state funding for prevention services.

MOE

- Maintenance of Effort: MOE will be set at FY2014 spending for the prevention services for candidates for foster care.

Admin/Training

- States may claim reimbursement for admin and training costs at 50%.

PREVENTION SERVICES: REIMBURSEMENT RATES

10/1/19- 9/30/26

- 50% federal reimbursement October 1, 2019 through September 30, 2026.

10/1/26

- Beginning October 1, 2026, federal reimbursement will be state's FMAP rate.

- At least 50% of spending each fiscal year must be for well-supported practices.



Congregate, Residential and Group Care



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CONGREGATE, RESIDENTIAL AND GROUP CARE

New requirements intended to provide appropriate placements that meet individual child's needs.

Family foster care limited to six children, with certain exceptions (specified in the bill).

Limits to congregate/residential care:

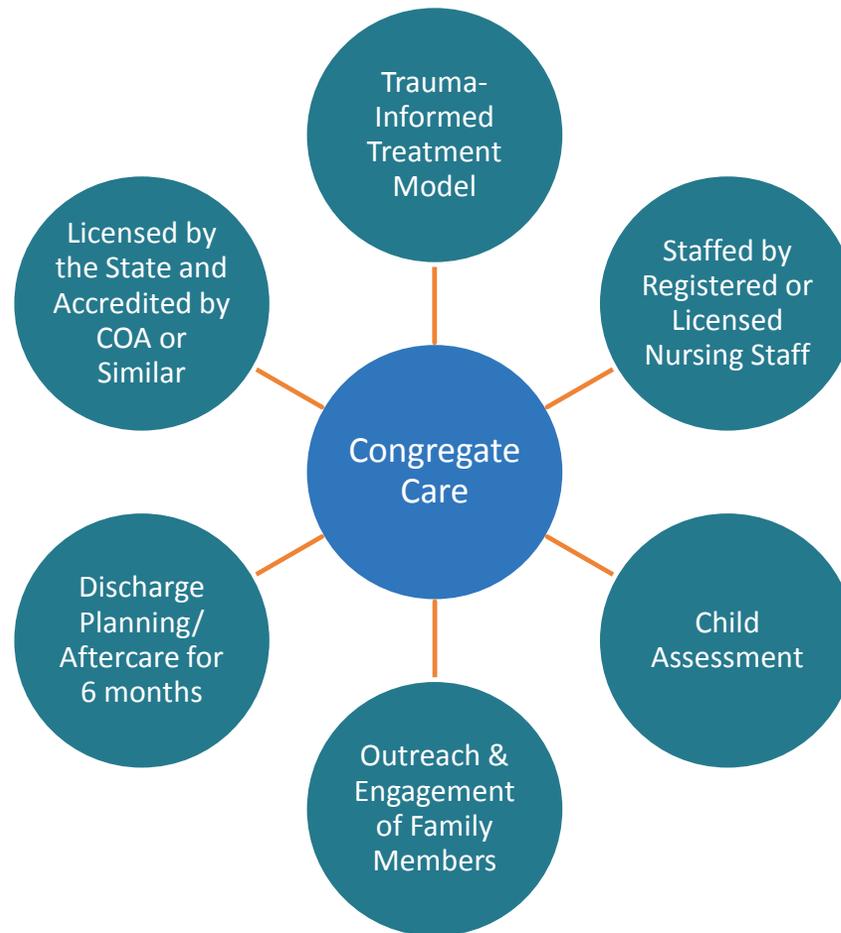
- Federal Title IV-E reimbursement for children placed for more than 2 weeks is allowed only for the following residential placements:
 - *A specialized program for pregnant or parenting teens in foster care
 - *A supervised independent living for a child age 18 or older
 - *Residential care and supports for children who have been or are at risk of sex trafficking
 - A Qualified Residential Treatment Program (QRTP) as described on the next 2 slides.

*Placements already allowable and will continue include:



CONGREGATE, RESIDENTIAL AND GROUP CARE

Beginning October 1, 2019, **Qualified Residential Treatment Programs (QRTP)**, will be reimbursed through Title IV-E and must meet the following qualifications:



QUALIFIED RESIDENTIAL TREATMENT PROGRAMS

No time limits for how long a child may be placed in a QRTP.

States may delay the implementation of this part of the legislation for two years, until September 29, 2021.

This will delay funding for prevention services for the same length of time.

States must notify HHS by November 9, 2018 if they want to delay.

(However, this notice is non-binding).



ADDITIONAL IMPORTANT PROVISIONS

Kinship Navigator Funding

- Provides Title IV-E support for evidence-based kinship navigator programs at 50%, beginning October 1, 2018. Includes kin caring for children who are not in foster care.

Tracking and Preventing Child Maltreatment Deaths

- By October 1, 2018, states must create a plan and fully document the steps it is taking to track and prevent child maltreatment deaths.

Kinship Care
NAVIGATOR SERVICES
of Summit County



ADDITIONAL IMPORTANT PROVISIONS

Recruiting and Keeping Foster Families: Increased Financial Support through 2022

- A one-time, \$8 million competitive grant will be made available through 2022 to support the recruitment and retention of high-quality foster families.

Model Licensing Standards for Family Foster Homes

- By April 2019, states are NOT required to meet newly established national model licensing standards, but must report HOW their state licensing standards differ from the new standards, WHY they differ and report whether or not they waive relative caregiver safety standards. HHS is required to issue model licensing standards by October 1, 2018.
 - **Standards released last week**



NATIONAL MODEL FOSTER FAMILY LICENSING STANDARDS

States are required to develop plans that provide for standards for foster family homes related to:

- Admission policies (age, income, mental and physical health).
- Safety (background checks, home study, living space, condition of the home, home capacity, sleeping arrangements, emergency preparedness, fire safety, evacuation plans).
- Sanitation.
- Protection of civil rights, training, foster parent assurances, and permit the use of the reasonable prudent parent standard.



NATIONAL MODEL FOSTER FAMILY LICENSING STANDARDS

- State whether the agency foster family home licensing standards are consistent with the final model licensing standards identified by HHS and, **if not, the reason for the deviation.**
- Whether the agency waives non-safety licensing standards for relative foster family homes (pursuant to waiver authority provided by section 471(a)(10)(D)).
- And, if so, how caseworkers are trained to use the waiver authority and whether the agency has developed a process or provided tools to assist caseworkers in waiving these non-safety standards to quickly place children with relatives (section 471(a)(36)).
- **Submit this information no later than March 31, 2019 (unless a legislative delay or a delay for tribes, tribal organizations or consortia is approved by the Secretary for the title IV-E agency).**
- Title IV-E agencies should use the final model standards in Attachment A to this Information Memorandum (IM) to complete the title IV-E plan.



NATIONAL MODEL FOSTER FAMILY LICENSING STANDARDS

The feds developed these standards, however, States are **NOT** required to meet these specific standards, but to explain how and why they might differ.

Full list, see attachment A:
<http://www.grandfamilies.org/Portals/0/Documents/FFPSA/final%20AECF%20model%20licensing%20standards.pdf>

National Model Foster Family Home Licensing Standards

Subject Standards	Standards and Summary
Foster Family Home Eligibility – Threshold Requirements	<p>A. Foster Family Home Eligibility: A foster family home license includes the following:</p> <p>a. Threshold Requirements</p> <ul style="list-style-type: none"> i. Applicants must be age 18 or older. ii. Applicants must have income or resources to make timely payments for shelter, food, utility costs, clothing, and other household expenses prior to the addition of a child or children in foster care. iii. Applicants must be able to communicate with the child, the title IV-E agency, health care providers, and other service providers.¹ iv. At least one applicant in the home must have functional literacy, such as having the ability to read medication labels.
Summary – Foster Family Home Eligibility – Threshold	<p>The foster family home eligibility standards provide threshold requirements for licensing a foster family home to assess the applicant's: 1) age, 2) financial stability, 3) ability to communicate with the child, caregiver, and provider, and 4) literacy.</p>



ADDITIONAL IMPORTANT PROVISIONS

- States may extend John H. Chafee Foster Care Independence Program funds for youth up to 23 years of age who have aged out of foster care if that state has extended federal Title IV-E funds to children up to age 23.
- States may also extend education and training vouchers up to age 26, but for no more than five years total.

ADDITIONAL FUNDING

The FY2018 appropriations bill included the following among the investments for children and families in FY2018:

- **Adoption & Guardianship Incentives: \$37 million increase**
- **Child Abuse Prevention and Treatment Grants: \$60 million increase**
- **Home Visiting (MIECHV): \$400 million**
- **Head Start: \$610 million increase**
- **Early Head Start: \$115 million increase**
- **Child Care Block Grants: \$2.37 Billion increase**
- **Final 2019 appropriations bill included another \$20 million for states, tribes and territories to develop, enhance and evaluate kinship navigator programs!**

(Casey Family Programs 2018)



NATIONAL CONFERENCE OF STATE LEGISLATURES

TITLE IV-E NOW PAYS FOR ATTORNEYS FOR CHILD AND PARENTS

Question 30.

+ May a title IV-E agency claim title IV-E administrative costs for attorneys to provide legal representation for the title IV-E agency, a candidate for title IV-E foster care or a title IV-E eligible child in foster care and the child's parents to prepare for and participate in all stages of foster care related legal proceedings?

(New 01/07/2019)

Answer

Yes. The statute at section 474(a)(3) of the Act and regulations at 45 CFR 1356.60(c) specify that Federal financial participation (FFP) is available at the rate of 50% for administrative expenditures necessary for the proper and efficient administration of the title IV-E plan. The title IV-E agency's representation in judicial determinations continues to be an allowable administrative cost.

Previous policy prohibited the agency from claiming title IV-E administrative costs for legal services provided by an attorney representing a child or parent. This policy is revised to allow the title IV-E agency to claim title IV-E administrative costs of independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care and his/her parent to prepare for and participate in all stages of foster care legal proceedings, such as court hearings related to a child's removal from the home. These administrative costs of legal representation must be paid through the title IV-E agency. This change in policy will ensure that, among other things: reasonable efforts are made to prevent removal and finalize the permanency plan; and parents and youth are engaged in and complying with case plans.

Source/Date
1/7/2019

Legal and Related References
45 CFR 1356.60(c), section 474(a)(3)





State Legislative Role in Family First

LEGISLATIVE ROLE IN FAMILY FIRST

Conveners of Important Stakeholders

- Reach out to your state child welfare agency; they should not make these decisions re: FFPSA in isolation.
- Set up regular meetings during the interim to discuss FFPSA, assess state needs/concerns, examine potential benefits, implementation issues, costs, oversight, set priorities.

Child welfare, Medicaid, early childhood, courts, education, health and mental health, provider community, university and research partners, and others.

Foster youth (including transitioning youth), birth parents, kin caregivers, foster and adoptive parents.

Educate legislative colleagues, including members of Appropriations, Budget, Health, Education committees, and legislative audit, review, finance and similar departments.



LEGISLATIVE ROLE IN FAMILY FIRST

Planning, Implementation and Oversight

- Opportunity for long-range planning.
- Develop a process for planning, implementation and oversight.
- Encourage child welfare agency to take advantage of guidance released from federal HHS.
- Critical conversations on prevention: child welfare, Medicaid, Appropriations and Budget committees.

- Review existing policies, processes, standards.
- Examine CFSR results, plans in light of Family First.
- Look closely at Family First and other timelines.

- Review best practice in other states.
- Learn about evidence-based practice.
- Learn about the accreditation process.



LEGISLATIVE ROLE IN FAMILY FIRST: 2019 INTRODUCTIONS

NE 2019 L328

Defines candidate for foster care, QRTP, prevention plan, coverage under Medicaid for all eligible services under Family First, creates family and permanency team, yearly report, Kinship Navigator.

NM 2019 HJM 10

Requests the creation of a CPS task force to include an expert in Family First.

NH 2019 SB14

Expands behavioral health services for children to include mobile crisis response and stabilization services and make other improvements in alignment with Family First.

OK 2019 HB2642

Creates an Oversight Committee on the Delivery of Child Welfare Services to review and analyze state laws, agency rules and funding related to the delivery of child welfare services and to ensure state compliance with Family First.

TX SB355

Requires the department to develop a strategic plan to ensure that the provision of prevention and early intervention services meets the requirements of Family First.

VA 2019 HB2014/S1678

Aligns code of Virginia with Family First, defines QRTP and family and permanency team.

WA 2019 HB1900 and SB5826

Defines prevention and family services programs in alignment with Family First, QRTPs, candidates for foster care.

WY 2019 HB170

Ensures that all CPS workers are trained on Family First.



LEGISLATIVE ROLE IN FAMILY FIRST

Colorado 2018 SB 254, Chap. 216

2018 CO SB 254, Chapter 216: Requires the state department to perform an analysis and cost projections to determine the fiscal impact of FFPSA. Child welfare allocation formulas must support the implementation of promising, supported, or well-supported practices as required by Family First.

Each county must perform analysis of available in-home, family-like and out-of-home placements by July 1, 2019. By July 1, 2020, the department must report to the Joint Budget Committee on county utilization rates of those placements and provide an analysis of projected federal reimbursement pursuant to Family First.

Creates a child welfare services task force to analyze laws and rules to ensure alignment with Family First.



LEGISLATIVE ROLE IN FAMILY FIRST

New Mexico lawmakers addressed planning and implementation of Family First in 2018 session.

New Mexico 2018 Family First Interim Subcommittee

- Joint interim subcommittee
- Series of informational hearings
- Address next steps in implementation
- Examine maximizing federal dollars
- Federal substance use disorder services grants and overlap with Family First



LEGISLATIVE ROLE IN FAMILY FIRST

Oregon “Three Branch” Family First Implementation and Policy Work Group

Senate Human Services Committee established a “Three Branch” work group – with representation from the legislative, executive and judicial branches of government - to address policy, budget and communication needs related to the implementation of Family First.

- Central hub of communication
- Collaborate to identify actions for OR to meet requirements of Family First
- Meets monthly
- Staffed by legislative research office staff
- In-depth review of Family First
- Information on accreditation process
- Website – Family First legislation, timelines, meeting agendas, model licensing standards:

<https://www.oregonlegislature.gov/gelser/Pages/Family-First.aspx>



LEGISLATIVE ROLE IN FAMILY FIRST

Virginia “Three Branch” Team

Virginia is using a “Three Branch” approach to implementing FFPSA, a structure that allows for participation by the legislative, executive, and judicial branches and has been used successfully in past efforts to improve the child welfare system in Virginia

- How to calculate Virginia’s maintenance of effort level
- Defining the population at “imminent risk” of entering foster care
- Determining providers’ ability to meet the requirements of the new law - offering evidence-based practices for prevention services or to meet the requirements of a “Qualified Residential Treatment Program” for group homes or residential placements
- Determining resources necessary for implementation, to include technical support and training resources for localities

Expected implementation date of October 2019



LEGISLATIVE ROLE IN FAMILY FIRST

NCSL Informational Briefings

HI, IA, MT, NE, NM,
OK, VT, WA

- Washington convened a work session, July 17, 2018
- Included members of Early Learning and Human Services, Health, Appropriations committees
- New Department of Children, Youth and Families
- Medicaid Director
- Washington State Institute on Public Policy (WSIPP), presented on evidence-based practice.

- Hawaii convened an informational briefing June 19, 2018
 - NCSL, Child welfare agency, Medicaid agency, others
- Iowa – September 2018
- Nebraska – October 2018
- New Mexico – August and November 2018
- Oklahoma – October 2018
- Montana – January 2019
- Vermont – February 2019



LEGISLATIVE ROLE IN FAMILY FIRST

Next Steps and Questions for Lawmaker Consideration

Identify what prevention and foster care prevention services your state is currently funding.

What is the quality of those services? Are they evidence-based?

How will you build up your evidence-based services capacity?

What does congregate care look like in your state?

What is your foster family capacity? How many are licensed, trained and prepared to accept children? What is your plan to increase capacity?

How will you identify children in congregate care whose needs can be met through family foster care?

Examine requirements for accreditation.

Monitor implementation through periodic reports to the legislature.



Contact NCSL

Nina Williams-Mbengue at 303-856-1559 or Nina.mbengue@ncsl.org

Resources

NCSL Family First Prevention Services Act webpage: <http://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx>

NCSL Child Welfare Webpage:

<http://www.ncsl.org/issues-research/human-services.aspx?tabs=858,51,16#16>

California Evidence-Based Clearinghouse for Child Welfare: <http://www.cebc4cw.org/>