



# THE CHANGING LANDSCAPE OF FEDERAL CHILD WELFARE FINANCING

NATIONAL  
CONFERENCE  
of  
STATE  
LEGISLATURES

## A Primer for Policymakers

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### Introduction

Although states have primary responsibility for protecting children from abuse and neglect, they rely heavily on federal funding to fulfill this responsibility. Currently, about half of the cost of child welfare services nationally is paid with federal funds from a variety of sources. According to the Urban Institute's latest child welfare financing survey, states spent a total of \$23.3 billion from federal, state and local sources on child welfare in FY 2004, including \$11.7 billion in federal funds.<sup>1</sup> The extent of states' reliance on federal funds in general—and any given funding stream in particular—varies widely over time and from state to state.

Recent federal legislation will have the effect of shifting more of the cost of child welfare to the states and imposing additional limits on state flexibility to spend federal funds, trends that some child welfare experts say are at odds with the federal policy goal of improving the performance of state child welfare systems. This paper examines some of these changes in federal policy and their likely effect on states. It also briefly examines what are considered to be the major flaws in the current structure of federal child welfare financing and proposals for reform.

### Background

During the past decade, the influence of the federal government over child welfare has grown as Congress has enacted new programs, mandates, funding streams and accountability mechanisms, including the Adoption and Safe Families Act of 1997 (ASFA) and the Child and Family Services Reviews (CFSRs), the results-based program of federal child welfare oversight. Although *substantive* federal policy, including ASFA and the CFSRs, has increasingly emphasized achievement of child safety, permanency and well-being, federal policy underlying the *financing* of child welfare has not undergone a similar evolution. In a number of ways, federal financing policy is not aligned with federal policy goals and may even hinder states' achievement of mandated outcomes. The limitations of federal child welfare financing are well known.

- Although federal funding for foster care under Title IV-E is an uncapped entitlement, funding under Title IV-B for prevention and support services to prevent out-of-home placement or to shorten foster care stays is extremely limited.
- Federal foster care funding is provided only to children from birth families who meet 1996 welfare eligibility standards, which makes the system costly and inefficient to administer and results in a gradual cost shift from the federal government to the states over time.
- States were able to obtain waivers to use funding under the Title IV-E foster care program for a variety of services to reduce reliance on foster care, but the authority of the federal government to grant such waivers expired at the end of March 2006 and has not been renewed.
- Although federal law recognizes legal guardianship as an acceptable permanency option for children in foster care for whom neither reunification nor adoption is a feasible alternative, adoption remains the only permanency option for which there is federal financial participation.

States have increasingly relied on other, more flexible, federal funding sources to mitigate the effects of the limitations on dedicated child welfare funding. These funding sources are the Temporary Assistance to Needy Families program (TANF), the Social Services Block Grant (SSBG) and Medicaid. The continued availability of these funding streams for child welfare is uncertain, however. First, because they can be used to meet a wide array of social needs, the availability of these funding sources for child welfare has always been subject to changes in state policy priorities and needs. Second, many states have been spending down their unobligated TANF balances, reducing the availability of TANF for child welfare. Third, the SSBG has been reduced several times since its creation and may suffer further cuts in coming years. Finally, the Bush administration has curtailed the use of Medicaid targeted case management funds for children in foster care.

## Federal Financing of Child Welfare: Recent Changes

Recent federal legislation made changes in federal financing policy that affect both *dedicated* funding sources (Titles IV-E and IV-B of the Social Security Act) and *non-dedicated* sources (TANF and Medicaid). This legislation includes the Deficit Reduction Act of 2005 (DRA) and the Child and Family Services Improvement Act of 2006.

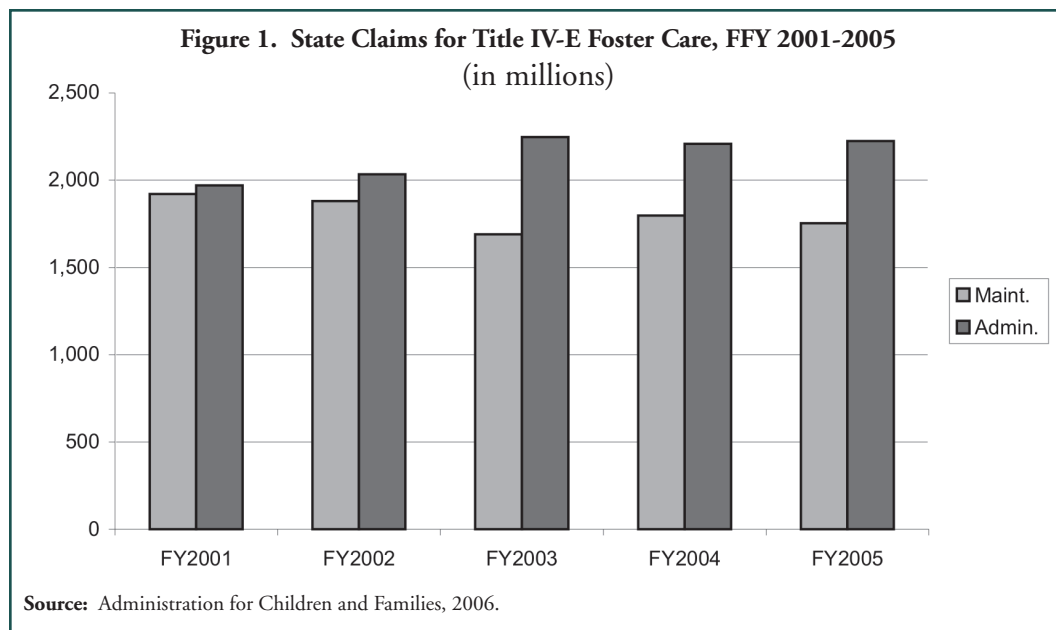
### *Title IV-E Administration*

The major child welfare programs under Title IV-E are foster care, adoption assistance and the Chafee Independent Living program. The foster care program covers both maintenance expenses—i.e., room and board—for IV-E eligible foster children and administrative expenses incurred by a state on behalf of IV-E eligible children. Although the DRA made changes that affect both these funding streams, the changes to administrative funding are more significant for states. These changes are explained below.

### **IV-E Administration: Background**

Title IV-E administration is a permanently authorized, open-ended entitlement program under which states are entitled to claim reimbursement of 50 percent of the expenses “found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State plan.”<sup>2</sup> Approximately 70 percent of the cost of child placement services is attributable to caseworker salaries and benefits associated with the time they spend referring families for services; developing case plans and permanency plans; making eligibility determinations; finding and making foster care placements; and preparing for and participating in court proceedings.<sup>3</sup> Because caseworkers perform these duties on behalf of all children in the child welfare system, not just for IV-E eligible children, states must allocate a portion of these costs to the IV-E program. In general, IV-E administrative funding has helped states address critical child welfare workforce issues, such as high caseloads and retention of qualified staff.

Although Title IV-E is usually associated with payments to foster families for a child’s room and board, states’ claims for child placement and administration surpass those for maintenance. In federal fiscal year (FFY) 2005, states claimed approximately \$2.2 billion in administrative costs, compared to \$1.75 billion in maintenance. Figure 1 compares state claims in these two categories for the past five federal fiscal years.



Although administrative claims decreased between FFY 2003 and FFY 2004 and remained relatively unchanged from FFY 2004 to FFY 2005, the Congressional Budget Office (CBO) projects that the federal share of administrative costs will increase from \$2.46 billion in FY 2006 to about \$3.5 billion in FY 2016.<sup>4</sup> At the same time, the CBO projects that the federal share of maintenance costs will decrease from \$1.75 billion to \$1.65 billion during the same time period, due to a decline in overall foster care caseloads and a decline in the percentage of foster children who meet IV-E eligibility standards.

How can administrative costs remain constant or go up in the face of a declining IV-E eligible foster care caseload? First, federal law over the past decade has imposed substantial new requirements on states that have resulted in an increase in per child administrative costs. Since April 1, 1996, for example, states have been required to provide pre-placement preventive services.<sup>5</sup> In addition, ASFA increased the frequency of permanency hearings, required the filing of petitions to terminate parental rights on behalf of certain children, and required states to make reasonable efforts to finalize permanent placements for children in foster care.

The second reason for the apparent disconnect between IV-E administrative costs and the IV-E foster care caseload is that, since 1987, states have been allowed to claim such costs on behalf of children who are considered “candidates” for IV-E maintenance payments, even if such children are never removed from home and placed in IV-E eligible foster care. According to the HHS child welfare policy manual, a candidate for foster care is “a child who is at serious risk of removal from home as evidenced by the State agency either pursuing his/her removal from the home or making reasonable efforts to prevent such removal.”<sup>6</sup> This policy is consistent with Title IV-E’s requirement that states make reasonable efforts to prevent placement. A recent Government Accountability Office study found that claiming costs for candidates can help states offset declines in their IV-E eligible foster care population. The eight states studied by the GAO reported that candidates were responsible for administrative costs ranging from one percent in Michigan to 73 percent in South Carolina.<sup>7</sup>

Reimbursement for administrative costs per IV-E eligible child varies significantly from state to state and from one year to the next. These differences are due to a number of factors, including variations in the methodology used to measure and allocate caseworker time; changes in the proportion of IV-E eligible children; increases or cuts to state funding for child welfare that can be used to draw down federal administrative funds; and use of other federal funding sources for administrative expenses, such as TANF, SSBG or Medicaid.<sup>8</sup>

### **Changes to IV-E Administration in the DRA**

Because of the significant differences in how states administer and fund their foster care systems, even seemingly technical “clarifications” to IV-E administration can have significant fiscal effects in some states and little or no effect in others. The DRA made several “clarifications” regarding foster care candidates, the most significant of which are discussed below.

*Foster Children in the Homes of Unlicensed Relatives.* A 1993 HHS memorandum allowed states to claim IV-E administrative costs associated with a child who otherwise would be eligible for IV-E foster care maintenance payments but for his or her placement in an unlicensed foster family home, on the basis that such child is a candidate for IV-E foster care. This policy allowed states to make greater use of unlicensed relatives as foster care providers, even though such relatives are not eligible to receive IV-E maintenance payments. The GAO reported that, with respect to IV-E administrative claiming, unlicensed relative care was the most commonly used ineligible setting in FY 2004.<sup>9</sup>

The DRA placed limits on federal reimbursement for administrative costs incurred by states on behalf of these children. Whereas, prior to the DRA there were no time limits imposed on such claiming, the DRA provides that administrative costs may only be claimed if the relative has applied for licensure and only for a period of 12 months or the average length of time it takes for the State to license or approve a foster home, whichever is less.<sup>10</sup>

In 2001, the federal government attempted to make substantially the same change in the form of an administrative policy clarification. That policy guidance stated that children in the homes of unlicensed relatives could not be considered candidates for foster care because they already were in foster care. States vigorously objected to the change on the grounds that it constituted a major reversal of prior policy and was inconsistent with other aspects of federal child welfare law.<sup>11</sup> Title IV-E was amended in 1996 to require states to “consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards.”<sup>12</sup> The number of children in the legal custody of a child welfare agency but placed with a relative is estimated to be between 131,000 and 195,000.<sup>13</sup> States argued that conditioning federal support of state child placement activities on licensure of relatives would discourage relative placement in contravention of the law’s expressed intent. Many relative caregivers have no desire to undergo the intrusive licensure process and/or cannot meet the technical licensing requirements that are not directly related to child safety. Ultimately, the issue was whether the federal government’s insistence on treating kinship caregivers the same as nonrelative foster families promoted or hindered states’ achievement of good child welfare outcomes.

Now that Congress has amended the statute to incorporate the changes proposed by the administration, states must assess the financial effects on their child welfare systems and determine how to respond to any loss of federal funding. The federal government has produced two different estimates of the fiscal impact of the unlicensed relative policy change. The Administra-

tion for Children and Families estimated in 2005 that states would experience a reduction of between \$270 million and \$322 million in federal funds during the period FFY 2006 through FFY 2009.<sup>14</sup> On the other hand, the CBO estimated that all the child welfare provisions in the DRA—including but not limited to the provision on unlicensed relatives—would result in a reduction of federal funds totaling \$320 million during the period FFY 2006 through FFY 2010. Both these federal estimates may significantly understate the impact on states of the DRA unlicensed relative provision. Five-year estimates produced by only seven states total \$322.5 million. These states are Arizona (\$85 million),<sup>15</sup> California (\$90 million),<sup>16</sup> Kansas (\$50 million),<sup>17</sup> Ohio (\$20 million),<sup>18</sup> Texas (\$15 million),<sup>19</sup> Washington (\$7.5 million),<sup>20</sup> and Wisconsin (\$55 million).<sup>21</sup>

*Children at Risk of Removal from Home.* The DRA made additional changes concerning administrative cost claiming on behalf of children who are risk of being removed from home. Whereas HHS policy defines a foster care candidate as a child “at *serious* risk of removal from home,” the DRA uses the phrase “at *imminent* risk of removal.” It is unclear whether this change in wording will affect HHS’s treatment of state administrative claims for foster care candidates. The information memorandum on the DRA issued by HHS in June 2006 makes no mention of the wording change and its potential effect on states.<sup>22</sup>

The DRA also contains a provision that requires that a child’s continued candidacy status be re-determined every six months. This requirement will increase the administrative burden for all states, but will particularly affect states in which child welfare agencies rely on contract service providers or collaborate closely with other public agencies in the administration of their foster care systems. That is because the DRA requires the *state child welfare agency* to make candidacy determinations and re-determinations, not contractors or other agencies.

At least one state, Minnesota, has estimated that this provision may result in a substantial reduction in candidacy cases, a corresponding loss of federal funding and an increase in state administrative costs. Minnesota uses a Local Collaborative Time Study to measure and allocate to IV-E the time spent by other public agencies—such as courts, schools, law enforcement and public health agencies—in IV-E reimbursable administrative activities. These agencies had been authorized to determine whether a child is a IV-E candidate. Although nothing in the DRA prevents these agencies from preparing the necessary documentation to establish a child’s candidacy and transmitting it to the state child welfare agency to make the final determination, the Minnesota Department of Human Services is concerned that the confidentiality requirements under which most of these agencies operate will prevent them from sharing this information. The counties will also incur additional administrative costs in reviewing information that collaborative partners are allowed to share and in making candidacy determinations. The state estimates the total fiscal impact of these changes will be \$26.8 million per year.<sup>23</sup> Much of this cost will be in the form of a reduction in federal reimbursement that is passed on to local collaboratives to fund child and family services.<sup>24</sup>

### *Expiration of Title IV-E Waiver Authority*

Beginning in 1994, states could obtain five-year waivers for flexible use of Title IV-E foster care maintenance funds. States have used these flexible funds for an array of programs and services, including subsidized guardianship, flexible funding to local agencies, child welfare managed care, substance abuse services, intensive preventive services and tribal administration of federal

child welfare funds, among others. The IV-E waiver program was intended to generate new knowledge about alternatives to foster care placement. Some researchers claim that the Title IV-E waiver program was a "disappointment" because it did not focus on improving the delivery of evidence-based services.<sup>25</sup>

Although an earlier version of the DRA would have reauthorized and expanded the Title IV-E waiver program, those provisions were excluded from the final conference committee report. Thus, waiver authority expired on March 31, 2006. On that day, however, the federal government approved five pending waiver applications. These and other existing waiver programs will continue, but cannot be extended beyond their original term.

### *Title IV-B*

Title IV-B is the largest source of federal funding dedicated to child welfare that can be used for purposes other than foster care and adoption assistance. This funding source is actually two separate programs: Subpart 1, known as the Child Welfare Services (CWS) program, and Subpart 2, the Promoting Safe and Stable Families (PSSF) program. Combined, these two programs provided more than \$708 million to states for child welfare services, training and court improvement for federal fiscal year (FFY) 2006.<sup>26</sup> Both subparts of Title IV-B were significantly amended by the Child and Family Services Improvement Act of 2006 (CFSIA), enacted September 28, 2006.<sup>27</sup>

#### **Child Welfare Services Program**

The Child Welfare Services program under Title IV-B, Subpart 1 is the oldest federal child welfare program; it was created as part of the 1935 Social Security Act.<sup>28</sup> Funding is authorized at \$325 million, but was funded at \$287 million in FFY 2006. The program provides formula grants to states for a wide range of child welfare activities and requires a 25 percent state match. In state fiscal year 2004, funds under this program accounted for 2 percent of total federal child welfare spending.<sup>29</sup>

Congress included in the CFSIA a finding that "federal policy should encourage States to invest their CWS and PSSF funds in services that promote and protect the welfare of children, support strong, healthy families, and reduce the reliance on out-of-home care, which will help ensure all children are raised in safe, loving families."<sup>30</sup> Thus, the CFSIA made a number of changes to the CWS program that are intended to ensure that more funds under the program are dedicated to family services and less go to administration, foster care and adoption assistance.

*Use of CWS Funds for Administrative Costs.* Under prior law, states were not limited in the amount of CWS funds that could be spent on administration. Beginning in FY 2008, the CFSIA imposes a 10 percent cap on administrative spending, which applies to both federal funds and state matching funds, and defines "administrative costs" as costs incurred for "procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing, and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under this subpart)."<sup>31</sup> This definition does not include the cost of caseworker services, for which CWS funds still may be used without limitation.

The impetus for this change was likely a 2003 report by the General Accounting Office (now known as the Government Accountability Office) that found that states spent approximately \$65 million in federal CWS funds, or 25 percent of their total FY 2002 CWS spending, on “administration and management” and administrative salaries.<sup>32</sup> The report notes, for example, that Ohio used “most of its subpart 1 dollars to fund state and county child welfare agency administrative expenses.”<sup>33</sup> Under the 10 percent limitation imposed by the CFSIA, states would have been able to spend only \$26 million in federal CWS funds on administration in FY 2002.<sup>34</sup> States will now have to make up this difference with funds from sources other than the CWS program.

*Use of CWS Funds for Foster Care, Adoption Assistance and Child Care.* Under prior law, a state could spend CWS funds on foster care, adoption assistance and child care, but such spending could not exceed the total amount the state received under the CWS program in FY 1979. Total CWS funding in that year was roughly 20 percent of the FY 2006 funding level.<sup>35</sup> Beginning in FY 2008, the CFSIA provides that the total amount of CWS funds that a state may spend on foster care maintenance, adoption assistance and child care cannot exceed the total amount it spent for such purposes in FY 2005.<sup>36</sup> In its report on Title IV-B spending in FY 2002, the GAO found that 17 states spent 10.8 percent of total CWS spending on foster care and that seven states spent 1.8 percent of total CWS spending on adoption assistance.<sup>37</sup> No comparable national data exist for FY 2005, so the effects of this provision on states are unclear. Nevertheless, it appears likely that the CFSIA has significantly lowered the cap on CWS spending for foster care, adoption assistance and child care.

*Use of State Spending on Foster Care Maintenance as Match.* Under prior law, states could count their own spending on foster care maintenance in meeting the 25 percent state match requirement. Beginning in FY 2008, the CFSIA provides that the amount of such spending that can count toward the state match cannot exceed the total amount of such spending in FY 2005.<sup>38</sup>

*New Caseworker Visit Requirements.* The CFSIA adds new requirements regarding caseworker visits with children in foster care. It requires states to adopt by October 1, 2007, standards for the content and frequency of such visits and provides that a state cannot receive FY 2008 CWS funding unless it provides to HHS data that shows the percentage of foster children who received monthly visits during FY 2007 and the percentage of those visits that occurred in the child’s residence.<sup>39</sup> Based on this data, HHS and each state are required to establish by June 30, 2008, an outline of the steps to be taken to ensure that, by October 1, 2011, at least 90 percent of children in foster care are visited monthly and that the majority of such visits occur in the child’s residence. The outline must include target percentages to be reached each fiscal year. Beginning with FY 2009, if HHS determines that a state has not made the requisite progress in meeting the 90 percent caseworker visit goal, then the federal matching rate for CWS funding is to be reduced. The amount of the reduction is 1 percent if a state falls short of its target percentage by less than 10 percentage points; 3 percent if the shortfall is equal to or greater than 10 but less than 20 percentage points; and 5 percent if the shortfall is equal to or greater than 20 percentage points.

The impetus for this change is a major finding of the first round of federal Child and Family Service Reviews (CFSRs) that a rating of “strength” on caseworker visits with children was strongly associated with a “strength” rating on a number of other indicators, including assessing the risk of harm to a child; assessing and providing services to meet the needs of the child,

parents and foster parents; and child and family involvement in case planning. A “strength” rating on caseworker visits with children also was significantly associated with a strength rating on providing services to prevent a child’s removal from home, among other indicators.<sup>40</sup>

Another key finding of the CFSRs is that states performed more poorly on “in-home” cases—in which children were not removed from home—than they did on foster care cases. Seventy-two percent of foster care cases were rated a “strength” on caseworker visits with children, compared to only 59 percent of in-home cases.<sup>41</sup> Only 19 percent of the 872,000 children found to be victims of maltreatment in FY 2004 were placed in foster care. Of the remaining 81 percent of children who remained at home, a little over half received in-home services and the other half received no services of any kind.<sup>42</sup>

It is unclear, given that all families involved in the child welfare system benefit from monthly caseworker visits, why Congress decided to focus exclusively on foster care cases. In fact, it could be argued that promoting visits with children at home rather than in foster care would be more in line with the CFSIA’s goal of encouraging states to “support strong, healthy families” and “reduce reliance on out-of-home care.” Although states will continue to work on improving visits in both types of cases, the financial penalties that now are a part of the CWS program do not encourage a balanced approach to this issue.

*Elimination of Indefinite Authorization.* The CWS program, indefinitely authorized under prior law, is now on the same five-year authorization schedule as the PSSF program.

*New State Plan Requirements.* The CFSIA requires states to include in their state plans under the CWS program the following.

- How the state will consult with and involve physicians or other appropriate medical professionals in assessing the health of foster children and in determining appropriate treatment for them.
- How state child welfare agencies will respond to a disaster to ensure continued availability of child and family services.
- An assurance that the state has policies and procedures regarding abandoned newborns that enable expedited decisions to be made regarding permanent placement.

### **Promoting Safe and Stable Families Program**

The PSSF program includes both mandatory and discretionary funding for a range of family support; family preservation; family reunification; and adoption promotion and support services. It also includes funding for court improvement; set asides for Indian tribes, evaluations and technical assistance; and new targeted funding. The PSSF program was amended by the DRA and further amended and reauthorized by the CFSIA.

*Limitation on Administrative Spending.* Under prior law, states could not spend more than 10 percent of federal PSSF funds for administrative purposes, but were not limited in the amount of state matching funds that could be used for such purposes. Beginning with FY 2008, the CFSIA extends the 10 percent limitation to include state funds as well as federal funds.

*New Targeted Funding.* The CFSIA increases mandatory funding from \$305 million to \$345 million for each of fiscal years 2007 through 2011. It also appropriates \$40 million in additional FY 2006 funding authorized by the DRA and makes this funding available for states to spend through FY 2009. All the increased funding is reserved to support monthly caseworker visits

with children in foster care and for grants to regional partnerships for services to children and families affected by methamphetamine and other substance abuse. Table 1 shows how these funds are to be distributed between the two purposes for fiscal years 2006 through 2011.

- *Funding to improve caseworker visits with children in foster care.* The CFSIA provides that state spending of targeted funding for caseworker visits with foster children must emphasize “activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.”<sup>43</sup> The funding is subject to a 25 percent state match and cannot be used to supplant federal funds available under Title IV-E for the same purpose. The appendix to this report compares the final FY 2005 allocation of PSSF funds with the FY 2006 allotments, as estimated by the Congressional Research Service. The FY 2006 increase in total PSSF funding is approximately \$30 million, not \$40 million, because discretionary PSSF funds were cut from \$99 million in FY 2005 to \$89 million in FY 2006.

**Table 1. Distribution of Targeted PSSF Funding (FYs 2006-2011)**

	Caseworker Visits with Foster Children	Services for Drug-Affected Families
FY 2006	\$40 million	\$0
FY 2007	\$0	\$40 million
FY 2008	\$5 million	\$35 million
FY 2009	\$10 million	\$30 million
FY 2010	\$20 million	\$20 million
FY 2011	\$20 million	\$20 million
Total	\$95 million	\$145 million

Source: NCSL, 2006.

Clearly, this provision of the CFSIA is linked to the provision in the amended CWS program discussed above that requires states to meet caseworker visit goals during the next five fiscal years. Again, it can be argued that improving caseworker visits with children in in-home cases rather than foster care cases is more in accord with the purposes of PSSF program. A related point is that the CFSIA fails to take into account the considerable variability among states in the percentage of children in foster care who receive monthly visits from caseworkers and the resulting variability in need for more resources to meet the 90 percent standard. Many states, including seven of the eight states that account for more than 50 percent of the national foster care caseload, already were performing at or near that standard during the first round of CFSRs (see table 2), while other states are performing well below the standard. Nevertheless, the CFSIA requires all states to spend PSSF funds for the same purpose.

**Table 2. Percent Foster Care Cases in Eight Largest States Rated “Strength” on Caseworker Visits in CFSR**

State	Percent Foster Care Cases Rated “Strength” on Caseworker Visits in CFSR (Item 19)
California	100%
Florida	75.5% of all cases*
Illinois	80%
Michigan	92%
New York	98% of all cases*
Ohio	96%
Pennsylvania	88%
Texas	82% of all cases*

\*The CFSR final report did not distinguish between foster care and in-home cases on Item 19.

Source: CFSR Final Reports.

Finally, the limited funding available under the CFSIA will not allow states to address a major barrier to caseworker visits, namely unmanageable caseloads. High caseloads contribute not only to less frequent visits, but also to high rates of caseworker turnover, vacancies and burnout, and were frequently mentioned during the first round of the CFSRs as a barrier to better agency performance and improved outcomes for children.<sup>44</sup>

- *Grants for regional partnerships to help children affected by methamphetamine or other substance abuse.* As stated above, the CFSIA allocates \$145 million over fiscal years 2007 through 2011 for competitive grants to regional partnerships to provide services designed to enhance the safety, permanency and well-being of children who are in out-of-home placement or who are at risk of placement as a result of a parent's methamphetamine or other substance abuse. The major components of the legislation are as follows.
  - A definition of "regional partnership," including a list of entities that may be included. In general, a state child welfare agency must be included in any partnership. An Indian tribe, however, may (but is not required to) include a state child welfare agency and may not enter into a partnership only with tribal child welfare agencies. Further, the CFSIA prohibits partnerships that consist only of a state child welfare agency and a state substance abuse agency.
  - Authority to award grants in amounts between \$500,000 and \$1 million per grant per fiscal year. Each grant is to be awarded for a period of between two and five years.
  - Application requirements, including evidence that methamphetamine or other substance abuse has had a substantial effect on the number of out-of-home placements or the number of children who are at risk of placement; and a description of the goals and outcomes to be achieved, the joint activities to be funded, the strategies for integrating services, the strategies for collaborating with the state child welfare agency, and strategies for consulting with the state substance abuse agency and state law enforcement and judicial agencies.
  - A description of the services that may be funded, including substance abuse treatment; early intervention and preventative services; counseling; mental health services; parenting training; and replication of successful models of long-term, family-based substance abuse treatment.
  - A requirement for state matching funds equal to 15 percent for the first and second years, 20 percent for the third and fourth years; and 25 percent for the fifth year. The non-federal share may be in cash or in-kind.
  - Factors to be considered by HHS in awarding grants, including a requirement to give greater weight to awarding grants that propose to address methamphetamine abuse.
  - A requirement for HHS to establish performance indicators that will be used to assess the performance of grantees.
  - A requirement for annual grantee reports and reports by HHS to Congress.

Although the grant program created by this section of the CFSIA covers "other substance abuse," it is clear that Congress intends the focus to be on methamphetamine. As stated, HHS is required to give greater weight to methamphetamine-related grant applications. In addition, the congressional findings on drug use are limited to methamphetamine. The finding on the effect of methamphetamine use on child welfare systems cites a July 2005 telephone survey of child welfare officials in 303 counties in

13 states conducted on behalf of the National Association of Counties.<sup>45</sup> The finding notes that “forty percent of all the child welfare officials in the survey reported an increase in out-of-home placements because of meth in 2005.”<sup>46</sup> The survey in question does not attempt to estimate the number of children this reported increase represents.

In fact, very little hard data exist on the effect of methamphetamine use on the child welfare system. In written testimony before the House Government Reform Committee in July 2005, Dr. Nancy Young, a leading expert on the link between substance abuse and child maltreatment, stated, “We lack the data to know if there are increases in children who are coming into care affected by substance use, and we do not have data on children specifically affected by methamphetamine.”<sup>47</sup> Dr. Young also noted that the number of pregnant women entering treatment for cocaine, alcohol, heroin and marijuana abuse far surpass the number entering treatment for methamphetamine abuse.<sup>48</sup> Although reliable national data are lacking, we know that methamphetamine abuse poses a real challenge to child welfare systems in many counties and states. Thus, new funding to meet this challenge is welcome.

#### *Other Amendments to the PSSF Program.*

- *Court improvement.* The CFSIA reauthorized the court improvement program in Title IV-B, Subpart 2, through FY 2011. This program sets aside \$10 million in PSSF mandatory funds, plus 3.3 percent of any discretionary funds that are appropriated, for formula grants to state courts to assess and improve handling of proceedings relating to foster care and adoption.

In addition to the original court improvement grant reauthorized by the CFSIA, the DRA created two new court improvement grants and appropriated \$100 million in mandatory funding for that purpose. Each of the new programs is funded at \$10 million annually from FY 2006 through FY 2010. One is intended to help courts and child welfare agencies jointly enhance case tracking, data collection and data sharing to improve timely and complete action on behalf of foster children. The other program is for training of judges, attorneys and other court personnel in child welfare proceedings, with a portion of grant funds to be used for joint training with child welfare agency personnel.

The DRA requires an application for any of the three court improvement grants under Title IV-B, Subpart 2, to demonstrate “meaningful and ongoing collaboration” among courts, the state child welfare agency and, if applicable, Indian tribes. It also requires “substantial, ongoing and meaningful collaboration” in the development and implementation of the state plan for Child Welfare Services under Title IV-B, Subpart 1; the plan for the PSSF program under Title IV-B, Subpart 2; the state Adoption Assistance and Foster Care plan under Title IV-E of the Social Security Act; and any Program Improvement Plan required under the Child and Family Services Review program.

Many child welfare and judicial experts have long called for greater voluntary collaboration between courts and child welfare agencies. The Pew Commission on Children in Foster Care recommended that such collaboration become a federal requirement, and this recommendation was incorporated into the DRA.<sup>49</sup> It remains to be seen whether courts and agencies can be required to collaborate and whether such collaboration will result in better outcomes for children and families.

- *Direct funding for Indian tribes.* The PSSF program includes a set-aside of mandatory and discretionary funding for tribal PSSF programs. The CFSIA raised the set-aside from mandatory funding from 1 percent to 3 percent, but provides that the set-aside applies to the amount remaining after reservation of the \$40 million in targeted funding but before the set-asides for evaluation, research, training, technical assistance and court improvement. It also raised the set-aside from discretionary funding from 2 percent to 3 percent. The CFSIA also expanded tribal access to direct PSSF funding by allowing tribes to form consortia in order to qualify for the minimum \$10,000 allotment.

### **Increased Reporting Requirements under CWS and PSSF Programs**

Beginning June 30, 2007, the CFSIA requires states to report yearly to HHS on actual expenditures under the CWS and PSSF programs, in addition to planned expenditures. The reports are to be made on standard forms currently used to report planned expenditures. HHS is required to compile expenditure data and submit it to Congress by September 30 of each year, beginning in 2007.

### *TANF*

The DRA made significant changes to the TANF program that, although they do not directly affect states' ability to use TANF for child welfare, may affect the availability of TANF for this purpose.

The Temporary Assistance for Needy Families (TANF) program is a federal block grant to states that was capped at \$16.5 billion in 2004. Although TANF does not require a state match, states must spend their own funds (maintenance of effort [MOE]) to receive the grant. The federal welfare reform law provides state legislatures with appropriations authority over TANF funds. States may spend TANF on child welfare services in any of the following ways.

- States may spend TANF directly on child welfare services that meet any of the program's four broad purposes.
  - To provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
  - To end the dependence of needy parents on government benefits by promoting job preparation, work and marriage;
  - To prevent and reduce the incidence of out-of-wedlock pregnancies;
  - To encourage the formation and maintenance of two-parent families.
- States may spend TANF on any child welfare services described in their Aid to Families with Dependent Children/Emergency Assistance (AFDC-EA) plans as in effect at the time AFDC-EA was abolished and replaced with the TANF program. Some states, for example, use this authority to spend TANF on nonrelative foster care for children who are not eligible for IV-E, which would not be permitted under the four TANF purposes.

- States are allowed to transfer up to 10 percent of their TANF block grants into the SSBG program, where it can be used for a wide array of services, including child welfare services.

This broad-based authority gives states wide latitude in TANF spending for child welfare. States use TANF to fund caseworker salaries, family support services, foster care, prevention programs, treatment services, subsidized guardianship programs and post-adoption services, among other things. Arizona's FY 2006 TANF appropriation for child welfare, shown in table 3, illustrates the many types of child welfare programs, services and functions that are funded with TANF.

The use of TANF funds for child welfare has increased dramatically, from about \$600 million in state fiscal year (SFY) 1998 to \$2.5 billion in SFY 2002. TANF spending in SFY 2004, however, declined slightly—to \$2.4 billion—but still accounts for 20 percent of federal spending on child welfare, second only to Title IV-E.<sup>50</sup> In its 2004 survey of child welfare spending, the Urban Institute reported that the decline in TANF spending was due to lack of available TANF reserves. States are spending down their unobligated TANF balances, and cash assistance caseloads are no longer in precipitous decline as in years past. In some states, these caseloads are actually rising.

Beginning on October 1, 2006, the following changes to TANF in the DRA will have the effect of dramatically raising the TANF work participation requirement and exposing many states to millions of dollars in federal financial penalties and required increases in state spending.

- The DRA significantly changed TANF's work participation rules. Under the 1996 law, states were required to have 50 percent of their adult-headed cases and 90 percent of their two-parent families in work activities. At the same time, caseload reductions that occurred since 1995 were credited against these required work participation rates. Sharp caseload drops since 1995 significantly lowered effective work participation requirements in most states, which allowed them to avoid substantial financial penalties. Although the DRA did not change the statutory percentages, it moved the baseline year for the caseload

**Table 3. TANF Appropriations for Child Welfare in Arizona, FY 2006**

Line Item	Description	Amount of TANF Funds
Operating Budget	Child protective services staff	\$27,295,800
Children's Support Services	Support services for children in both in-home and out-of-home cases	\$12,129,100
Emergency Placement	Temporary residential placement when foster care is not immediately available	\$4,206,400
Residential Placement	Placement of children in group homes or residential treatment centers	\$13,966,600
Foster Care Placement	Maintenance costs for children in foster family homes	\$6,223,100
Healthy Families	Home visiting to prevent child maltreatment and promote child development	\$5,034,200
Family Builders Program	Community-based assessment and support services for children in the CPS system	\$5,200,000
Homeless Youth Intervention	Services to help homeless youth achieve self-sufficiency	\$400,000
Joint Substance Abuse Treatment Fund	Treatment services for families in the child welfare system	\$2,000,000
Permanent Guardianship Subsidy	Support for families with dependent children in permanent guardianships	\$859,300
Adoption Services	Adoption subsidies and post-adoption services	\$10,686,100
Adoption Services-Family Preservation Projects	Recruitment and support of adoptive parents	\$1,000,000
Attorney General Legal Services	Legal representation of the child welfare agency in court proceedings	\$47,800
	Total	\$89,048,400

Source: Arizona Joint Legislative Budget Committee, 2006.

reduction credit from 1995 to 2005, thereby eliminating most of the credits states had already earned.

- Under the original TANF law, families receiving benefits under separate state-funded cash assistance programs were not counted in determining a state's work participation level. Under the DRA, if state spending on these programs is counted toward the state's MOE, then these families are required to be included in the work participation calculation.

#### **State Policy Responses to DRA that May Affect Availability of TANF for Child Welfare**

States have at least three policy options to increase their work participation rates and avoid federal penalties.<sup>51</sup> First, they can focus their efforts on existing recipients of cash assistance who are not meeting work participation requirements. This approach might include, among other things, intensifying efforts to engage these families in work activities and/or adopting tougher sanctions to remove noncompliant families from the welfare rolls. Second, they can adopt strategies to count more working families in the work participation rate. These strategies might include keeping working families in the program longer (e.g., through more generous earnings disregards) or moving former recipients who are working back into the program by providing assistance in the form of work incentives or job retention bonuses. Third, states can create separate programs funded with non-MOE state funds for families that face significant hurdles to employment, such as a physical disability, substance abuse or mental illness. These families still would receive assistance but would not be counted for purposes of determining the work participation rate.<sup>52</sup>

All the strategies discussed above may involve increased spending of TANF funds, state funds or both. The Congressional Budget Office estimates that it will cost states almost \$2 billion per year to meet the new TANF requirements. Increasing the number of working families, for example, will likely require an increase in spending on child care. Although the DRA provides an additional \$200 million per year for five years for this purpose, most observers agree this amount will not be sufficient to meet the child care needs generated by the new TANF changes. Thus, states will be required to make up the shortfall with TANF funds or state general revenue.

The new rules will likely cause a reassessment of TANF spending in many states, particularly those that rely heavily on TANF for purposes other than promotion of economic self-sufficiency. The DRA is most likely to affect child welfare in those states that spend significant amounts of TANF, including TANF funds transferred to the Social Services Block Grant, on child welfare and whose work participation rates are below 50 percent. Table 4 identifies states that met the following criteria for FY 2004: 1) TANF accounted for at least 20 percent of federal funding for child welfare, and 2) work participation rates were under 40 percent.

**Table 4. TANF Spending on Child Welfare and Work Participation Rates in Selected States, FY 2004**

State	TANF Spending on Child Welfare*	Percent of Federal CW Funds Represented by TANF*	Estimated Current Work Participation Rate**	Potential TANF Penalty	
				Reduction in TANF Grant	Required Increase in State Spending
Arizona	\$56,416,100	28%	29%	\$10,113,153	\$15,874,203
Connecticut	\$124,752,830	51%	22%	\$13,339,405	\$25,567,475
Georgia	\$88,903,694	31%	25%	\$16,537,087	\$28,094,989
Kansas	\$29,548,140	25%	36%	\$5,096,553	\$9,213,193
Kentucky	\$30,400,986	23%	38%	\$9,064,383	\$13,558,945
Michigan	\$204,695,653	41%	24%	\$38,767,643	\$70,002,202
Mississippi	\$16,300,086	25%	21%	\$4,338,379	\$5,786,666
North Carolina	\$92,652,037	48%	36%	\$15,111,980	\$25,390,364
North Dakota	\$9,660,078	30%	24%	\$1,319,990	\$1,924,609
Oregon	\$49,264,978	23%	9%	\$8,339,931	\$14,449,018
Pennsylvania	\$289,939,826	39%	9%	\$35,974,965	\$63,116,671
Texas	\$204,626,806	37%	39%	\$24,312,838	\$40,027,888

Sources: \*Urban Institute, 2004; \*\*NCSL estimate, based on data from Congressional Research Service and Administration for Children and Families, 2006.

### *Medicaid Targeted Case Management*

Targeted case management (TCM) is an optional service that states may provide under Medicaid. The Medicaid program defines “case management” as assistance provided to a Medicaid-eligible individual in gaining access to needed medical, social, educational and other services. Case management consists of assessment of service needs, development of a care plan, referral and linkage to services, and monitoring and follow-up. Case management is “targeted” when it is not provided statewide to all Medicaid beneficiaries but is provided only to specific classes of individuals or to individuals who reside in specified areas. States may use participation in a state social welfare program, such as the child welfare system, as the basis for defining the target population.

Many states have chosen to provide targeted case management services to children in their child welfare systems, particularly children in foster care. According to the Urban Institute, 17 percent of all foster children received TCM services in FY 2001, at a cost of \$266 million.<sup>53</sup> In 11 of the 38 states that funded TCM, at least 40 percent of foster children received the service. In 18 of those states, less than 9 percent of foster children received TCM services.<sup>54</sup>

States have found that billing Medicaid for case management services on behalf of children in the child welfare system can be more financially advantageous than claiming such costs as administrative expenses under Title IV-E. First, states can define their target population more broadly than the IV-E eligible population by including all children receiving child welfare services who remained at home. Second, almost all children in foster care are Medicaid-eligible, whereas only about 50 percent meet Title IV-E eligibility criteria. Finally, in most states the federal matching rate for Medicaid services is higher than the 50 percent federal match for Title IV-E administrative expenses.<sup>55</sup>

The federal government has issued conflicting policy statements regarding TCM for child welfare clients. On the one hand, the *State Medicaid Manual* published by the Centers for Medicaid and Medicare Services (CMS) prohibits Medicaid reimbursement for TCM services if such services are “an integral component” of an existing state (non-Medicaid) program.<sup>56</sup> The administration has interpreted this policy to mean that case management provided to abused and neglected children is integral to the child welfare system and therefore not the responsibility of Medicaid. Accordingly, some state child welfare agencies that had been able to bill Medicaid for TCM no longer are able to do so. Texas, for example, relied heavily on TCM to fund CPS caseworkers, based on a Medicaid state plan amendment approved in 1994 by the U.S. Department of Health and Human Services (HHS). CMS notified the state in FY 2004 that it no longer would allow such claims because they constituted child welfare costs. The Texas Legislative Budget Board estimated total loss of TCM funding at \$117.4 million for the 2006-2007 biennium.<sup>57</sup> Other states, including Illinois and Maryland, have tried to amend their Medicaid plans to include TCM for children in foster care or the juvenile justice system, but have been turned down.<sup>58</sup>

On the other hand, CMS’s most recent guidance on TCM in child welfare, issued on January 19, 2001, states that “Medicaid can be used to supplement [case management] activities for Medicaid eligible individuals when they are embedded in another social or other program.”<sup>59</sup> On the basis of this guidance, some states continue to bill Medicaid for targeted case management services on behalf of children in the child welfare system. The inconsistency in federal policy regarding TCM for child welfare clients was noted by the HHS Office of Inspector General (OIG) in a recent audit of TCM claims by the Massachusetts Department of Social Services (DSS) on behalf of children in the child welfare system. The OIG found that some of the activities billed to Medicaid appeared to be allowable TCM services under the 2001 guidance, even though they were inherent in the direct services DSS provides to child welfare clients.

In recent years, CMS has based its denials of State plan amendments submitted by Maryland, Montana and Rhode Island on the inseparability of these types of services from the direct services that State social service agencies provide pursuant to State laws and regulations. Nevertheless, in its 2001 letter to State Medicaid directors, CMS did not explicitly prohibit coverage of TCM services that are included in the direct services provided by a social service agency. Accordingly, we are unable to express an opinion on the remaining \$26,571,177 (\$13,460,989 Federal share) claimed by the State agency.<sup>60</sup>

The DRA attempts to clarify federal policy on TCM, but it does so by adopting much of the language in the 2001 guidance.

- The DRA adopts the 2001 guidance’s definition of “case management services” and states that the term does not include the direct delivery of an underlying medical, education, social or other service. The DRA makes clear that case management does not include the direct delivery of foster care services, including, but not limited to, research gathering, assessment of adoption placements, recruitment of foster parents, serving legal papers, home investigations, providing transportation, administering foster care subsidies and making placement arrangements.

- The DRA, like the 2001 guidance, provides that Medicaid is available for TCM only if no other third parties are liable for payment, including a medical, social, educational or other program. The 2001 guidance letter stated that referrals to medical care providers are Title IV-E reimbursable, but that assessment of medical needs, medical care planning, and monitoring of medical care are not.
- The DRA follows the 2001 guidance in requiring that states allocate the costs of any part of TCM services that are reimbursable under another federally funded program in accordance with federal rules regarding allocation of costs among federally funded programs.

The DRA requires the secretary of HHS to promulgate regulations to carry out the new statutory provisions but does not specify a deadline for such regulations.

Although the DRA was meant to clarify federal policy about TCM, it is difficult to estimate its effect on states. It remains to be seen, for example, how the provisions on cost allocation and third-party liability will be interpreted under the required regulations. The CBO estimates that the TCM provision will result in \$1.1 billion in Medicaid savings over five years, and that such costs will be offset by a cost shift to IV-E administration over the same period in the amount of \$350 million, for net federal savings of \$760 million. Because the DRA is written broadly to affect all TCM spending, it is not clear how much of this projected reduction in federal funding will affect state child welfare programs.

## **Federal Control Over Child Welfare Funding: Micromanagement or Good Policy?**

Based on the foregoing descriptions of recent federal legislation, it is apparent that Congress intends to exert greater control over how states may spend federal child welfare funds, both dedicated and non-dedicated. The purpose of increasing federal control appears to be twofold: cost containment and achievement of policy goals. The goal of cost containment can be seen most clearly in changes to IV-E administrative funding and Medicaid targeted case management. The changes to TANF are intended to achieve the federal policy goal of increasing work participation rates, with possible “ripple effects” on child welfare and other programs. The changes to Title IV-B are intended to achieve an array of potentially conflicting policy goals. On the one hand, Congress clearly intends to reign in state spending on administration of child welfare, based on the implicit assumption that spending on administration does not contribute to better outcomes for children and families. On the other hand, Congress has enacted new conditions to receipt of federal funds, conditions that are intended to further the achievement of policy goals but that will necessarily entail additional administrative costs to states. These conditions include the requirement for greater court/agency collaboration, the requirement to track and report on caseworker visits with children in foster care and the requirement to form interagency partnerships in order to qualify for methamphetamine-related funds under Title IV-B.

Many advocates, state legislators and child welfare experts would argue that adding more conditions and restrictions to the system of federal child welfare financing is a double-edged sword. Federal financial incentives can promote the achievement of desirable policy goals. States, however, vary widely in terms of needs and strengths. States, not Congress, are in the best position to determine where child welfare spending is most needed and where it will have the

greatest impact on the lives of children and families. Some aspects of recent federal legislation highlight three major flaws in the current system of child welfare financing.

#### **Title IV-E Funding and Indian Tribes**

Approximately 6,500 Native American children are placed in substitute care every year, most of whom are under tribal jurisdiction. Roughly 4,000 of these children would be eligible for IV-E funding if they were in state custody.<sup>61</sup> Tribes, however, cannot obtain IV-E funds for these children except through cooperative agreements with states and are therefore dependent on the willingness of states to pass through federal funds.<sup>62</sup> Of the 562 federally-recognized Indian tribes, only 75 tribes in 14 states currently receive IV-E funding through tribal/state agreements.<sup>63</sup> In a recent study, many tribal IV-E administrators reported that they pursued federal funding because their tribes wanted responsibility for running their own programs, that federal funding has enabled them to develop their own child welfare systems and that access to IV-E money increased their ability to address community issues, provide culturally sensitive services and maintain tribal sovereignty.<sup>64</sup>

The first of these flaws is that the system is inequitable. Federal support for foster care and adoption is limited to children whose birth families are extremely poor, despite the fact that the financial circumstances of a family from whom a child has been removed are irrelevant to the needs of the child and his or her foster or adoptive family. In addition, Indian tribes are not eligible for direct federal foster care and adoption assistance funding, even though they are sovereign governments, many of which have their own child welfare systems. (See box)

The second major flaw in the system is that the federal government's investment in alternatives to foster care does not match its longstanding commitment to protecting children from abuse and neglect and its push to improve the performance of state child welfare systems.

- Federal funding for foster care is an open-ended entitlement, whereas federal funds for prevention, family support and treatment are capped at a level that is insufficient to meet the complex needs of children and families in the child welfare system.

- In addition, the only form of permanent placement that receives federal support is adoption, even though many children in foster care cannot safely return home and either do not desire to be adopted or are being cared for by relatives who prefer not to adopt. For many of these children, federal law recognizes permanent legal guardianship as an acceptable permanency option.

Alternatives to foster care include safely avoiding foster care in the first place or, when children have to be removed from home, reunifying them with families that are prepared to take care of them or finding other permanent families for them. Addressing this second flaw in the system could mean increasing funds to support alternatives to foster care, introducing greater flexibility in how federal foster care funds can be used, or a combination of the two.

The third flaw in the system is that it is practically devoid of positive financial incentives to improve child welfare outcomes. Many states have found that such incentives can promote better performance by both private child welfare service providers and county child welfare agencies. Under the federal scheme, the only existing child welfare incentives are small payments to states for certain finalized adoptions from foster care. Congress recently created another incentive program to encourage expedited completion of home studies in interstate placement cases, but has not yet appropriated funds for that purpose.<sup>65</sup> In contrast to these narrowly targeted incentive programs, states are subject to significant financial penalties for failure to achieve performance goals under both the Child and Family Service Reviews and the new caseworker visits requirements in Title IV-B, Subpart 1.

Various proposals to align federal child welfare financing with the federal and state policy goals of child safety, permanency and well-being have been considered over the years. In recent years, the Bush administration has proposed an optional five-year block grant of Title IV-E foster care

maintenance and administrative funds. The Pew Commission on Children and Foster Care has proposed an array of changes, including creation of a capped, flexible grant program. Each of these proposals addresses the issues of equity, adequacy and flexibility, and incentives.

### *Equity*

The proposals would eliminate some or all income tests for child welfare services and provide some direct funding to Indian tribes.

- The administration's proposed optional block grant could be used to pay for foster care, among other services, regardless of income. The adoption assistance program, however, would continue unchanged, including the link to AFDC. The proposal also includes a \$30 million set-aside of IV-E foster care funds for Indian tribes or consortia that can demonstrate the capacity to operate a IV-E foster care program.
- The Pew Commission proposes to maintain the open-ended entitlement for foster care maintenance, but to eliminate the link with the former AFDC standards in a way that would be cost-neutral for the states and the federal government. It also proposes to eliminate the income test for adoption assistance. Finally, the commission recommends that Indian tribes be given the option to directly access funding under both IV-E and the indexed grant described below.

### *Adequacy and Flexibility*

The proposals would give states increased flexibility to use federal funds for a wide array of services to safely reduce reliance on foster care and extend federal financial participation to subsidized guardianship as well as adoption.

- The administration's proposed block grant could be used flexibly for any child welfare service, including subsidized guardianship.
- The Pew Commission proposes a new flexible grant program consisting of Title IV-E foster care administration and training and Title IV-B funds, increased by \$200 million. The grant would be indexed to grow annually at a rate of 2 percent plus inflation and would be allocated to states based on their historical spending. States could not use grant funds to pay for foster care. Pew also recommends amending Title IV-E to provide open-ended federal financial support for subsidized guardianships.

### *Incentives*

The proposals would give states financial incentives to achieve certain goals, such as reducing reliance on foster care, improving permanency for children, improving the child welfare workforce, or enhancing services to families.

- Because it involves a block grant, the administration's proposal implies that any foster care "savings" would be available for reinvestment in other services.

- The Pew Commission would allow for retention and reinvestment of foster care “savings” that result when foster care maintenance expenditures are less than projected. Thus, states would have an incentive to reduce foster care usage in order to access funds for reinvestment into the system. Other incentives included in the Pew Commission’s recommendations are:
  - An increase in the federal match under the flexible grant for states that meet certain child welfare workforce targets; and
  - Monetary incentives for states that improve permanency outcomes through reunification and guardianship, in addition to the existing adoption incentives program.

Notwithstanding the widespread recognition of these systemic flaws, structural reform of federal child welfare financing has proved elusive. Many state legislators, advocates and child welfare experts are wary of any proposal that would cap some or all of Title IV-E, even if the cap were to be coupled with an increase in funding. At the same time, it is probably unrealistic to expect that Congress would introduce greater flexibility into IV-E without some kind of funding cap.

## Conclusion

The federal government and the states share the responsibility for protecting children from abuse and neglect. Recent changes in the laws governing federal child welfare financing appear to signal a desire on the part of the federal government to shift some of its financial responsibility to the states and to further restrict states’ use of federal funds. These changes are inconsistent with the increased federal role in holding states accountable for achievement of the desired outcomes of child safety, permanency and well-being. Although these changes highlight the need for structural reform of federal child welfare financing, the prospects of such reform are uncertain.

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**Appendix. Final FY 2005 and Estimated FY 2006 Allotment  
of Promoting Safe and Stable Families Funds (in millions)**

State/Jurisdiction	FY 2005 Final	Estimated FY 2006	Difference
Alabama	\$8.23	\$8.92	\$0.69
Alaska	0.86	0.93	0.07
Arizona	8.21	8.89	0.68
Arkansas	5.44	5.89	0.45
California	43.42	47.04	3.62
Colorado	3.33	3.61	0.28
Connecticut	2.85	3.09	0.24
Delaware	0.78	0.85	0.07
District of Columbia	1.25	1.36	0.11
Florida	16.66	18.05	1.39
Georgia	12.55	13.59	1.04
Hawaii	1.75	1.89	0.14
Idaho	1.35	1.46	0.11
Illinois	16.35	17.72	1.37
Indiana	7.71	8.35	0.64
Iowa	2.47	2.68	0.21
Kansas	2.53	2.74	0.21
Kentucky	7.58	8.21	0.63
Louisiana	11.44	12.39	0.95
Maine	1.66	1.80	0.14
Maryland	4.10	4.44	0.34
Massachusetts	4.94	5.35	0.41
Michigan	14.15	15.33	1.18
Minnesota	4.10	4.44	0.34
Mississippi	6.33	6.86	0.53
Missouri	9.13	9.89	0.76
Montana	1.10	1.19	0.09
Nebraska	1.66	1.79	0.13
Nevada	1.77	1.91	0.14
New Hampshire	0.72	0.78	0.06
New Jersey	5.91	6.40	0.49
New Mexico	3.53	3.82	0.29
New York	24.19	26.21	2.02
North Carolina	10.52	11.40	0.88
North Dakota	0.69	0.75	0.06
Ohio	13.12	14.22	1.10
Oklahoma	6.03	6.53	0.50
Oregon	5.73	6.21	0.48
Pennsylvania	13.27	14.38	1.11
Rhode Island	1.49	1.61	0.12
South Carolina	7.29	7.89	0.60
South Dakota	0.90	0.98	0.08
Tennessee	10.39	11.25	0.86
Texas	35.65	38.62	2.97
Utah	1.87	2.03	0.16
Vermont	0.58	0.63	0.05
Virginia	6.32	6.85	0.68
Washington	5.92	6.41	0.63
West Virginia	3.54	3.83	0.37
Wisconsin	5.38	5.82	0.57
Wyoming	0.44	0.47	0.04
Subtotal: States	\$367.17	\$397.76	\$30.59
All territories	8.88	9.62	0.94
All tribes	5.02	4.83	-0.19
Courts	13.25	12.94	-0.31
Evaluation, research, technical assistance	9.25	8.94	-0.31
Subtotal: set-asides	\$36.41	\$36.34	\$-0.07
Total	\$403.59	\$434.10	\$30.51

Source: Congressional Research Service, 2006.

## Notes

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30. P.L. 109-288, sec. 2(5).
31. P.L. 109-288, sec. 6(c).
32. U.S. Government Accounting Office, "Child Welfare: Enhanced Federal Oversight of Title IV-B Could Provide States Additional Information to Improve Services" (Washington, D.C.: U.S. GAO, 2003). The GAO defined "administration and management" to include some costs that are not included in the definition of administrative costs in the CFSIA, such as staff training. Thus, not all of the spending on administration and management identified by the GAO would be subject to the 10 percent limitation in the CFSIA.
33. *Ibid.*, 16.
34. Based on total FY 2002 CWS spending of \$257,154,537 (federal dollars).
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