

# HHS Federal Update

The National Conference of State Legislatures

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## Federal Regulatory Highlights

### Nov. 1, 2016 – Family Violence Prevention and Services Programs Final Rule

The Family Violence Prevention and Services Act (FVPSA) funds emergency shelters, supportive services, and crisis hotlines in every U.S. state and territory, serving over 1.3 million domestic violence survivors and their families each year. [New federal regulations](#) were released that enhance access to the 2,600 HHS-funded FVPSA programs nationwide to reinforce existing policies and guidance in hopes of improving support for all survivors of domestic violence, dating violence, and other forms of intimate partner violence.

The regulations clarify that the non-discrimination requirements in FVPSA and other government-wide civil rights protections apply to all FVPSA grantees. These requirements include prohibitions against discrimination on the basis of religion, race/ethnicity, country of origin, sex, gender identity, and sexual orientation.

#### As a result of these new regulations, all FVPSA grantees will also be required to:

- Ensure supportive services provided are voluntary for survivors and their families, and include establishing a non-mandatory service plan based on survivors' needs;
- Eliminate the use of unreasonable screening mechanisms and other conditions or requirements;
- Ensure victim confidentiality;
- Coordinate statewide service planning to be more responsive to the needs of the underserved, including survivors from rural areas, historically marginalized communities, and lesbian, gay, bisexual, transgender and/or questioning communities;
- Promote collaborations and partnerships across communities with FVPSA-funded grantees.

These federal regulations reflect the foundational role of the FVPSA program in supporting states and communities that make up this national network as well as the evolution in those services over the last 32 years.

### Oct. 4, 2016 – CMS Final Rule Governing Long-Term Care (LTC) Facilities

The Centers for Medicare and Medicaid Services (CMS) released [final rules](#) governing the requirements that LTC facilities must meet to participate in the Medicare and Medicaid programs. These changes reflect the advances made over the past several years in the theory and practice of service delivery and safety. In the final rule CMS added a new procedure for resident dispute resolution, which Medicare and Medicaid-participating LTC facilities must follow. In addition, the changes in LTC facility operational requirements may directly impact state survey



Don't miss out on the NCSL HHS Committee activities planned for the 2016 NCSL Capitol Forum in Washington, D.C. Dec. 6-9. Here are a few highlights:

#### Dec. 6, 2016

Meeting of the NCSL Task Force on Innovations in State Health Systems.

#### Dec. 7, 2016

Pre-conference Roundtable: Child Care and Infant and Toddler Policies.

#### Dec. 8, 2016

- Health Foods in Schools.
- Federal Update and HHS Policy Discussion
- Implementation of the 2016 Child Care and Development Fund Final Rule
- Plenary Lunch: Conquering Opioid Addiction
- Improving Care for High-Cost, High Needs Patients
- Criminal Justice Reform and Mental Health Disabilities

agency procedures and require revision. The rule is the first major rewrite of the requirements since 1991. Here are some additional resources regarding the rule:

- [CMS Press Release](#)
- [State Survey Directors Letter](#)

### *Federal Resources for States*

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#### **Funding/Grant Announcements**

- **Up to \$16.7 Million Available to Help Low-Income Families Purchase Healthy Produce**—On Oct. 27, the U.S. Department of Agriculture (USDA) announced the availability of up to \$16.7 million in competitive grant funding to increase the purchase of fruits and vegetables by families and households participating in the Supplemental Nutrition Assistance Program (SNAP). [Applications](#) may be submitted through Dec. 12, 2016 by [eligible](#) government agencies and nonprofit organizations in three categories: pilot projects requesting less than \$100,000 over one year, multi-year community-based projects requesting less than \$500,000 over no more than four years, and multi-year large-scale projects requesting \$500,000 or more over no more than four years.
- **CMS Releases State Disproportionate Share Hospital (DSH) Allotments**—On Oct 26, CMS released the final fiscal year (FY) 2014 and preliminary FY 2016 DSH allotments, and final FY 2014 and preliminary FY 2016 Institutions for Mental Diseases (IMD) DSH Limits in the [Federal Register](#) (FR). A state’s federal (FY) DSH allotment represents the aggregate limit on the federal share amount of the state’s payments to DSH hospitals in the state for the FY.
- **Funding Released from the Low Income Home Energy Assistance Program (LIHEAP)**—On Oct. 25, the Administration for Children and Families (ACF) released \$3 billion for [LIHEAP](#) to provide federal assistance to states, the District of Columbia, territories and tribes to assist households with paying energy bills and weatherize homes for energy improvements.
- **Ryan White Grant Funding**—On Oct. 20, The Health Resources and Services Administration (HRSA) awarded \$2.3 billion in [Ryan White HIV/AIDS Program grants](#) to cities, states, and local community-based organizations on Oct. 20, 2016.

#### **New Guidance Issued**

- **HHS and Department of Justice (DOJ)** issued joint [guidance](#) to state and local child welfare systems Oct. 19, 2016 on the requirements that protect children, their families, and caregivers who interact with federally funded recipients.

### *Federal Reports of Interest*

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#### **Improving the Balance: The Evolution of Long-term Services and Supports (LTSS), FY 1981-2014**

On Nov. 2, CMS released [new reports](#) with historical expenditures information and corresponding state-by-state data tables that document three decades of Medicaid LTSS systems transformation from primarily institutional services to the present, where home and community-based services (HCBS) are a majority of LTSS spending. These reports include Medicaid expenditures for all LTSS, including institutional services and HCBS, by service category and state. The data comes primarily from CMS-64 reports. CMS also posted annual updates to two reports that describe recent section 1915(c) Home and Community Based Services (HCBS) waiver program data. *Medicaid 1915(c) Waiver Data Based on the CMS 372 Report, 2012 - 2013* identifies the number of people who received HCBS waiver program services, and Medicaid expenditures and duration of service for participants during 2012 and 2013. The other report, *Medicaid Expenditures for Section 1915(c) Waiver Programs in FY 2014*, provides data and trends regarding waiver expenditures. Both reports present data for each 1915(c) waiver program as well as state and national totals.

#### **ACF Issues Adoption and Foster Care Analysis and Reporting System (AFCARS) data for FY 2015**

The Children’s Bureau, an Office of ACF, released [data](#) on Oct. 27 showing the number of children in foster care, nationally, has increased consecutively for the third year. Nearly three quarters (71 percent) of states reported an increase in the number of children entering foster care from 2014 to 2015. The five states with the largest increases, Florida,

Indiana, Georgia, Arizona, and Minnesota, were also among the states with the largest increases between 2013 and 2014. Interviewed states officials commented that the data suggest: a rise in parental substance use is likely a major factor driving up the number of children in foster homes. Citing opioid and methamphetamine use as the most debilitating and prevalent substance used, some state officials expressed concern that the problem of substance use is straining child welfare agencies.

### **Final Report of the Mental Health & Substance Use Disorder Parity Task Force**

In March of 2016, President Obama created the White House Mental Health and Substance Use Disorder Parity Task Force with a goal of developing a set of tools, guidelines, and mechanisms so that parity requirements are actually enforced. The President directed the White House Domestic Policy Council, the Departments of Treasury, Defense, Justice, Labor, HHS, and Veterans' Affairs and the Offices of Personnel Management and National Drug Control Policy to review parity implementation and: (1) increase awareness of the protections; (2) improve understanding of the requirements; and, (3) increase transparency of the compliance process.

The task force released a [final report](#) on Oct. 27, providing background information on the issue and the current state of stakeholder comprehension of the issues. The report also contains actions and recommendations, which they hope will serve as a roadmap for future efforts to improve public understanding of the requirements and ensure compliance. HHS, Labor and Treasury has issued [parity guidance](#), including information related to opioid treatment, and an [index](#) to their prior parity guidance. In addition, HHS released a beta version [web portal](#) to help consumers with parity issues; the Substance Abuse and Mental Health Services Administration issued a [consumer guide](#) on coverage disclosure rights; and, the CMS announced \$9.3 million in grants to help states monitor parity compliance.

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