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| <h1>ACF</h1> <p>Administration<br/>for Children<br/>and Families</p> | U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Administration on Children, Youth and Families  |   |
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|  | <b>3. Originating Office:</b> Children's Bureau   |   |
|  | <b>4. Key Words:</b> Family First Prevention Services Act, Title IV-B, Title IV-E, Family Connection Grants, Adoption and Guardianship Incentives |   |

## INFORMATION MEMORANDUM

**TO:** State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E and/or Title IV-B of the Social Security Act

**SUBJECT:** NEW LEGISLATION – Public Law 115-123, the Family First Prevention Services Act within Division E, Title VII of the Bipartisan Budget Act of 2018.

**LEGAL AND RELATED REFERENCES:** Titles IV-B, IV-E, and section 1108 of the Social Security Act (the Act) as amended by Public Law 115-123, enacted February 9, 2018.

**PURPOSE:** To inform States and Tribes of the enactment of the *Family First Prevention Services Act* and provide basic information on the new law.

**BACKGROUND:** The President signed the Bipartisan Budget Act of 2018, [Public Law \(P.L.\) 115-123](#) into law on February 9, 2018. P.L. 115-123 includes the Family First Prevention Services Act (FFPSA) in Division E, Title VII. FFPSA amends the title IV-B, subparts 1 and 2 programs to reauthorize and make other revisions, the title IV-E foster care program to create new optional prevention funding under title IV-E, place title IV-E payment limits on child care institutions, reauthorize the Adoption Incentives Program, and other changes. The major changes are described below (please refer to attachment A for the complete amendments). **Disclaimer:** Information Memoranda (IMs) provide information or recommendations to States, Tribes, grantees, and others on a variety of child welfare issues. IMs do not establish requirements or supersede existing laws or official guidance.

**EFFECTIVE DATES:** Please note that P.L. 115-123 has various effective dates, some of which provide for a limited period of delay as follows:

- **Legislation Delay.** Delay permitted when the Secretary of the U.S. Department of Health and Human Services (HHS) determines that legislation (other than legislation appropriating funds) is required for an agency to comply with the title IV-B or IV-E plan requirements imposed by the amendment. The “delayed effective date” is defined as the first day of the first calendar quarter after the close of the first regular session of the legislature body after enactment. If the state/tribe has a two-year legislative session, each year of the session is deemed to be a separate regular session of the legislature (sections 50734(b)(1) and 50746(a)(2) of P.L. 115-123). The

amendments for which the Secretary will consider granting delayed effective dates under this provision are the amendments to sections 422(b)(15)(A)(vii), 422(b)(19), 471(a)(20)(D), and 471(a)(36) of the Act.

- Delay for up to two years for certain provisions that are effective 10/1/19: A title IV-E agency may request a delayed effective date not to exceed two years for the provisions limiting federal financial participation for placements that are not in foster family homes and those requiring assessment, documentation of the need for placement in a qualified residential treatment facility, and the certification for preventing increases to the juvenile justice population. If an agency so requests, this means that the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period of time (section 50746(b) of P.L. 115-123). If a State requests a delay, the Secretary will provide it up to the statutory limit. The provisions that may be delayed are the amendments made to sections 472(a)(2)(C), 472(c), 472(k), 474(a)(1), 471(a)(37), and 475A(c) of the Act by P.L. 115-123.
- Delay for Indian tribes, tribal organizations and consortiums: Delay permitted when HHS determines that an Indian tribe, tribal organization, or consortium with a title IV-E plan under section 479B of the Act, a cooperative agreement, or contract requires additional time as necessary to comply with any of the amendments to the Act made by Parts I, II, and III of P.L. 115-123 (section 50734(b)(2) of P.L. 115-123).
- Title IV-E Waivers: If the following provisions are inconsistent with an approved title IV-E waiver in effect on the date of enactment, the amendments to the section will not apply before the waiver expires: sections 422(b)(15)(A)(vii) and 471(a)(20) of the Act (section 50746(d) of P.L. 115-123).

We reference the effective dates and delays permitted in the applicable sections of the Act below. CB will issue instructions on requesting a delayed effective date in the near future.

#### **INFORMATION:**

##### ***Title IV-E Prevention Services:***

- **Time-limited foster care prevention program and services**: Provides new optional title IV-E funding for time-limited (one year) prevention services for mental health/substance abuse and in-home parent skill-based programs for candidates for foster care (as defined in section 475(13) of the Act) without regard to whether the child would be eligible for title IV-E foster care, adoption, or guardianship, pregnant/parenting foster youth, and the parents/kin caregivers of those children and youth (sections 471(e), 474(a)(6) and 475(13) of the Act). See attachment B for more information on this provision. Effective 10/1/18, but claiming may not begin until 10/1/19 per section 474(a)(6) of the Act.

##### ***Title IV-E Plan Requirements and Foster Care Requirements:***

- **Limitations on Title IV-E foster care payments for placements that are not foster family homes**: Title IV-E foster care payments are limited to two weeks for child care institutions per section 472(k) of the Act, unless it is a specified placement. Title IV-E agencies may continue to claim administrative costs for the duration of the period in the child care institution regardless of whether it meets the restrictions described in section 472(k) of the Act. Effective 10/1/19, and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming financial participation (FFP) for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period. See attachment C for more information on this provision.
- **Criminal Record and Registry Checks for Adults Working in Child-Care Institutions**: Amends the title IV-E plan to require procedures for fingerprint-based criminal records checks of

national crime information databases, and child abuse and neglect registry checks on any adult working in a child care institution. However, title IV-E agencies may use alternative procedures by reporting them to HHS describing why the required procedures for the checks are not appropriate for the agency (section 471(a)(20) of the Act). Effective 10/1/18, with legislation delay and title IV-E waiver delay per section 50746(a)(2) and (d) of P.L. 115-123.

- **Electronic case processing system:** Modifies the title IV-E plan requirement for the orderly and timely interstate placement of children to require that state title IV-E agencies have a centralized electronic interstate case processing system by 10/1/2027 (section 471(a)(25) of the Act). The amendments are effective 10/1/18. However, states do not have to implement until 10/1/2027. Tribal title IV-E agencies are exempt from this requirement (section 479B(c)(4) of the Act).
- **Model Licensing Standards for Foster Family Homes:**
  - HHS must identify national model licensing standards for foster family homes (section 50731 of P.L. 115-123).
  - Adds a title IV-E plan requirement (section 471(a)(36) of the Act) that title IV-E agencies must provide HHS, by 4/1/2019, specific and detailed information about foster family home licensing standards and whether they meet model licensing standards identified by HHS, waivers of non-safety licensing standards for relative caregivers and case worker training.
  - Effective upon enactment (2/9/18), with the legislation delay and delay for tribes permitted per section 50734(b) of P.L. 115-123.
- **Preventing increases to the juvenile justice population:** Adds a title IV-E plan requirement that title IV-E agencies must certify they will not enact policies that will significantly increase the state/tribe's juvenile justice population in response to the restrictions on title IV-E foster care payments for child care institutions in 472(k) of the Act (section 471(a)(37) of the Act). Effective 10/1/19 and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period.
- **Limit on number of children in a foster family home:** Revises the definition of foster family home to limit a home to six children. Allows title IV-E agencies to make exceptions to the numeric limitation for parenting youth to remain with their child, to allow siblings to stay together, to allow a child with a meaningful relationship with a family to stay with that family, and to allow a family with special training or skills to care for a child with severe disabilities (section 472(c) of the Act). Effective 10/1/19, and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period.
- **Proof of foster care:** Adds a requirement to provide official documentation to prove the child was in foster care to the list of documents a youth must be provided before aging out of foster care (section 475(5)(I) of the Act). Effective upon enactment (2/9/18).
- **Title IV-E foster care maintenance payments for children with parents in a licensed residential family-based treatment facility for substance abuse:** Allows title IV-E foster care payments for up to 12 months for an eligible child placed with a parent in a licensed residential family-based substance abuse treatment facility (section 472(j) of the Act).
  - To be eligible, the following conditions must be met:
    - **Eligible Child.** The child must either be eligible for title IV-E foster care maintenance payments, or meet all the eligibility requirements for title IV-E foster care maintenance payments except the AFDC eligibility requirements (note that a child who does not meet the AFDC requirements is not categorically eligible for Medicaid) (section 472(j)(2) of the Act).

- **Case Plan.** The recommendation for the placement is specified in the child's case plan before the placement.
  - **Mandatory Facility Services.** The treatment facility must provide parenting skills training, parent education, and individual and family counseling.
  - **Trauma Informed.** The substance abuse treatment, parenting skills training, parent education, and individual and family counseling must be provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing (section 472(a)(2)(C) and (j) of the Act).
- Effective 10/1/18.

***Title IV-E Adoption Assistance, Delay of Adoption Assistance Phase-In of Applicable Child***

**Requirements:** Effective 1/1/18, the full implementation of the title IV-E adoption assistance de-link provisions is delayed until 6/30/2024 (section 473(e)(1) of the Act). This means that title IV-E agencies may only apply the “applicable child” requirements to children who will reach at least age two by the end of the fiscal year their adoption assistance agreement was entered into from 1/1/18 until 6/30/2024. For this period, title IV-E agencies must determine a child’s eligibility for the title IV-E adoptions assistance program as a child who is “not an applicable child” if the child will not reach age two by the end of the fiscal year the adoption assistance agreement is entered into. If the title IV-E agency determined such a child eligible for title IV-E adoption assistance under the “applicable child” requirements after 1/1/18, the agency must assess whether the child would continue to be eligible as a child who is “not an applicable child” (section 50781(a) of P.L. 115-123). Due to this provision, we withdraw [ACYF-CB-IM-17-05](#), issued September 28, 2017.

***John H. Chafee Foster Care Program for Successful Transition to Adulthood (formerly the John H. Chafee Foster Care Independence Program):***

- Revises the John H. Chafee Foster Care Program for Successful Transition to Adulthood (the Chafee program) purposes to specify that it is available to youth who have experienced foster care at age 14 or older, among other changes to the purposes (section 477(a) of the Act).
- Makes education and training vouchers (ETV) available to eligible youth ages 14-26, but limits the youth’s participation in the ETV program at 5 years total (section 477(i)(3) of the Act).
- Permits states and tribes to provide the Chafee program up to age 23, if the agency extended the age for title IV-E foster care to 21 or provides comparable services to those youth using state or any other funds outside of title IV-E (section 477(b)(3) of the Act).
- Revises the existing requirement to provide the Chafee program to youth who have aged out of foster care by clarifying that youth may be eligible if they aged out at an age other than 18 as long as they have not attained age 21 (or age 23 if the state or tribe has extended foster care to youth up to age 21) (section 477(b)(3) of the Act).
- Revises the limitation on use of funds for room and board by clarifying that not more than 30 percent of the Chafee allotment may be expended for room or board for youths who have aged out of foster care and have not attained 21 years of age (or 23 years of age, in the case of a state or tribe that has extended foster care to age 21).
- Allows re-allocation of unexpended funds and provides a process for the Secretary to redistribute funds to states and tribes (section 477(d)(4) and (5) of the Act).

- In addition, as described below under “HHS Reports to Congress,” HHS is required to develop and submit to Congress a report on outcomes for youth in and aging out of foster care, based on data submitted to the National Youth in Transition Database (NYTD).
- Effective upon enactment (2/9/18).

***Title IV-E Funding for Evidence-Based Kinship Navigator Programs:*** Creates optional funding under title IV-E at 50-percent FFP for kinship navigator programs that meet the existing kinship navigator grants requirements in section 427(a)(1) of the Act and that meet the promising, supported, or well-supported practices requirements of the IV-E prevention services program, regardless of whether the children/families served are eligible for title IV-E (section 474(a)(7) of the Act). The requirements under section 427(a)(1) of the Act describe the purpose of the kinship navigator grants, which are to assist kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they are raising and their own needs. Effective 10/1/18.

***Adoption and Legal Guardianship Incentive Programs:*** Reauthorizes the Adoption and Legal Guardianship Incentive Programs and extends availability of appropriated funds through FY 2021 (sections 473A(b)(4) and (h)(2) of the Act). Effective as if enacted on 10/1/17.

***Annual Outcomes Report:*** Revises existing requirements for the annual outcomes report to Congress regarding the data to be reported on placements in non-foster family home settings (section 479A(a)(7)(A) of the Act). Effective as if enacted on 1/1/18 (section 50746 of P.L. 115-123).

***Title IV-B:***

- **Reauthorizes all title IV-B programs at current statutory funding levels through FY 2021 with changes** to plan requirements and service definitions, among other things as described.
- **Modifies title IV-B, subpart 1 plan for protocols to prevent inappropriate diagnoses:** Requires states and tribes to include in their title IV-B Health Care Oversight and Coordination plan procedures to ensure that children in foster care are not diagnosed inappropriately with mental illness and other disorders leading to inappropriate non-foster family home placements (section 422(b)(15)(vii). Effective 1/1/18, with the legislation delay and title IV-E waiver delay permitted per section 50746(a)(2) and (d) of P.L. 115-123. HHS must evaluate this requirement and report to Congress (section 476(e) of the Act).
- **Modifies existing title IV-B, subpart 1 plan requirement related to child maltreatment deaths:** Requires states to describe the steps they are taking to track and compile complete information on child maltreatment deaths from several specified sources and steps to develop and implement a statewide plan to prevent fatalities (section 422(b)(19) of the Act). Effective 10/1/18, with the legislation delay permitted per section 50734(b)(1) of P.L. 115-123.
- **Modifies Title IV-B, Subpart 2 Service Definitions:**
  - Revises the definition of “family support services” to include supporting and retaining foster families so they can provide quality family-based settings for children in foster care (section 431(a)(2)(B)(iii) of the Act). Effective upon enactment (2/9/18).
  - Revises and renames the definition of “family reunification services” (formerly “time-limited family reunification services”) to allow 15 months of family reunification services for children who return home from foster care, and to remove the 15-month limitation for a child in foster care to receive reunification services (section 431(a)(7)(A) of the Act). Effective 10/1/18.
- **Grant for foster family recruitment and retention:** Authorizes \$8,000,000 (from money not otherwise appropriated out of the Treasury) for FY 2018 for competitive grants to states, Indian

tribes, or tribal consortia for the recruitment and retention of high-quality foster families to increase their capacity to place more children in family settings. The grants must be focused on states, Indian tribes, or tribal consortia with the highest percentage of children in non-family settings and the funding must remain available through FY 2022 (section 436(c) of the Act). Effective upon enactment (2/9/18).

- **Title IV-B, subpart 2 grants for electronic interstate case-processing system:** Authorizes a \$5,000,000 set aside from the discretionary appropriation for Promoting Safe and Stable Families program for discretionary grants for states to develop an electronic interstate case-processing system to expedite interstate placements of children in foster, guardianship, or adoptive homes (section 437(g) of the Act). Effective 10/1/2018.
- **Revises and re-names the regional partnership grant (RPG) program that assists families affected by substance abuse to focus on heroin, opioids, and other substance abuse:**
  - Requires that the state child welfare agency and the state agency that administers the substance abuse prevention and treatment block grant to be partners in the grant application, and slightly revises the list of optional partners.
  - Requires that the grants be disbursed in two separate phases: a planning phase and an implementation phase, expands the current RPG application requirements to include descriptions of additional substance abuse and treatment goals and outcomes for children, parents and families, and requires semiannual reports from grantees to the Secretary (current requirement is an annual report).
  - Reauthorizes the grant program through FY 2021, and reduces the authorized possible grant amounts from between \$500,000 to \$1,000,000 to between \$250,000 and \$1,000,000 (section 436(b)(5) and 437(f) of the Act).
  - Effective date: 10/1/18.
- **Court Improvement Program training on non-foster family homes:** Amends the Court Improvement Program to require state court grantees, as a condition of receiving a Court Improvement Program grant, to train specified legal professionals on child welfare policies and title IV-E payment limitations for children in non-foster family homes (section 438(b) of the Act). Effective as if enacted on 1/1/18.

#### ***Title IV-B, subpart 3:***

- **Data exchange standards:** Amends title IV-B, subpart 3 requirements for regulations designating federally required data exchange standards for title IV-B/IV-E agencies in consultation with an OMB interagency work group for:
  - Information that title IV-B and IV-E agencies are required under Federal law to electronically exchange with another agency, and
  - Federal reporting and data exchanges required by law (section 440 of the Act).

#### ***HHS Reports to Congress:***

- **Electronic interstate case-processing system required by title IV-E:** Implementation of the electronic interstate case-processing system (section 437(g)(5) of the Act).
- **Outcome measures on children currently or previously in foster care:** Description and analysis of outcome measures using data from the National Youth in Transition Database and any other data related to outcome measures for such children (section 477(f)(2) of the Act).
- **Title IV-B, subpart 1 protocols to prevent inappropriate diagnoses:** HHS must evaluate this requirement and report to Congress (section 476(e) of the Act).
- **Title IV-E Prevention Programs:** Periodic reports based on the provision of title IV-E prevention services and programs and the technical assistance, best practices, clearinghouse, data collection,

and evaluations carried out by HHS under section 476(d) of the Act relating to prevention services and programs (section 476(d)(4) of the Act).

***Government Accountability Office (GAO) studies and reports:***

- **State reinvestment of savings resulting from increase in adoption assistance:** GAO must study and report to Congress and to HHS on the extent to which states are complying with the requirements in section 473(a)(8) of the Act related to reinvesting the savings resulting from the phase out of the AFDC income eligibility requirements for title IV-E adoption assistance payments (section 50782 of P.L. 115-123). No dates specified.
- **Impact of congregate care limits on juvenile justice:** GAO must study and report to Congress, by 12/31/2025, the impact of the title IV-E foster care maintenance payments limit on state juvenile justice systems (section 50741(d)(2) of P.L. 115-123).

The Children’s Bureau will provide further guidance on the title IV-B and IV-E provisions through Program Instructions at a later date.

**INQUIRIES TO:** Children’s Bureau Regional Program Managers

/s/

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Jerry Milner  
Commissioner, ACYF

**Attachments:**

- A – [Public Law 115-123](#) (FFPSA: pages 169-206)
- B – Time-limited foster care prevention program and services
- C – Limitations on title IV-E foster care payments for placements that are not foster family homes
- D – CB Regional Office Program Managers

## **Attachment B: Time-Limited Foster Care Prevention Program And Services**

**Prevention Services and Programs Five-Year Plan:** States electing to provide title IV-E prevention services and programs must submit a *Prevention Services and Programs* five-year plan as part of the title IV-E plan (section 471(e)(5) of the Social Security Act (the Act)). The five-year plan must describe:

- The target population for the services or programs and how the state will assess children and their parents or kin caregivers to determine eligibility for services or programs.
- How providing services and programs is expected to improve specific outcomes for children and families.
- How the state will monitor and oversee the safety of children who receive services and programs, including through periodic risk assessments and reexamination of the child's prevention plan if the agency determines the risk of the child entering foster care remains high despite the provision of the services or programs.
- The specific promising, supported, or well-supported practices the state plans to use for the services or programs, whether the practices used are promising, supported, or well-supported, and how the agency selected the services or programs.
- How the state plans to implement the services or programs, including how implementation will be continuously monitored to ensure fidelity to the practice model and to determine outcomes achieved and how information learned from the monitoring will be used to refine and improve practices.
- How each service or program provided will be evaluated through a well-designed and rigorous process, which may consist of an ongoing, cross-site evaluation approved by HHS.
- The consultation engaged in with other agencies responsible for administering health programs, including mental health and substance abuse prevention and treatment services, and with other public and private agencies with experience in administering child and family services, including community-based organizations and how the services or programs will be coordinated with other child and family services provided under title IV-B of the Act.
- The steps the state is taking to support and enhance a competent, skilled, and professional child welfare workforce to deliver trauma-informed and evidence-based services and how the agency will provide training and support for caseworkers in assessing needs, connecting to the families served, knowing how to access and deliver the needed trauma-informed and evidence-based services, and overseeing and evaluating the continuing appropriateness of the services.
- How caseload size and type for prevention caseworkers will be determined, managed, and overseen.
- An assurance that the state will report to HHS information and data (determined by HHS) on the provision of services and programs.

### **Allowable Services and Service Period:**

- Allowable services:
  - Mental health and substance abuse prevention and treatment services provided by a qualified clinician (section 471(e)(1)(A) of the Act).
  - In-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling (section 471(e)(1)(B) of the Act).

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- All services must meet the service and practice requirements outlined in section 471(e)(4) of the Act (also described below).
- *Limitation:* The allowable services are limited to a 12-month period that begins on the date on which a child is identified in a prevention plan as either a “candidate for foster care” or a pregnant/parenting youth in need of those services or programs (section 471(e)(1)(A) and (B) of the Act).

**Served Population:**

- The state may provide services and programs to the following:
  - A child who is a “candidate for foster care” (as defined in section 475(13) (the Act)) but can remain safely at home or in a kinship placement with receipt of allowable services or programs (section 471(e)(2)(A) of the Act).
    - “Candidate for foster care” is defined as a child identified in a prevention plan as being at imminent risk of entering foster care (without regard to whether the child would be eligible for title IV-E foster care, adoption, or guardianship payments) but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent the entry of the child into foster care are provided. The term includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement (section 475(13) of the Act).
  - A child in foster care who is a pregnant or parenting foster youth (section 471(e)(2)(B) of the Act).
  - Parents or kin caregivers of the listed above (section 471(e)(1) of the Act).

**Prevention and Family Services and Programs Requirements:** The state must meet the following requirements if it elects to provide prevention services and programs:

1. The programs and services must be specified in advance in the child’s prevention plan (section 471(e)(4)(A) of the Act).
2. The programs and services must be trauma-informed (section 471(e)(4)(B) of the Act).
3. The programs and services must be provided in accordance with general practice requirements and promising, supported, or well-supported practices (section 471(e)(4)(C) of the Act).
4. The state meets the outcome assessment and reporting requirements (section 471(e)(4)(E) of the Act).
5. An evaluation strategy must be included for each program or service in the state’s five-year prevention plan (section 471(e)(5)(B)(iii)(V) of the Act).

**1. Prevention Plan for Child:** The state must maintain a written prevention plan for the child that meets the following requirements (as applicable):

- *For “candidates for foster care” the prevention plan must:*
  - identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver;
  - list the services or programs to be provided to or on behalf of the child to ensure the success of that prevention strategy; and

- comply with other requirements HHS establishes (section 471(e)(4)(A)(i) of the Act).
- *For pregnant/parenting foster youth, the prevention plan must:*
  - be included in the child's case plan,
  - list the services or programs to be provided to or on behalf of the youth to ensure that the youth is prepared (in the case of a pregnant foster youth) or able (in the case of a parenting foster youth) to be a parent,
  - describe the foster care prevention strategy for any child born to the youth, and
  - comply with other requirements that HHS establishes (section 471(e)(4)(A)(ii) of the Act).

**2. Trauma-Informed Approach:** The services or programs must be provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing (section 471(e)(4)(B) of the Act).

**3. Programs Must Be Provided in Accordance with General and Promising, Supported, or Well-Supported Practices:**

- **General Practice Requirements.** Practices must meet the following:
  - *Book or manual:* The practice has a book, manual, or other available writings that specify the components of the practice protocol and describe how to administer the practice.
  - *No empirical risk of harm:* There is no empirical basis suggesting that, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it.
  - *Weight of evidence supports benefits:* If multiple outcome studies have been conducted, the overall weight of evidence supports the benefits of the practice.
  - *Reliable and valid outcome measures:* Outcome measures are reliable and valid, and are administrated consistently and accurately across all those receiving the practice.
  - *No case data for severe or frequent risk of harm:* There is no case data suggesting a risk of harm that was probably caused by the treatment and that was severe or frequent (section 471(e)(4)(C)(ii) of the Act).
- **Promising Practice Requirements:** The practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that:
  - was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed, and
  - utilized some form of control (such as an untreated group, a placebo group, or a wait list study) (section 471(e)(4)(C)(iii) of the Act).
- **Supported Practice Requirements:** The practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes,

such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that:

- was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed,
  - was a rigorous random-controlled trial (or, if not available, a study using a rigorous quasi-experimental research design),
  - was carried out in a usual care or practice setting, and
  - established that the practice has a sustained effect (when compared to a control group) for at least 6 months beyond the end of the treatment (section 471(e)(4)(C)(iv) of the Act).
- **Well-Supported Practice Requirements:** The practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of:
    - at least two studies that were rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed,
    - at least two studies that were rigorous random-controlled trials (or, if not available, studies using a rigorous quasi-experimental research design),
    - at least two studies that were carried out in a usual care or practice setting, and
    - at least one of the studies must have established that the practice has a sustained effect (when compared to a control group) for at least 1 year beyond the end of treatment (section 471(e)(4)(C)(v) of the Act).

**4. Individual Child Outcome Assessment and Annual Reporting:** The state must collect and report to HHS the following information for each child for whom, or on whose behalf mental health and substance abuse prevention and treatment services or in-home parent skill-based programs are provided:

- The specific services or programs provided and the total expenditures for each of the services or programs,
- The duration of the services or programs provided, and
- In the case of a child who is a candidate for foster care: the child's placement status at the beginning, and at the end of the one-year period, respectively, and whether the child entered foster care within two years after being determined a candidate for foster care (section 471(e)(4)(E) of the Act).

**5. Evaluation strategy:** The state must have well-designed and rigorous evaluation strategy for any promising, supported, or well-supported practice. HHS may waive this requirement if HHS deems the evidence of the effectiveness of the practice to be compelling and the state meets the continuous quality improvement requirements with regard to the practice (section 471(e)(5)(B)(iii)(V) of the Act). The state cannot receive FFP for the program or service unless the evaluation strategy is included in the five-year plan (described below) (section 471(e)(5)(C) of the Act).

**Prevention Services Measures and Annual Expenditure Updates:** Beginning with FY 2021, states electing to provide title IV-E prevention services and programs must annually report the following to HHS:

- The percentage of candidates for foster care for whom, or on whose behalf, the services or programs are provided who do not enter foster care, including those placed with a kin caregiver outside of foster care, during the 12-month period in which the services or programs are provided and through the end of the succeeding 12-month period, and
- The total amount of expenditures made for mental health and substance abuse prevention and treatment services or in-home parent skill-based programs, respectively, for, or on behalf of, each child (section 471(e)(6)(A) of the Act).

HHS must establish, calculate and publish results of performance measures on children who do not enter foster care or are placed with kin guardians and per child spending for children receiving these prevention services and programs beginning FY 2021 (section 471(e)(6)(B) and (C) of the Act).

**Maintenance of Effort:** States providing title IV-E prevention services or programs must maintain the same level of “state foster care prevention expenditures” each FY as the amount the state spent in FY 2014. States must report the state foster care prevention expenditures for FY 2014 and each FY the state participates in the title IV-E prevention program. “State foster care prevention expenditures” are title IV-B, Temporary Assistance for Needy Families (TANF), Social Services Block Grant (SSBG), and state or local agency program funds used for “state prevention services and activities.” HHS must specify the specific services and activities under each program that are “state prevention services and activities.” Title IV-E agencies with a population of children of less than 200,000 in FY 2014 may elect to use FY 2015 or FY 2016 instead of FY 2014 for this purpose (section 471(e)(7) of the Act).

**Parameters for FFP under Title IV-E for Time-Limited Foster Care Prevention Services and Programs:**

- Section 474(a)(6) of the Act is effective 10/1/2018, but claiming FFP may not begin until FY 2020.
- From FY 2020 – FY 2026, prevention services are reimbursable at 50 percent FFP.
- Beginning FY 2027, prevention services are reimbursable at the applicable FMAP
- At least 50 percent of the amount paid to the state in any FY must be for prevention services that meet the “well-supported” practice criteria.
- Administrative costs and training:
  - Beginning FY 2020, costs for the proper and efficient administration of the title IV-E prevention plan are reimbursable at 50 percent, including activities to promote the development of necessary processes and procedures to establish and implement the provision of the services and programs for individuals who are eligible for the services and programs and expenditures attributable to data collection and reporting. Allowable administrative costs are reimbursable without regard to whether expenditures are incurred for a child who is eligible, or potentially eligible for title IV-E foster care maintenance payments.(471(e)(9).
  - Beginning FY 2020, training costs are reimbursable at 50 percent for personnel employed or preparing for employment by the state agency or by the local agency administering the plan in the political subdivision and of the members of the staff

of state-licensed or state-approved child welfare agencies providing services to children who are candidates for foster care and pregnant/parenting foster youth (and their parents or kin caregiver). Allowable training topics include how to determine who is eligible for the prevention services or programs, how to identify and provide appropriate services and programs, and how to oversee and evaluate the ongoing appropriateness of the services and programs.

- Note on claiming FFP and the effective date of other provisions of P.L. 115-123: A title IV-E agency may request a delayed effective date not to exceed two years for the following provisions: 472(a)(2)(C), 472(c), 472(k), 474(a)(1), 471(a)(37), and 475A(c) of the Act. If so, this means that the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (section 50746(b) of P.L. 115-123).

**Guidance on Practice Criteria and Pre-Approved Services and Programs:** HHS must issue guidance no later than October 1, 2018 to states regarding the practices criteria required for services or programs and update as necessary. The guidance must include a pre-approved list of services and programs that satisfy the requirements.

**Tribal Title IV-E Agencies:** For tribal title IV-E agencies, HHS must specify requirements for the provision of the services and programs that are, to the greatest extent practicable, consistent with the requirements applicable to states. The requirements must permit tribes to provide services and programs that are adapted to the culture and context of the tribal communities served. HHS must also establish specific performance measures for each tribal title IV-E agency providing prevention services that allow for consideration of factors unique to the provision of the services by tribes and to the greatest extent practicable, consistent with the measures for states (section 479B(c)(1)(C)(i)(IV) and (c)(1)(E) of the Act).

**Technical Assistance, Research and Training:**

- Technical assistance: HHS must provide technical assistance and best practices regarding the provision of title IV-E prevention services and programs, including on how to plan and implement the requirement to evaluate the promising, supported, or well supported practices.
- Clearinghouse: HHS must, directly or through grants, contracts or interagency agreements, evaluate research on the promising, supported, or well-supported practices and programs, including culturally specific, or location- or population-based adaptations, to identify and establish a public clearinghouse of the promising, supported, or well-supported practices. The clearinghouse must include specific information on whether the promising, supported, or well-supported practice has been shown to prevent child abuse and neglect or reduce the likelihood of foster care placement by supporting birth families and kinship families and improving targeted supports for pregnant and parenting youth and their children.
- Data collection and evaluation: HHS may, directly or through grants, contracts or interagency agreements, collect data and evaluate programs and services to assess the extent to which the provision of the services and programs reduces the likelihood of foster care placement, increases kinship arrangements or improves child well-being.

- Report to Congress: HHS must provide periodic, publicly available reports on the provision of title IV-E prevention programs and services.
- Appropriations: The bill provides \$1 million per year beginning FY 2018 for the above activities (section 476(d) of the Act).

## **Attachment C: Limitations on Title IV-E foster care payments for placements that are not foster family homes**

### **Restrictions on Federal Financial Participation (FFP) for Children Placed in a Child Care Institution (CCI):**

- Title IV-E agencies may claim title IV-E for foster care maintenance payments (FCMP) paid on behalf of an eligible child placed in any CCI for up to two weeks. Title IV-E agencies may claim administrative costs for the duration of the child’s placement in a CCI regardless of whether the CCI is a specified setting as described below (section 472(k) of the Social Security Act (the Act)).
- After two weeks, title IV-E FCMPs for a child placed in a CCI are only available if that CCI is one of the following specified settings:
  - “qualified residential treatment program” (QRTP), as defined in section 472(k)(4) of the Act and subject to additional requirements in section 475A(c) as described below;
  - a setting specializing in providing prenatal, post-partum, or parenting supports for youth;
  - in the case of a youth who has attained 18 years of age, a supervised setting in which the youth is living independently;
  - a setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims; or
  - a licensed residential family-based treatment facility for substance abuse (subject to additional requirements per section 472(j) of the Act).
- Effective 10/1/19. A title IV-E agency may request a delayed effective date not to exceed two years, and if so, the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (section 50746(b) of P.L. 115-123).

### **Qualified Residential Treatment Program (QRTP) Program Requirements:** A QRTP must be a program that:

- has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the required 30 day assessment (described below) of the appropriateness of the QRTP placement;
- to extent appropriate, and in accordance with the child’s best interests, facilitates participation of family members in the child’s treatment program;
- facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;
- documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;
- provides discharge planning and family-based aftercare support for at least 6 months post-discharge;
- is licensed in accordance with the title IV-E requirements (section 471(a)(10) of the Act) and is accredited by any of the following independent, not-for-profit organizations: The Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation

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(COA), or any other independent, not-for-profit accrediting organization approved by HHS; and

- has registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state/tribal law, are on-site according to the treatment model, and are available 24 hours a day and 7 days a week. A rule of construction in section 472(k)(6) of the Act indicates that this requirement shall not be construed as requiring a QRTP to acquire nursing and behavioral health staff solely through means of a direct employer to employee relationship (sections 472(k)(4) of the Act).

***QRTP Placement Requirement – 30-day Assessment of the Appropriateness of a QRTP Placement:***

- A “qualified individual” must assess a child to determine the appropriateness of a placement in a QRTP for purposes of approving the case plan and the case system review procedure for the child (see described below) (section 475A(c) of the Act).
- If the assessment is not completed within 30 days after the placement is made, the title IV-E agency cannot claim title IV-E for a FCMP for the duration of the placement (section 472(k)(3)(A) of the Act).
- A “qualified individual” is defined as a trained professional or licensed clinician who is not an employee of the agency, and who is not connected to, or affiliated with, any placement setting in which children are placed by the agency. HHS may waive the “qualified individual” requirements if the title IV-E agency certifies that the trained professionals or licensed clinicians will maintain objectivity with respect to determining the most effective and appropriate placement for a child. The “qualified individual” must:
  - assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary;
  - determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which allowable CCI setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
  - develop a list of child-specific short- and long-term mental and behavioral health goals; and
  - work in conjunction with the child’s family and permanency team (further described below) while conducting and making the required 30-day assessment.
- If the “qualified individual” determines the child should not be placed in a foster family home, he/she must specify in writing:
  - the reasons why the child’s needs can’t be met by the family or in a foster family home (a shortage of foster family homes is not an acceptable reason for determining the child’s needs cannot be met in a foster family home); and
  - why the recommended placement in a QRTP is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child (section 475A(c)(1) of the Act).



***QRTP Placement Requirement – Family and Permanency Team Requirements:*** The title IV-E agency must assemble a family and permanency team for the child placed in the QRTP in accordance with specified requirements.

- The team must consist of all appropriate biological family members, relative, and fictive kin of the child, as well as professionals (as appropriate) who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy.
- If the child is age 14 or older, the team must also include the members of the permanency planning team for the child that are selected by the child in accordance with the title IV-E case planning requirements (section 475A(c)(1)(B)(i) and (ii) of the Act).

***QRTP Placement Requirement – Case Plan Requirements:*** For a child placed in a QRTP, the title IV-E agency must document the following in the child’s case plan:

- the reasonable and good faith effort of the agency to identify and include all the individuals required to be on the child’s family and permanency team;
- all contact information for members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;
- evidence that meetings of the family and permanency team, including meetings relating to the required 30-day assessment of the appropriateness of the QRTP placement, are held at a time and place convenient for family;
- if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;
- evidence that the required 30-day assessment to determine the appropriateness of the QRTP is determined in conjunction with the family and permanency team;
- the placement preferences of the family and permanency team relative to the required 30-day assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest;
- if the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the required 30-day assessment of the appropriateness of the QRTP, the reasons why the preferences of the team and of the child were not recommended; and
- the written recommendation by the qualified individual regarding the appropriateness of the QRTP placement and the court approval or disapproval of the QRTP placement (section 475A(c)(1)(B)(iii) and (C), and 475A(c)(3) of the Act).

***QRTP Placement Requirement – 60-day Court Approval:*** Within 60 days of the start of each placement in a QRTP, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, must:

- consider the required 30-day assessment of the appropriateness of the QRTP, and documentation made by the qualified individual conducting the assessment;
- determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment and whether

that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

- approve or disapprove the placement. Such approval or disapproval must be documented in the case plan (section 475A(c)(2) of the Act).

***QRTP Placement Requirement – Ongoing Review and Permanency Hearing Requirements:***

As long as a child remains placed in a QRTP, the title IV-E agency shall submit evidence at each status review and each permanency hearing held for the child:

- demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
- documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and
- documenting the efforts made by the agency to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 475A(c)(4) of the Act).

**Additional reporting requirements for extended QRTP placements:** If a title IV-E agency places a child in a QRTP for more than 12 consecutive months, or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than six consecutive or nonconsecutive months, the title IV-E agency must submit to HHS:

- the most recent versions of the evidence and documentation submitted for the most recent status review or permanency hearing; and
- the signed approval of the head of the title IV-E agency for the continued placement of the child in that setting (section 475A(c)(5) of the Act).

**Funding during transition out of QRTP:**

- The title IV-E agency may claim title IV-E FCMPs during the period necessary for a child to transition out of a QRTP for up to 30 days from the date a determination is made that the placement is no longer the recommended or approved placement for the child when:
  - the required 30 day assessment determines that the QRTP placement is not appropriate;
  - a court disapproves the QRTP; or
  - a child is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 472(k)(3)(B) of the Act).

**Attachment D**

**Regional Office Program Managers – Children’s Bureau**

|   |  |    |  |
|---|--|----|--|
| 1 | <b>Region 1 - Boston</b><br>Bob Cavanaugh<br><a href="mailto:bob.cavanaugh@acf.hhs.gov">bob.cavanaugh@acf.hhs.gov</a><br>JFK Federal Building, Rm.<br>2000 15 Sudbury Street<br>Boston, MA 02203<br>(617) 565-1020<br><b>States:</b> Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont                 | 6  | <b>Region 6 - Dallas</b><br>Janis Brown<br><a href="mailto:janis.brown@acf.hhs.gov">janis.brown@acf.hhs.gov</a><br>1301 Young Street, Suite 945<br>Dallas, TX 75202-5433<br>(214) 767-8466<br><b>States:</b> Arkansas, Louisiana, New Mexico, Oklahoma, Texas  |
| 2 | <b>Region 2 - New York City</b><br>Alfonso Nicholas<br><a href="mailto:alfonso.nicholas@acf.hhs.gov">alfonso.nicholas@acf.hhs.gov</a><br>26 Federal Plaza, Rm. 4114<br>New York, NY 10278<br>(212) 264-2890, x 145<br><b>States and Territories:</b> New Jersey, New York, Puerto Rico, Virgin Islands                       | 7  | <b>Region 7 - Kansas City</b><br>Deborah Smith<br><a href="mailto:deborah.smith@acf.hhs.gov">deborah.smith@acf.hhs.gov</a><br>Federal Office Building, Rm.<br>349 601 E 12th Street<br>Kansas City, MO<br>64106 (816) 426-2262<br><b>States:</b> Iowa, Kansas, Missouri, Nebraska  |
| 3 | <b>Region 3 - Philadelphia</b><br>Lisa Pearson<br><a href="mailto:lisa.pearson@acf.hhs.gov">lisa.pearson@acf.hhs.gov</a><br>The Strawbridge Building<br>801 Market Street<br>Philadelphia, PA 19107-3134<br>(215) 861-4030<br><b>States:</b> Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia | 8  | <b>Region 8 - Denver</b><br>Marilyn Kennerson<br><a href="mailto:marilyn.kennerson@acf.hhs.gov">marilyn.kennerson@acf.hhs.gov</a><br>1961 Stout Street, 8 <sup>th</sup> Floor<br>Byron Rogers Federal Building<br>Denver, CO 80294-3538<br>(303) 844-1163<br><b>States:</b> Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming   |
| 4 | <b>Region 4 - Atlanta</b><br>Shalonda Cawthon<br><a href="mailto:shalonda.cawthon@acf.hhs.gov">shalonda.cawthon@acf.hhs.gov</a><br>61 Forsyth Street SW, Ste. 4M60<br>Atlanta, GA 30303-8909<br>(404) 562-2242<br><b>States:</b> Alabama, Mississippi, Florida, North Carolina, Georgia, South Carolina, Kentucky, Tennessee | 9  | <b>Region 9 - San Francisco</b><br>Debra Samples<br><a href="mailto:debra.samples@acf.hhs.gov">debra.samples@acf.hhs.gov</a><br>90 7 <sup>th</sup> Street - Ste 9-300<br>San Francisco, CA 94103<br>(415) 437-8626<br><b>States and Territories:</b> Arizona, California, Hawaii, Nevada, Outer Pacific—American Samoa Commonwealth of the Northern Marianas, Federated States of Micronesia (Chuuk, Pohnpei, Yap) Guam, Marshall Islands, Palau |
| 5 | <b>Region 5 - Chicago</b><br>Kendall Darling<br><a href="mailto:kendall.darling@acf.hhs.gov">kendall.darling@acf.hhs.gov</a><br>233 N. Michigan Avenue, Suite 400<br>Chicago, IL 60601<br>(312) 353-9672<br><b>States:</b> Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin   | 10 | <b>Region 10 - Seattle</b><br>Tina Naugler<br><a href="mailto:tina.naugler@acf.hhs.gov">tina.naugler@acf.hhs.gov</a><br>701 Fifth Avenue, Suite 1600, MS-73<br>Seattle, WA 98104<br>(206) 615-3657<br><b>States:</b> Alaska, Idaho, Oregon, Washington   |