

## The Family First Act: Section by Section

### Title I – KEEPING CHILDREN SAFE AND SUPPORTED AT HOME OR IN THE MOST FAMILY LIKE SETTING

#### Subtitle A. Investing in Prevention and Family Services

##### Section 101. Findings

##### Section 102. Purpose

### Part I – Prevention and Family Services and Programs under Title IV-E

#### Section 111. Assistance for children who are candidates for care

Amends Section 471 (State Plan) to create new subsection “e” PREVENTION AND FAMILY SERVICES AND PROGRAMS

Allows states and tribes to provide specific services to children, parents and kin caregivers for 12 months. In order to be eligible, the child or youth involved must be a “candidate” for foster care or a pregnant or parenting youth in foster care. A candidate is a child identified by the state agency in a prevention plan as at imminent risk of entering (or re-entering) foster care and who it determines can remain safely at home or in a kin placement (outside of foster care) as long as Title IV-E services or assistance are provided.

Services are – mental health, substance abuse prevention and in-home parent skill-based programs (including parent training and individual and family counseling).

The state is required to maintain a prevention plan for the candidate child that lists the services or assistance and identifies the permanency goal for the child. Services must be tied to the placement and permanency goal; they must be specified in advance of provision and must be trauma-informed.

Allows states to draw down FFP for a specific service array (short-term financial support and kinship navigator services) for kin caregivers who assume responsibility for relative children who cannot be cared for by their birth parents. Kinship placement policy has a dual purpose – first to provide temporary assistance for kin when relative care is the permanency option for the candidate child and second to provide support for a temporary placement with kin when reunification is the permanency option for the candidate child.

Federal IV-E support is available for these services and assistance beginning FY2018 if the state opts to amend its Title IV- E plan to include these IV-E services and meets specific requirements related to their provision. Federal financial participation (FFP) for short-term financial support and for kinship navigator services is set at a state’s regular FMAP. Access to these kin supports, however, is phased in based on a child’s age. The phase in begins October 1, 2017 with children age 16 and older (up to state’s maximum age for Title IV-E assistance) eligible for this assistance. That eligibility age will decrease by two years each fiscal year so that, as of October 1, 2025, kin of candidates for care of any age will be eligible.

For other services or activities (mental health, substance abuse prevention and in-home skilled-based programs) the services for candidates for care and their parents or kin caregivers must be evidenced-based. Full FFP is phased in and the evidenced based standard is increased over time, as follows:

- Beginning 10/1/2017– FFP is 40% and services may be promising, supported or well supported
- Beginning 10/1/2020– FFP is 50% and services must be supported or well supported
- Beginning 10/1/2023– FFP is the state or Tribe’s FMAP and services must be well supported

Mark also provides, as of 10/1/2017, a 50% match for training and all other costs of administering the services component of this plan. FFP under this component would not be subject to any “look-back” related rules.

Establishes three categories of evidence-based policy: Promising Practices, Supported Practices, and Well-Supported Practices

- a. Promising Practice Criteria –
  1. There is no case data suggesting a risk of harm that: a) was probably caused by the treatment and b) the harm was severe or frequent.
  2. There is no legal or empirical basis suggesting that, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it.
  3. The practice has a book, manual, and/or other available writings that specify the components of the practice protocol and describe how to administer it.
  4. At least one study utilizing some form of control (e.g., untreated group, placebo group, matched wait list study) has established the practice's benefit over the control, or found it to be comparable to a practice rated a 1, 2, or 3 on this rating scale or superior to an appropriate comparison practice. The study has been reported in published, peer-reviewed literature.
  5. Outcome measures must be reliable and valid, and administered consistently and accurately across all subjects.
  6. If multiple outcome studies have been conducted, the overall weight of evidence supports the benefit of the practice.
  
- b. Supported Practice Criteria – Must adhere to 1-3 and 5, 6 of Promising Practice criteria. In addition the practice must satisfy the following criteria:
  - At least one rigorous randomized controlled trial (RCT) OR a control or comparison group with pre and post outcome assessments in usual care or a practice setting has found the practice to be superior to an appropriate comparison practice.
  - In that same RCT or comparison study, the practice has shown to have a sustained effect of at least six months beyond the end of treatment, when compared to a control group. The trial or outcomes of the control or comparison group must be published in peer-reviewed literature.
  
- c. Well Supported – Must adhere to 1-3 and 5, 6 of Promising Practice criteria. In addition the practice must satisfy the following criteria:
  - At least two rigorous randomized controlled trials (RCTs) OR control or comparison groups with pre and post outcome assessments in different usual care or practice settings —
    - have found the practice to be superior to an appropriate comparison practice;
    - have been reported in published, peer-reviewed literature; and
    - in at least one of these RCTs or control or comparison group the practice has shown to have a sustained effect of at least one year beyond the end of treatment, when compared to a control group.

Requires the Secretary to issue guidance to states including a list of services and programs that meet the evidence-based policy standards.

The state is required to collect and report data to the Secretary on services and assistance provided with Title IV-E funds, including numbers of children served, costs of those services, and information about whether or not the child remained out of foster care during the 12-month services period (and the 12 subsequent months). HHS will provide guidance and develop national performance measures.

MOE – States must continue to spend the same amount of state and local dollars on foster care prevention services as they did in FY2014. That amount of money is considered the state’s MOE and none of those dollars may be used to draw down new IV-E funding. HHS is to define foster care prevention services but in the calculation, HHS must include all state and local expenditures for those purposes that were spent in FY2014 under IV-B, TANF or SSBG.

Requires the Secretary to provide technical assistance to States regarding the provision of services and conduct research, collect data and provide evaluations to identify promising programs and assess the extent to which the programs and services provided reduce foster care placements, increase kinship arrangements, and improve child well-being.

#### Section 112. Foster care maintenance payments for children with parents in a licensed residential family based treatment facility for substance abuse.

States may draw down IV-E foster care maintenance payments on behalf of children who are placed in residential family treatment settings with a parent who is receiving treatment.

#### Part II – Enhanced Support Under IV-B

#### Section 121. Short-term crisis intervention assistance in order to stabilize a family in times of crisis or to facilitate a kinship placement.

Creates a capped mandatory funding allotment for short-term crisis assistance. Amount TBD (Placeholder)

#### Section 122. Elimination of time limit for family reunification services while in foster care and permitting time limited family reunification services when a child returns home from foster care.

Renames the category of services within the Promoting Safe and Stable Families (PSSF) program known as “time-limited family reunification services” as “family reunification services”. Removes the current law limit which says services under this category may only be offered to or on behalf of children who have entered foster care within the last 15 months. Permits these services for any child in foster care and allows them to be provided for up to 15 months *after* a child is reunited with the biological family. Often children are most in need of services when they reunify with their birth family so this allows flexibility in providing such services. (This is a definition change only; does not increase funding available)

#### Part III – Misc.

#### Section 131. Establishment of national model licensing standards for placement in a relative foster family home

Requires the Secretary, by regulation, to establish national model foster care licensing standards for relative caregivers and requires states to explain why they deviate from such standards, if applicable.

### Section 132. Modernizing the title and purpose of title IV-E

#### Sec 133. Effective date

Sets effective date of October 1, 2016.

Application to tribes – Any tribe operating a Title IV-E plan may also access this Title IV-E funding for prevention services, programs and assistance, provided that it generally met the same requirements as those applicable to states.

### Subtitle B – Ensuring the Necessity of a Placement that is not a foster family home

#### Section 141. Amends Section 472 (Foster Care Maintenance Payments) to place limitation on Federal Financial Participation for placements that are not in foster family homes.

After 2 weeks, FFP for placements other than a family foster home (defined) available only for the following: a Qualified Residential Treatment Program or QRTP (defined), a facility for pregnant and parenting teens, or an independent living arrangement.

Requires an assessment to be completed 30 days after placement in a QRTP (detailed in Section 142); if a QRTP is not the appropriate placement the step up or down must be completed within an additional 30 days and allows FFP during this transition period.

#### **QRTP defined –**

- Clinically-recognized treatment model, able to implement treatment identified by the assessment; licensed staff, facilitates participation with family, documents how family members are integrated, provides discharge planning and aftercare support for at least 6 months, licensed and accredited.

#### **Foster family home defined –**

- Licensed and approved by the state as a family foster home, with no more than 6 children in foster care. Exceptions can be made for: a parenting youth in foster care, siblings, meaningful relationship, and child with a severe disability.

Conditions receipt of court improvement program funding on the provision of training for judges about federal policies on placement of foster children in non-family settings. Requires states to assure that state is not shifting children from congregate care settings to the juvenile justice system as a consequence of this policy and requires GAO to issue a report to Congress related to the impact of this policy on the juvenile justice system.

#### Section 142. Assessment and documentation of the need for placement in a qualified residential treatment program.

Requires that within 30 days of the start of each new placement of a child in a QRTP a qualified individual must make an assessment, using a validated and evidence-based assessment tool, and determine whether or not the child's needs can be met with family members or in a family foster home

and if not, which of the approved foster care placement settings would provide a more effective and appropriate level of care. This assessment must be done in conjunction with a family and permanency team assembled by the state. This team is comprised of relatives, fictive kin, professionals, teachers, clergy, etc. State shall document efforts to form family team and meet with and engage with the family team.

Within 60 days of a placement in a QRTP, a court must review the assessment and approve or disapprove the placement. State is required at each status review and permanency hearing for a child in a QRTP to demonstrate why the child cannot be served in a family foster home, why the placement in the QRTP continues to be necessary and consistent with the child's short and long-term goals, document efforts to step the child down into a more family-like setting, and other requirements.

After 6 months for a child under the age of 13 and after 12 months consecutive/18 month non-consecutive for others, the state agency must submit documentation to the Secretary and notify the parents, kinship caregiver, legal guardian or any counsel on record that the child has a private right of action to the least restrictive environment.

#### **Section 143. Protocols to prevent inappropriate diagnosis**

Requires state child welfare plans to include the procedures and protocols to ensure children in foster care are not inappropriately diagnosed with mental illness or other disorders or conditions and placed in non-family based settings as a result of such diagnoses.

#### **Section 144. Compliance audits and evaluations**

#### **Section 145. Additional data and reports regarding children placed in a setting that is not a family foster home**

Updates reporting related to placement options for children in foster care to ensure such data includes whether the placement setting for a child is: shelter care, a group home, residential treatment, a hospital, a setting for pregnant or parenting youth, other type of child care institution; and, the number of children in such setting, the length of placement, the previous placement, whether the child has special needs, etc.

#### **Section 146. Effective date, application to waivers**

Generally provisions that directly affect Title IV-E claiming/eligibility relative to congregate care policy are not effective before October 1, 2019.