



County Welfare Directors Association of California

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CWDA

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To: County Welfare Directors Association of California

From: Tom Joseph, Director, CWDA Washington, D.C. Office

Date: November 3, 2015

Re: Federal Update

Federal Budget Update: Yesterday, President Obama signed into law the *Bipartisan Budget Act of 2015* (H.R. 1314). The measure provides modest increases to the overall spending caps for both discretionary and defense spending for federal fiscal years 2016 and 2017 and extends federal borrowing authority at least through March 15, 2017.

The new law effectively ends any chance that an across-the-board sequester cut will occur in the next two fiscal years. The Budget Act should also reduce the chances of a government shutdown which would occur after December 11 if Congress does not act on the actual appropriations measures. Policy riders, including continued efforts to repeal the Affordable Care Act and to defund Planned Parenthood could still provoke a shutdown.

Ways & Means Committee Chair Vacant: The election of Paul D. Ryan (R-WI) as Speaker of the House, means that the chairmanship of the Ways & Means Committee is vacant. Two Republicans have expressed their interest in being selected - Rep. Kevin Brady (R-TX) and Rep. Pat Tiberi (R-OH). Tiberi is viewed as the more moderate of the two candidates but he has slightly less seniority on the Committee. That factor may be balanced by the fact that there are six Texans already chairing one of the 20 standing committees. The House Republican Steering Committee is expected to meet later this week.

Poverty is Focus of Senate and House Hearings: Both the House and Senate have held hearings on poverty recently. Last week, the House Budget Committee held a hearing entitled, *Restoring the Trust for Vulnerable Americans* to explore ways of improving low-income programs. The Senate Finance Committee, which has jurisdiction over TANF and child welfare programs, heard from witnesses at an October 30 *Welfare and Poverty in America* hearing. During that hearing, both Republican and Democratic Senators agreed that the Temporary Assistance for Needy Families (TANF) program was not responding adequately to poverty in many parts of the country. There was no indication during the hearing, however, that the Committee was going to craft or act on a bill anytime soon.

And today, the House Ways and Means Committee will hold a hearing entitled, *Better Coordinating Welfare Programs to Serve Families in Need*. The hearing intends to review dozens of human services programs, as well as ways they could be consolidated or better coordinated.

Family Stability and Kinship Care Act (S. 1964; H.R. 3781): Rep. Lloyd Doggett (D-TX), Ranking Member of the House Ways & Means Human Resources Subcommittee has introduced the House companion measure to Senator Wyden's *Family Stability and Kinship Care Act*. Among its many provisions, the measure would provide a federal IV-E foster care match for 12 months of services for children at imminent risk of entering or re-entering foster care; a child in foster care; or, a pregnant or parenting foster youth. Parents or potential or designated kin caregivers would also be eligible for services.

CWDA commented previously on a discussion draft and has provided additional input to both the Senate and House. A copy of the letter sent to Senator Wyden is attached.

The Senate Finance Committee has been sending specific provisions of the bill to the Congressional Budget Office (CBO) to obtain estimates of the federal costs and savings of the measure. In order to maintain the bipartisan nature of child welfare bills, it is expected that any bill considered and voted on by the Finance Committee would have to be budget-neutral.



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October 26, 2015

The Honorable Ron Wyden
Ranking Member
Senate Finance Committee
221 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Wyden,

The County Welfare Directors Association of California thanks you again for introducing the *Family Stability and Kinship Care Act of 2015* (S. 1964). We appreciated the ability to comment on the discussion draft bill and were pleased to see that a number of those suggestions were incorporated into the measure as introduced. On behalf of the human services directors in California's 58 counties, we have some additional suggestions for improving the bill and some specific information on child welfare practices and costs in the state. California's counties have a tremendous financial and policy stake in this area, given that they rely on Title IV-E funds to support the majority of the foster care system, and the counties finance the entire non-federal share of the foster care program with local funds.

Our comments begin by specifically addressing provisions in the bill, followed by additional information on how certain provisions may affect the state and other items we believe should be addressed in the legislation.

Section 4: Time-Limited Family Services

We support permitting the use of Title IV-E funding for services to families, including time-limited family supports and services, and we support the proposed expansion of Title IV-B, Subpart 2 (PSSF) funding. CWDA also supports federal finance reform for the child welfare and foster care programs. However, this cannot come at the expense of the entitlement nature of the Title IV-E Foster Care and Adoption Assistance program, as counties have the upmost responsibility to protect children who suffer from abuse and neglect and ensure traumatized children have permanent, loving families. We support the elimination of outdated rules that base the child's eligibility for funds on parental income and circumstances and believe this should be addressed for the entire population of foster children.

We have the following comments with respect to the provisions of this section:

- **Time Limit on Services:** We recommend families be afforded up to 24 months for services. CWDA contends additional time is needed for many of our families who are struggling with substance abuse addictions. In some counties, the services may have waiting lists. For example, some of our rural counties have shortages of mental health clinicians and others have shortages of residential drug and alcohol treatment programs. Families should not be penalized by limited service capacity.

- **Service Array:** CWDA recommends including services to assist victims of child sex trafficking. Services for commercially sexually exploited children (CSEC) would include tattoo removal, emergency incidentals, peer support, legal assistance, life skills and transitional services. The services needed by this population are unique and cannot be met by other traditional foster care programs such as the Independent Living Program. A number of our counties are affected greatly by this issue and CWDA worked closely with the state to implement a new state-funded CSEC program for counties. This is critical in light of the recent passage of the *Preventing Sex Trafficking and Strengthening Families Act of 2014* (P.L. 113-183).

California has also opted to extend foster care to age 21 under the provisions of the *Fostering Connections Act*, and we recommend the addition of services to these youth as well, such as assistance with housing, substance abuse and mental health services, employment assistance, and peer support.

- **Eligible Population:** CWDA supports efforts to reform child welfare financing, including providing funding for services and activities that prevent entry into care. While this proposal would provide funding to prevent entry into care, it targets resources to a very narrow population of those at 'imminent risk' of placement. However, for jurisdictions including California which have implemented Differential Response programs, we know that investments at an earlier stage, prior to 'imminent risk,' are beneficial to families and reduce costs to both federal and local jurisdictions. For example, Ohio's Alternative Response program found fewer re-referrals for child abuse, and removals were lower than for children and families who were served in traditional response. The results are cost savings in terms of emergency response investigations, case supervision, and placement costs. A report by the Institutes of Applied Research (2006) of the Minnesota Family Assessment Response system found downstream savings of 35 percent compared to those served in the traditional child welfare system. In addition, the CAPTA Reauthorization of 2010 acknowledges the benefits of early response by requiring states to identify policies and procedures around the use of Differential Response.

We therefore recommend broadening the eligible population to include children referred to the child welfare hotline who are of low or moderate risk and there is no finding (i.e., substantiation) of child abuse, and direct the Secretary of Health and Human Services to work with states to further refine this definition as necessary.

- **Data Collection:** CWDA continues to be concerned with the requirement in S. 1964 that states track expenditures on a per-child basis. This will be extraordinarily cumbersome on state and county agencies, taking precious time and resources away from serving families. Instead, we recommend total expenditures be reported for all children and families served, categorized by service type (e.g., substance use, mental health treatment).
- **Performance Measures:** CWDA strongly opposes the bill's language to increase or decrease a state's federal match rate for time-limited family services by as much as 10 percentage points, based on untested outcome-based measures – especially based on per child spending on such services. There are many variables which affect outcomes. For example, some states will have higher rates of substance abuse, mental illness, extreme poverty, incarceration, or deportation of parents that could result in higher foster care placements or barriers to permanency. In addition, housing markets with a higher rate of overcrowded housing and the lack of affordable housing could make it far more difficult to recruit adoptive parents or guardians for foster children.

It would be especially inappropriate to penalize or reward states based on their per child spending on time-limited family services. Some states may have higher per child spending because the characteristics and needs of their children and families require more intensive

and costly services or because labor costs are higher relative to the national average. In addition, a per child spending measure would be subject to “gaming” by states. It could provide states with a financial incentive to use IV-E-funds over other funds, such as Title XX, Medicaid, TANF, IV-B, or state and local funds to finance more costly services,

Section 5: Assuring Funding Under Title IV-B for Prevention and Post-Permanency

CWDA supports the bill's elimination of the time-limited funding for reunification services under Title IV-B, Part 2 Promoting Safe and Stable Families (PSSF). Many of our families struggle with addictions and other barriers that cannot be ameliorated within the short timeframe.

CWDA also understands the intent to further bolster prevention and post-permanency supports by increasing PSSF funding by \$470 million a year. We are concerned however, that finding federal savings to offset this increase will come from other federally-supported human services programs delivered by counties. We specially would object to cutting open-ended IV-E entitlement funding, such as reimbursement of congregate care or other foster care costs, to finance increased mandatory PSSF funding, which later could be offset by cuts in discretionary PSSF funding.

CWDA is pleased to see that the introduced bill includes a IV-E match for administration, plan development and child welfare staff training. To implement successfully the bill's landmark changes, child welfare staff must be fully aware of and able to implement the opportunities afforded under the legislation.

Other Provisions and Issues

Role of Emergency, One Time Services: CWDA understands that the Committee is interested in estimating cost savings due to providing one-time assistance to meet emergency needs which may assist in preventing a placement into IV-E foster care. While we do not have concrete data to provide, we are able to present you with the following analysis demonstrating that a relatively small amount of funds to pay for a utility bill, gas to enable the head of household to get to work, or to meet other emergencies, is a wise use of federal funds to help avoid a costly foster care placement. Not only does it help avoid that financial cost, it more importantly helps avoid the trauma of separating the child from his/her home.

The average monthly cost of foster care in California totals \$1,728 -- or \$20,736 annually -- for board and care. Also to be included is the cost of a social worker to manage that case for a year, court costs, and other costs associated with a IV-E case. A conservative estimate in California totals at least \$30,000 annually for each IV-E foster youth. Consequently, any one-time payment is miniscule compared to the costs of a placement.

Congregate Care: CWDA is also aware of the significant concern in Congress about the possible overuse of congregate care. California is taking significant steps in this area to reduce the use of congregate care which may be useful for the Committee to consider. We would, however, oppose any absolute federal funding caps or time limits on group home placements, which could result in major adverse unintended consequences.

- Governor Brown recently signed into law AB 403 containing provisions to continuously assess children placed in group homes, soon to be called Short Term Residential Treatment Centers. The law permits placement into such facilities in limited circumstances in order to meet the short-term, intensive, and specialized treatment needs of a child which cannot otherwise be met in a family-based setting. The law limits stays to six months, but permits extensions to meet the child's needs in those placement settings upon assessment by mental health professionals and with approval of the child welfare agency director.

States, including California, need continued flexibility in determining the length of these placements. A federal financial limit on congregate care reimbursement after a certain

duration may not be in the best interest of the child. In fact, a juvenile court may determine that it is in a child's best interest and safety to place a child into congregate care, especially if there is no other suitable placement for a child. Group home placements are far more costly than other foster care placement so states and counties already have a major financial incentive to reduce group home placements. Indeed, for some children, a cap may create the unintended negative consequence of forcing a child to be moved too quickly from a short-term residential treatment center to a home-based care setting before the child is ready and before the family has the necessary skills and resources to receive and properly care for that child.

- The recent report from Casey Family Programs on the Residentially-Based Services pilot found that with intensive treatment programs, child welfare agencies can reduce the stay in group homes by about eight to ten months. At a cost of about \$10,000 per month for such a placement, such shorter stays saves about \$80,000 to \$100,000 in total costs per child. Again, the financial savings is only one part of the equation as the placement of the child in a foster family home should have beneficial psychological effects on him/her.
- While California's counties are building a model to move youth out of group homes and into home-based settings, our experience is that some youth require care in a very intensive congregate care setting, including probation youth who may need supervision for a variety of reasons. The state's new initiative requires that these cases, too, be very carefully monitored and short term.
- We support efforts such as those contained in H.R.835/S.429 that would ensure Therapeutic/Treatment Foster Care services are available through family-based settings for foster children as an alternative to congregate care placement.

Overall, we believe there is potential for significant cost savings that can help offset the costs of this proposal, including our proposal to serve families up to 24 months and including children referred for low to moderate risk. CWDA is able to provide you and your staff with additional information on potential cost savings if desired.

Reducing the Use of Psychotropic Medications: CWDA has worked closely with the California Department of Social Services and the state legislature to draft policies and procedures to more closely monitor the prescribing of psychotropic medications for children in the child welfare system. To the extent that federal legislation is drafted to address this issue, we urge that it not hamper efforts already underway in our state.

During the recent state legislative session, CWDA sponsored California Senator Holly Mitchell's bill (SB 238) which has been signed by Governor Brown. SB 238 takes a "practitioner perspective," focusing on four key areas: monthly data reports; an alert system when dangerous interactions could occur; updates to the court process and authorization forms that make sure needed information is provided to the court; and, training for child welfare staff and partner agencies regarding psychotropic medication and accessing other behavioral health services for children.

The Mitchell bill is part of a package also signed into law that increases monitoring and oversight of psychotropic use: SB 319 (Beall) will enhance oversight of psychotropic medication use through local public health nurses working with county child welfare, and SB 484 (Beall) would increase oversight and monitoring of psychotropic medications specifically in group homes.

Additionally, the California Department of Health Care Services and the Department of Social Services have convened a statewide quality improvement project to implement and share effective practices to improve psychotropic medication use among children and youth in foster care.

To the extent that you or your staff wish to know more about these efforts in our state, please do not hesitate to contact us.

Additionally, as our county human services agencies, the state and other stakeholders continue our collaborative work on the issue, we urge Congress to act on the Obama Administration's federal fiscal year 2016 budget proposals to assist us in this important endeavor. Specifically, CWDA supports the Administration's request of \$250 million in mandatory funding over five years through IV-E foster care to build state capacity in using evidence-based psychosocial interventions as alternatives to psychotropic medications. CWDA also supports a related \$500 million Medicaid initiative through the Centers for Medicare & Medicaid Services to provide performance-based incentives to states to coordinate care and reduce the use of psychotropic drugs for children in foster care identified as high-risk for behavioral health problems.

Interaction with State and County Section 1130 IV-E Waivers: As you know, P.L. 112-34 contains a provision terminating all IV-E waivers on September 30, 2019 -- the same day that the current waivers in California expire. We understand the intent of Congress to reform the child welfare system and the belief that national, comprehensive reform will not be realized unless federal legislative pressure is placed on states and counties to do so. As evidenced by the current waiver initiatives within the state and our work with state agencies, child advocacy organizations, and the legislature, we are indeed taking action on a number of child welfare reforms.

We believe that IV-E waiver authority should be extended beyond September 30, 2019. Waivers have enabled states to implement child welfare reforms that are cost neutral to not only the federal government, but also to participating waiver states and counties. In fact, many best practices in child welfare were first tested and evaluated through IV-E waivers. Most notably, many existing IV-E waivers, including California's, expand family services, such as those that would be funded under S. 1964, to reduce the use of foster care, protect children, and strengthen their families by reinvesting savings from reducing costly foster care placements.

It will be virtually impossible to enact child welfare reform legislation which is federally budget neutral, as scored by the Congressional Budget Office (CBO), which does not result in major winners or losers among states or shift costs from the federal government to state and local governments. CBO historically has underestimated federal cost savings from prevention, early intervention, family preservation, and other in-home services that have enabled states to reduce foster care placements and costs over the past 20 years. In addition, child welfare financing, caseload, and needs vary so much between states that it is impossible to fashion any child welfare reform that is cost neutral for every state.

We are sure that your Committee will receive many comments proposing various amendments to S. 1964, such as changes to the time limits on family services, scope of services, or definition of eligible individuals. Extending IV-E waiver authority would enable states to implement and test alternative approaches in a cost neutral manner rather than through a single "one size-fits all" approach.

Age Appropriate Visitation for Out of State Youth: Finally, CWDA urges the Committee to consider a provision allowing for the "skyping" of foster youth in the extended foster care program when the youth is attending college or living with relatives in another state. California is one of several states that have opted to extend foster care to age 21 under the provisions of the *Fostering Connections Act*. Our county human services are working to comply with the provision in the Promoting Safe and Stable Families Reauthorization of 2011 (P.L. 112-34) requiring 95 percent of their foster care children receive monthly in-person visits. The provision does not make any exception for youth placed out of state. Given that not all states have implemented an extended foster care program, California's counties cannot establish reciprocal agreements with other states to visit older youth in care as is done with children under 18 years of age. It has been our experience that a number of youth do indeed go out of state to attend colleges or connect with relatives. Those arrangements are generally considered safe and, due to the age of the youth, the youth are less vulnerable to being harmed as an adult in those living situations.

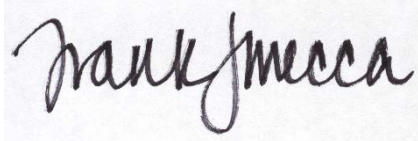
As an alternative to a monthly, in-person visit for those youth, CWDA recommends that there be a provision for "age appropriate visitation" through computer technology such as skyping to occur on a

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monthly basis, with in-person visitation once every six months. For those states such as California which has implemented an extension to age 21, the provision would enable county social workers to "skype" their monthly visit with the foster youth, given the expense of traveling to meet these youth and the time this takes away from other youth on their caseload.

Thank you for considering our comments. If you have any questions, please contact Tom Joseph, Director of CWDA's Washington, DC office at 202.898.1446 or tj@wafed.com.

Sincerely,

A handwritten signature in black ink that reads "Frank J. Mecca". The signature is written in a cursive style with a large, prominent "F" and "M".

Frank J. Mecca
Executive Director