

CHILD WELFARE AND SUBSTANCE USE: FAMILY FIRST PREVENTION SERVICES ACT

Family Recovery Pathways Conference

Tuesday, May 7, 2019

Disclaimer: This presentation is not official guidance, but was developed by the regional office for technical assistance purposes

FFPSA Presents an Opportunity for States to Reshape Child Welfare Practice

- There are strong implications for collaboration among the child welfare agency, the legal and judicial system, the Medicaid and mental health systems, public health, housing, and substance abuse treatment programs, to name a few.
- Focusing on the child welfare agency alone is not sufficient to provide the range of prevention services now available to children and families under Family First.
- Creating a range of prevention services, particularly in rural areas of states, will require the child welfare agency join the private sector and prevention organizations in the planning and implementation processes.



The Children's Bureau Vision for Reshaping Child Welfare Services

<https://vimeo.com/313243156>

New Optional Title IV-E Prevention Services Program

- Beginning in October 1, 2019, states with an approved title IV-E prevention plan may claim title IV-E for a portion of trauma-informed, evidence-based mental health services, substance abuse services and in-home parent skill-based programs for up to one year.
- Candidates for foster care as defined in the law, pregnant/parenting foster youth, and the parents/kin caregivers of those children and youth are eligible for those services.
- Programs must be provided in accordance with general and promising, supported, or well-supported practices.



Children Placed with Parents in Treatment

Family First provided a new opportunity for title IV-E foster care maintenance payments for children placed with parents in licensed residential family-based substance abuse treatment

- Requires court order giving the state placement and care responsibility for the child
- Allows 12 months of title IV-E foster care maintenance payments for an eligible child placed in certain licensed residential family-based substance abuse treatment facilities beginning October 1, 2019.
- No income-based eligibility test applies.



Implementation Strategy and Timeline

- CB is committed to timely implementation, but also completely committed to doing it well – beyond just a technical implementation process that does not change systems fundamentally.
- CB does not plan to issue regulations for several reasons, including the fact that it could easily take two or more years to put regulations in place and the FFPSA implementation time lines do not accommodate that. Second, CB intends to provide States with as much flexibility as the statute allows and, therefore, do not intend to be more prescriptive than the statute already is. Implementation through program instructions permits us to take that approach. CB has issued and are planning to issue guidance.
- To review the CB information memoranda (IM) and program instructions (PI) provided to states and tribes, visit our website at <https://www.acf.hhs.gov/cb/laws-policies/policy-program-issuances>.



Status on CB Efforts to Establish the Clearinghouse

- In June, CB issued a Federal Register Notice (FRN) seeking public comment on the criteria for determining if a program or service meets the evidentiary requirements in Family First as promising, supported, or well-supported, and for prioritizing the programs and services that will undergo review by the clearinghouse. We received comments from more than 360 commenters, which was a substantial response.
- CB also issued a procurement for the clearinghouse itself, and awarded the contract to Abt Associates who is partnering with the University of Denver and the University of Colorado, Denver.
- **The Prevention Services Clearinghouse Handbook of Standards and Procedures** was released on April 26, 2019 and is available online at <https://www.acf.hhs.gov/opre/resource/the-prevention-services-clearinghouse-handbook-of-standards-and-procedures>.
- Questions can be directed to the help desk at IV-E-Clearinghouse@abtassoc.com





CB is actively working with relevant HHS Offices: Medicaid, HRSA, CDC and SAMHSA to maximize the impact of FFPSA

- We are engaged in conversations with our colleagues from across the Department. We will continue to do so to get their assistance in the technical implementation of the program, as well as in identifying interventions to assess for inclusion in the clearinghouse.
- Our policy staff are having conversations with their counterparts at CMS, in particular, to discuss the Medicaid benefits for residential treatment programs, and we have had conversations with leadership at SAMHSA to discuss how to support states in meeting the congregate care requirements.
- We have spent considerable time with the Centers for Disease Control to identify and begin planning for overlays in priorities and opportunities.
- In addition, once the criteria are established, we intend to engage HRSA and SAMHSA to discuss collaborative efforts and identify the interventions to assess first. Ultimately, we are interested in issuing some form of joint guidance among the relevant agencies that will describe the intersections of processes and opportunities with regard to FFPSA implementation.

Resources and Links Available

- The Family First Prevention Services Act within Division E, Title VII of the Bipartisan Budget Act of 2018 (ACYF-CB-IM-18-02). The purpose of this Information Memorandum is to inform States and Tribes of the enactment of the Family First Prevention Services Act (FFPSA) and provide basic information on the new law. For more information, visit: <https://www.acf.hhs.gov/sites/default/files/cb/im1802.pdf>.
- Public Law 115-123, the Family First Prevention Services Act (ACYF-CB-PI-18-07) This Program Instruction (PI) provides instruction for: 1) changes to the title IV-E plan requirements as a result of the Family First Prevention Services Act that are effective as of January 1, 2018 and later; and 2) delayed effective dates for title IV-B/E plan requirements. For more information, visit: <https://www.acf.hhs.gov/cb/resource/pi1807>.
- Requirements for Participating in the Title IV-E Kinship Navigator Program (ACYF-CB-PI-18-11) FFPSA allows title IV-E agencies to receive funding for kinship navigator programs that meet certain criteria. The purpose of this PI is to instruct title IV-E agencies on the requirements for participating in the Title IV-E Kinship Navigator Program. For more information, visit: <https://www.acf.hhs.gov/cb/resource/pi1811>.
- State Requirements for Electing Title IV-E Prevention and Family Services and Programs (ACYF-CB-PI-18-09). FFPSA authorized 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: 1) a child who is a candidate for foster care (as defined in section 475(13) of the Act), 2) pregnant/parenting foster youth, and 3) the parents/kin caregivers of those children and youth (sections 471(e), 474(a)(6), and 475(13) of the Act). The purpose of this Program Instruction is to instruct state title IV-E agencies on the title IV-E prevention program requirements. For more information, visit: <https://www.acf.hhs.gov/sites/default/files/cb/pi1809.pdf>.

PLANS OF SAFE CARE

CAPTA/CARA Requirement



Plans of Safe Care

HISTORY: Since 2003, Child Abuse Prevention and Treatment Act (CAPTA) has included a state plan requirement that the Governor of each state provide an assurance that the state has policies and procedures to address the needs of substance-exposed infants, including requirements to make appropriate referrals to child protective services (CPS) and other appropriate services, and a requirement to develop a plan of safe care for the affected infants. As originally incorporated in sections 106(b)(2)(B)(ii) and (iii) of CAPTA. As originally incorporated into the statute in 2003, these provisions appeared in sections 106(b)(2)(A)(ii) and (iii). , the provisions required states to have policies and procedures relating to “infants born and identified as being affected by *illegal*[emphasis added] substance abuse or withdrawal symptoms resulting from prenatal drug exposure.” In 2010, the provision was amended by Congress to also include infants affected by Fetal Alcohol Spectrum Disorder.



Plans of Safe Care

- **Most recently**, on July 22, 2016, the President signed into law CARA which, among other provisions, amended sections 106(b)(2)(B)(ii) and (iii) of CAPTA to remove the term “illegal” as applied to substance abuse affecting infants and to specifically require that plans of safe care address the needs of both infants and their families or caretakers.
- CARA also added requirements relating to data collection and monitoring.

Governor's Assurance - CAPTA

- The state must “submit an assurance in the form of a certification by the Governor of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a statewide program, relating to child abuse and neglect that includes:
 - policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born and identified as being affected by *illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, including a **requirement** that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition of such infants, except that such notification shall not be construed to – (I) establish a definition under Federal law of what constitutes child abuse or neglect; or
 - require prosecution for any illegal action;



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