

# CLASP

CENTER FOR LAW AND SOCIAL POLICY

To: The Pew Commission on Children in Foster Care  
From: Rutledge Q. Hutson, on behalf of the Center for Law and Social Policy  
Date: August 1, 2003  
RE: Request for Input on Improving Federal Child Welfare Financing Mechanisms

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Thank you for the opportunity to provide input into the Commission's process for developing recommendations to improve federal financing mechanisms in ways that facilitate faster movement of children from foster care into safe, permanent families and reduce the need to place children in foster care. CLASP is pleased that the Commission is undertaking this challenge and looks forward to working with you over the coming year.

Before offering specific recommendations for the Commission to consider, we would like to outline a set of questions we believe the Commission should ponder before addressing any detailed recommendations about how to improve child welfare financing. The convening of the Commission provides a powerful opportunity to step back and take a "big picture" view of the child welfare system, rather than reacting to a specific crisis or event. The Commission is charged with developing "practical policy recommendations that will earn the support of Congress, states, courts and communities." CLASP believes that such practical solutions are most likely to emerge if the deliberative process begins with an attempt to develop consensus (or identify areas of disagreement) around the fundamental purposes and goals of the child welfare system.

From this perspective, the Commission should begin by thinking through a series of questions:

- (1) What should be the **role of the federal government** regarding children who have experienced or are at risk of maltreatment? How should the federal role fit with the role of state and local governments and communities?
- (2) **Who** should federal policy seek to assist and how should assistance be provided? Specifically, with regard to foster care, does the current policy of providing federal financial support only to poor children make sense? Does the federal government have a responsibility to provide such support for all maltreated children?
- (3) **What type of services** will reduce the need for and duration of foster care? Which of these services should the federal government support? Are there particular services that the federal government ought to encourage more than others? If so, what fiscal structures might facilitate greater development and utilization of such services?

- (4) What is the most effective means for delivering the variety of needed services to children and their families? Should federal fiscal policy **promote coordination and integration** between child welfare agencies and other social service agencies, educational systems, and criminal and juvenile justice systems? What are the potential dangers of such integration and collaboration? Should federal policy promote collaboration with local communities? What fiscal structures are most likely to foster effective collaboration?

CLASP believes that thoughtful discussion of these questions can lead to a set of principles that guide the Commission's work. Child welfare is an extremely complex system. There are a multitude of funding streams. There are numerous players, from different agencies, from different levels of government, from the community and from the families whose situations are at issue. The children and families in question often face multiple challenges and complicated lives. Finally, the stakes are high. A poor decision could result in significant harm to children. Thus, decision-making at all levels is frequently emotional and reactionary. Having a set of principles to use as a touchstone should be helpful to Commission members as they struggle with these difficult issues.

CLASP has a number of specific recommendations—some focused on long-term changes to the system and some focused on addressing pressing issues currently before us. We believe that the federal government, in partnership with state and local governments and communities, has responsibility for *all* maltreated children (and children at risk of maltreatment), not simply those who are poor.

Current federal fiscal policy under Title IV-E is largely an artifact of history. The foster care program grew out of the old Aid to Families with Dependent Children (AFDC) program. In the early 1960s, the federal government prohibited states from refusing to provide AFDC assistance to children in “unsuitable” homes. The federal government argued that if the children's homes were truly “unsuitable,” the homes needed to be remedied or the child(ren) needed to be removed. To ensure that states did not suffer fiscally when they removed children, the federal government agreed to continue to provide fiscal assistance to children removed from families that were receiving AFDC. We believe it is time to revisit the decision to support only poor children in foster care and to recognize that, as a society, we have a responsibility to protect and nurture all children.

CLASP also believes that children and families need a full range of services. The continuum of services should begin with universal prevention programs that help strengthen and support all families. More intensive services should be available to families with greater needs and risks.

When maltreatment occurs, a range of options should be available. Depending upon the safety of the child, the services may be provided while the child remains with his family or while the child is in foster care. The services available should address the child's need

for treatment and rehabilitation for the abuse and neglect, but they must also address the underlying factors that contributed to the maltreatment. For example, substance abuse and mental health treatment services must be available to all family members who need them. Economic security issues must also be addressed. Each child and family needs access to a set of individually tailored services that lead to a safe and stable family situation.

When children cannot safely remain with their families, it is critical that a permanent alternative home be found for them as quickly as possible. This too requires a range of services, including: services to address the child’s treatment needs; recruitment and training for foster parents, adoptive parents, kinship care providers and others who can provide a stable home for the child; and services that support caregivers in their efforts to help the children heal and grow (e.g., financial support, respite care, mental health services).

At CLASP, we believe that the federal government should provide support for the entire range of services needed. We also believe the current fiscal structure is poorly aligned with the goals of the Adoption and Safe Families Act (ASFA). The existing fiscal structure provides an open-ended entitlement for out-of-home placements, but provides much more limited, capped funding for the services needed to avoid such placements. This is contrary to the goals of ASFA which seeks to keep children in their homes when that can be done safely. This structure is also inconsistent with the goals of promoting permanency and well-being because it leads to inadequate, fragmented services and delays.

Ultimately, CLASP believes Title IV-E eligibility should be expanded to cover all children (regardless of income) and all services. This proposal involves several components. First, it would “de-link” Title IV-E eligibility criteria from the old AFDC eligibility criteria so that all children in need of child welfare services would be eligible for Title IV-E support. Second, it would allow states the flexibility to use Title IV-E funds for services other than foster care room and board. For example, if a child welfare agency determined that a particular child could safely remain home with intensive family services (e.g., the Direct Link program in El Paso County Colorado described in [\*\*Vision for Eliminating Poverty and Family Violence: Transforming Child Welfare and TANF in El Paso County, Colorado\*\*](#)) the agency could access Title IV-E funds to provide such services. Title IV-E funds could also be available to provide subsidies to relatives who take in children who might otherwise end up in foster care.

For several reasons, the proposed fiscal structure will enhance the safety and well-being of children, while also making it possible to move to permanency more quickly. First, the ability to utilize an open-ended funding stream to provide a full range of services will help ensure that children and their families receive the services they need—not simply those that are available. Second, the flexibility of this funding will make it simpler for states (and localities) to “braid or blend” Title IV-E funding with other funding streams to offer needed services in a more comprehensive and coordinated manner. Third, the provision of appropriate services in a timely fashion will permit the child welfare agency

and the court to determine more quickly whether a parent will be able to rectify the problems that led to the maltreatment. There will be less wondering about whether parents could pull things together if they just had access to a little more support and a little more time.

A proposal to open Title IV-E funds in this way is likely to generate Congressional concerns about costs. There are several responses to this concern. First, we believe that the ability to provide needed services early on will help avoid the need for more expensive services, such as foster care later on. We do believe there will *initially* be increased costs, at both the federal and state (and in some cases local) levels, but we are convinced these increased costs are necessary because the current system is underfunded. The lack of prevention, family support, family reunification, and post-permanency services is particularly striking, and it will take new resources to develop the capacity to provide these services on the scale required. At the same time, until these services are in place and capable of reducing the need for foster care, the costs of out-of-home placement will remain. However, we believe that in the long-run providing services early on before a family situation escalates will be cost effective. Evidence to support this contention has not been rigorously developed, but there are indications that up-front investments pay off (see [A Vision for Eliminating Poverty and Family Violence: Transforming Child Welfare and TANF in El Paso County, Colorado](#)). In any event, we at CLASP believe that providing our most vulnerable children with services that prevent them from being maltreated or that minimize the harm of the maltreatment is critical, even when it costs more.

Second, we note that opening Title IV-E in the manner we propose ensures that any increased costs will be shared by the federal and state (and in some cases local) governments. This proposal does not involve a shift in responsibility to either the federal or state government but a broader partnership between the two to jointly provide for our most vulnerable children.

Third, if the concern about costs cannot be overcome, Title IV-E could initially be opened in a time-limited way. For example, funding could be available for different sets of services for different periods of time, consistent with the time frames and goals of the Adoption and Safe Families Act (e.g., family reunification services could be available on an open-ended basis for the 15 months that ASFA generally permits reunification efforts to take place). If the Commission were to recommend imposing such time limits, we feel strongly that the time-limit provision must be presented as an explicit cost containment mechanism, rather than as a policy statement that abused and neglected children should be entitled to assistance from the federal government only for a limited period of time. We also recommend that during the first several years of implementation, a fiscal evaluation be done to determine whether such a cost containment mechanism is really necessary or whether costs are actually being saved by avoiding more expensive “deep end” services, such as residential treatment.

Finally, we recognize that it may take some time to build consensus in Congress, the states, and local communities to undertake this approach. We encourage the Commission

to work to build that consensus and we urge Congress to take a number of interim steps immediately. There are a number of crisis areas that could be addressed now in ways that would begin to strengthen the child welfare system's ability to meet the needs of maltreated children. These *immediate, interim* steps should:

- (1) Enhance the child welfare workforce by allowing Title IV-E training funds to cover a broader range of child welfare workers (e.g., private agency workers, mental health and substance abuse treatment providers, and dependency court personnel) and by making additional designated grants to states to experiment with ways to enhance worker recruitment, retention and training.
- (2) Provide additional designated funding to states to implement the Program Improvement Plans they are developing as part of the Child and Family Services Reviews.
- (3) Guarantee full funding for the Promoting Safe and Stable Families program (by making the entire authorization mandatory) so that states and communities can count on receiving at least \$505 million annually to provide services not currently funded under Title IV-E.
- (4) Permit states to claim Title IV-E reimbursements for subsidized guardianship payments.
- (5) Provide designated funding to facilitate the development of specialized substance abuse treatment services for families who are involved with the child welfare system.
- (6) Provide states with the option to use current TANF eligibility criteria to determine eligibility for Title IV-E (assuming the state's TANF eligibility is broader than its 1996 AFDC criteria).
- (7) Reauthorize and expand the child welfare waiver authority found in 42 U.S.C. § 1320a-9 so that additional states can experiment with creative approaches to providing a range of child welfare services to children and families.

These steps would enhance resources in critical areas of the child welfare system. The resources would provide states with more flexibility and allow them to begin offering more services to families in ways that are likely to avoid foster care placements when possible and to move children to permanency more quickly when foster care is necessary. These steps can also be used to help build support for a broader vision of restructuring Title IV-E to provide a more appropriate continuum of services to all maltreated children and children at risk of maltreatment. We urge Congress to enact these steps immediately, while the Commission continues to wrestle with a longer term approach to child welfare financing.

We would be happy to discuss the specifics of any of our recommendations. Please feel free to call upon us if we can support the important work the Commission is undertaking.