

## for Michigan's Children

---

August 17, 2010

### **Improving Permanency for Children in Michigan's Foster Care System: How Are Our Children Faring Since the Enactment of the Fostering Connections to Success Act?**

It has been almost two years since the former president, George W. Bush, signed into law the **Fostering Connections to Success and Increasing Adoptions Act** ([H.R. 6307](#)) on October 7, 2008. The law was enacted as a response to the number of foster youth in Michigan, and across the country, who lack permanent homes, experience negative health outcomes, and drop out of school - issues that harm their prospects to transition successfully into adulthood.

Key provisions in the Fostering Connections to Success and Increasing Adoptions Act (FCSA) include:

#### **PROMOTING PERMANENT FAMILIES FOR CHILDREN IN FOSTER CARE**

##### *With Relatives*

- **Notice to Relatives When Children Enter Care.** The FCSA increases opportunities for relatives to step in when children are removed from their parents and placed in foster care by ensuring they get notice of this removal. The Michigan Department of Human Services (DHS) relative notice policy (DHS 990) was implemented in February of 2009. Relative notification is a key permanency tool. Michigan practice aligns with federal requirement that within 30 days of removal from a child's own home, the state must exercise due diligence to identify and provide notice that a child is in foster care to all adult relatives.
- **Kinship Navigator Programs.** The FCSA guarantees funds to states through new Family Connections grants for Kinship Navigator programs, which help connect children living with relatives, both in and out of foster care, with the supports and assistance they need. Michigan did not apply for available federal funding and has not implemented a Kinship Navigator Program. There is no pending legislation or programs being developed that will address this provision.
- **Subsidized Guardianship Payments for Relatives.** The FCSA provides supports for children in foster care to leave care to live permanently with grandparents and other relative guardians when they cannot be returned home or adopted. Federal support is available to states to assist with subsidized guardianship payments to families for these children, generally to age 18. In certain circumstances, children may continue to receive guardianship assistance to age 21. The law clarifies that all children who, as of September 30, 2008, were receiving federally-supported subsidized guardianship payments or services in states with Child Welfare Demonstration Waivers will be able to continue to receive that assistance and services under the new program. It also clarifies that children who leave foster care after age 16 for kinship guardianship are eligible for the same independent living services as those who age directly out of foster care, making them eligible for education and training vouchers. In anticipation of the federal act's passage, Michigan signed into law [Public Act 15 \(SB 227\)](#) (**Clark-Coleman**) on April 9, 2009, and became effective July 1, 2009. The statute defines Michigan's subsidized guardianship program as follows:

- Only a relative who is a licensed foster parent caring for a child who is eligible to receive Title IV-E-funded foster care payments for six consecutive months is eligible for federal funding under Title IV-E for guardianship assistance;
- A child who is not eligible for Title IV-E funding who is placed with a licensed foster parent, related or unrelated, and who meets the bill's eligibility criteria, may be eligible for state-funded guardianship assistance.
- Additional requirements for a guardian to qualify for assistance include a criminal background check and a central registry check for all adults living in the home, as well as consultation with the child if he or she is at least 14 years old.
- A child who is not eligible for Title IV-E funding who was placed with a licensed foster parent, related or unrelated, and who otherwise met the bill's eligibility criteria described above, will still be eligible for State-funded guardianship assistance.

These provisions reflect FCSA requirements and will help ensure that the placement is appropriate and does not endanger the child.

Adoption of the Public Act 15 of 2009 in combination with the passage of the FCSA reduced Michigan's expenditures for subsidized guardianship per child by about 65 percent. Drawing down federal funds to supplement the state Guardianship Assistance Program (GAP) required that Michigan license guardians as foster parents for a specific period of six months before granting guardianship subsidies. This delayed the implementation of the GAP until April 27, 2009. For fiscal year 2009, \$600,000 of the state budget allocation was preserved in the state DHS budget to cover the costs of the program's roll out. It was estimated that DHS would serve as many as 450 families through subsidized guardianship. As of September 2009, 342 children and youth had a permanency goal of guardianship; however DHS reports that they have only received guardianship subsidy applications for 31 children and youth. Although no guardianships have been finalized to date, 22 of those applications have been approved. No funding was appropriated for the program in fiscal year 2010, as the bulk of the 2009 appropriation was carried forward.

- **Licensing Standards for Relatives.** The FCSA clarifies that states may waive non-safety related foster care licensing standards for relatives on a case-by-case basis. It requires the Department of Health and Human Services (HHS) to report to Congress on the use of licensing waivers and provide recommendations for increasing the percentage of relative foster family homes that are licensed. Prior to the adoption of the FCSA, a motion was filed in August of 2006 instituted by Children's Rights, a law firm based out of New York, due to the lack of permanency for youth involved in the foster care system in the state of Michigan. Although the state was following best practice in placing children with relatives, relative caretakers were not equipped with the same resources to care for the children. More than 75% (6278) children placed with relatives were placed in unlicensed homes, without access to the same resources as other youth in the foster care system. On July 3, 2008, the Children's Rights lawsuit settled out of court.

The lawsuit settlement reverses recent Michigan trends toward insisting that all foster parents (relatives and non-relatives) shall be licensed. Under the consent decree children can be placed with unlicensed relatives ONLY IF: the home assessment and safety check are appropriate; placement with the relative is determined to be in the child's best interest; benefits and licensure are explained; relatives sign a waiver refusing licensure; and the number of unlicensed homes does not exceed 10 percent. In the fiscal year 2008 and 2009 the state legislature has appropriated \$2.5 million to underwrite the costs of licensing kinship homes. Preliminary figures indicate that of the more than 6,00 children who were residing in kinship care at the time of the settlement, 2,754 exited from care without licensure, waiver or being moved; 27 percent (951) were moved; 1 percent (29) received a waiver, and 22 percent (794) were licensed. According to a report released March 2010, 2,054 children (51 percent) are living in unlicensed relative homes.

- **Establishes New Family Connection Grants.** Increases resources for Kinship Navigator programs, as described above. Also provides grants for Family Group Decision-making meetings, Intensive Family Finding activities, and Residential Family-Based Substance Abuse Treatment, all of which can help children stay safely with family members and out of foster care or, once in care, return safely to their parents or find permanence with other relatives. As referenced above, Michigan did not apply for any of the funding under the new Family Connections Grants due to budgetary and time constraints.

#### *With Adoptive Families*

- **Incentives for Adoption.** The FCSA increases incentives to states to double their efforts to find adoptive families for children in foster care, especially those with disabilities or other special needs and older youth. In addition, the law introduced the concept of an adoption rate, which is derived from comparing current year adoptions to the number of children in care at the end of the previous year. States receive an additional \$1,000 for every foster child adopted above their highest foster child adoption rate for previous years back to 2002. The Adoption Incentive program gives states \$4,000 for every foster child adopted above a 2007 baseline and additional payments for hard-to-place children: \$8,000 for every foster child age nine and older and \$4,000 for every other special needs child. In September 2009, Michigan was awarded \$856,000 adoption incentive award under the new foster connections provision. This award was based on the successful adoptions that were made during the 2008 fiscal year.
- **Adoption Assistance.** The FCSA increased opportunities for more children with special needs to receive federally-supported adoption assistance without regard to the income of the birth families from whom they were originally removed. [Public Act 17 \(HB 4159\) \(Smith\)](#) was signed into law in the state of Michigan on April 9, 2009. The Act modifies Michigan's adoption support subsidy to be in compliance with federal IV-E standards, making it easier for some adoptive parents to obtain adoption subsidies. Previous policy required the conditions for eligibility to include certification to be made before the adoption petition was filed. PA 17 requires certification to be made and the contract agreement signed by the adoptive parent or parents and the DHS before the adoption is finalized, extending the window of time. Michigan law also deleted a requirement that the adoptive parent request a support subsidy not later than the date of confirmation of the adoption.

#### *With Siblings*

- **Keeping Siblings Together.** The FCSA acknowledges and preserves the sibling bond for children by requiring states to make reasonable efforts to place siblings together when they must be removed from their parents' home, provided it is in the children's best interests. In the case of siblings not placed together, states must make reasonable efforts to provide for frequent visitation or other ongoing interaction, unless such interaction would be harmful to any of the siblings. In compliance with federal law, Michigan policy emphasizes the preservation of the sibling bond by requiring the state to make reasonable efforts to place siblings in the same foster home, kinship guardianship or adoptive placement. All siblings who enter placement at or near the same time shall be placed together, unless:
  - One of the siblings has exceptional needs that can be met only in a specialized program or facility;
  - Such placement is harmful to one or more of the siblings; or
  - The size of the sibling group makes one placement impractical, notwithstanding diligent efforts to place the siblings within the same home.

For purposes of placement regarding the size of the sibling group, the current Michigan licensing rules still apply. If the sibling group is not placed within the same out-of-home placement, the efforts made to place the siblings together and the reason why the siblings are separated must be documented by the foster care worker in the case service plan. Reasonable efforts to place siblings together *are required* unless the placement would be contrary to the safety or well-being of any of the siblings and the reasons why must be documented in the case service plan. If reasonable efforts to place siblings together are documented but a sibling group is separated at any time, the case worker must make immediate efforts to locate or recruit a family in whose home the siblings can be reunited.

## IMPROVING OUTCOMES FOR CHILDREN AND YOUTH IN FOSTER CARE

- **Foster Care for Older Youth.** The FCSA helps youth who turn 18 in foster care without permanent families to remain in care, at state option, to age 19, 20, or 21 with continued federal support to increase their opportunities for success as they transition to adulthood. Michigan has existing policies that allow youth to stay in foster care until the age of 20. As of March 31, 2009, the most recent data available, there were 849 foster youth in care at age 18; 357 youth in care at 19; and 34 youth in care at 20.
- **Educational Stability.** The FCSA helps children and youth in foster care, guardianship and adoption achieve their educational goals by requiring that states ensure that they attend school and when placed in foster care, remain in their same school where appropriate, or, when a move is necessary, get help transferring promptly to a new school. It also provides increased federal support to assist with school-related transportation costs. Michigan has implemented several new policies to adhere to the FCSA:
  - The DHS will place fourteen education planners throughout the state that will be designated to assist foster care youth in not only meeting their needs in the K-12 institutions, but also with their transition from high school to college. Students can be served by education planners until they reach their 20<sup>th</sup> birthdays.
  - In February 2009, the Michigan Department of Education adopted a policy that dovetails with the federal McKinney Vento Act. Under the state policy, foster care youth are eligible for homeless youth services through the serving school district for the child's first six months of placement in a consistent setting. Students who are not experiencing a consistent placement for a period of six consecutive months are eligible for services until consistency is achieved. Students served under the McKinney Vento Act are provided transportation by the school district of origin.
  - The current Michigan school code requires school placement for foster care youth to occur in the district of residence. [Public Act 186 of 2009 \(HB 5298\) \(Valentine\)](#) and [Public Act 187 of 2009 \(HB 5299\) \(Kurtz\)](#) are designed to ensure that children stay in their school of origin regardless of placement change. Foster care parents who are responsible for providing transportation to the home school would be reimbursed for mileage for their efforts. These bills signed into law in December of 2009.
- **Health Care Coordination.** The FCSA helps improve health care for children and youth in foster care by requiring better coordination of health care by state child welfare and Medicaid agencies to ensure appropriate screenings and assessments and follow-up treatment and to assure sharing of critical information with appropriate providers and oversight of prescription medications. In September 2009, DHS hired a medical director to oversee the implementation of health care coordination for children in the foster care system. DHS reorganized the Children's Services Administration to add a Health Unit. The responsibilities of the Health Unit include providing

centralized strategic planning for health policy, oversight and tracking of psychotropic medication, use of residential care for children in state custody and monitoring field compliance with health requirements. Current staff assigned to the Health Unit includes Dr. Zakia Alavi, DHS Medical Director, the DHS Health, Mental Health and Substance Abuse Liaison, the manager of the Residential Treatment and Transition Unit (RTTU) and three policy analysts.

The fiscal year 2008 DCH budget (Public Act 246) included boilerplate language directing that department to enroll all children in foster care in Michigan in a Medicaid health maintenance organization. DHS is developing protocols and structures within local offices in response to the transition of foster children to managed care. A health liaison officer will be placed in each DHS office and will serve as the face of the agency to work with the managed care provider. The health liaison will ensure timely health care access for children served by private agencies. The health liaison officer will:

- Know all the available managed care providers.
- Back-up workers in the enrollment and disenrollment process.
- Ensure that established health care procedures are followed.
- Track health outcomes.
- Assess family, child and provider satisfaction.
- Make improvements based on data and outcomes.

It is anticipated that with careful planning, access to health care for foster children will improve when the transition to managed care providers occurs.

A Child Welfare Health Advisory Board (CWHAB) has also been established and has begun meeting in June 2010. Membership of the CWHAB includes child psychiatrists and pediatricians with experience working with the foster care population. The CWHAB reviews new health information and determines its application in the child welfare system. In the area of psychotropic medication prescribing, the CWHAB is responsible for:

- Reviewing and updating prescribing guidelines.
- Developing a plan for ongoing professional oversight at a regional level.
- Conducting reviews on complex cases.
- Providing input on informed consent policies.

The Serious Emotionally Disturbed Waiver (SEDW) pilot expands the use of home and community-based services to support children at risk of psychiatric hospitalization and residential or institutional placement, by using the 1915 (c) waiver for children with SED to allow additional services. The priority population for this pilot is the DHS permanency backlog, children who have been awaiting reunification or adoption for over a year with extensive mental health needs identified as a barrier to permanency. For FY 2009, DHS redirected \$1.7 million in general funds to this project, and when matched with \$6.3 million in Medicaid funds, 266 children in eight pilot sites can receive services. On December 7, 2009, the first DHS child began receiving SED waiver services.

Identification of children for the SEDW requires close coordination between local DHS and their CMH partners. To assist in identifying foster children for the SEDW, DCH funded a CMH local access position for each pilot site. This CMH staff person is located at the DHS county office. The local access position assists DHS workers in identifying children for the SEDW, complete assessments and facilitates the paperwork for the waiver. DHS is providing office space, telephone and a computer for the CMH staff person. The local access person also assists DHS workers in finding services for children who do not meet the eligibility requirements of the SEDW, yet still require mental health intervention.

Too often, children with challenging mental health needs are placed in residential care for long periods without a plan in place for successful reintegration into a community setting. DHS recognizes that residential care has its place in the continuum of care to meet the mental health needs of children, but it must be a treatment intervention, not a permanent placement. In order to monitor the use of residential treatment and ensure a best practice model, DHS established a new unit in the Children's Services Administration called the **Residential** Treatment and Transition Unit (RTTU). As of December 2009, the unit:

- Has five staff and a manager with child welfare, juvenile justice and residential experience.
- Conducts intensive case reviews on children in residential placement over a year and/or with multiple residential placements.
- Develops a centralized approval process for all residential placements.
- Gathers best practices for treatment, programming and placement decisions.
- Develops policy, guidelines and training for workers with children in residential placements.
- Researches, develops and implements step-down alternatives, such as community residential homes or therapeutic foster care.
- Ensures that discharge planning from residential placements (including psychiatric hospitals) occurs and is an integral part of the treatment planning process and the decision to place a child in residential care.

The RTTU staff participated in several trainings including residential permanency planning training through the National Resource Center for Family-Centered Practice and Permanency Planning and in-house training and bi-monthly case reviews with the DHS medical director. Additionally, the unit will coordinate with the Child Welfare Training Institute to develop a training curriculum for DHS staff about residential treatment and to address effective transition to step down programs or return home.

Since July 31, 2009, the population of foster children in residential child caring institutions decreased 16 percent, from 1,158 to 971 on February 28, 2010.

#### **INCREASING SUPPORT FOR AMERICAN INDIAN AND ALASKA NATIVE CHILDREN**

- **Direct Access to Federal Support for Indian Tribes.** The FCSA offers, for the first time, many American Indian and Alaska Native children federal assistance and protections through the federal foster care and adoption assistance programs that hundreds of thousands of other children are eligible for already. There are two tribal nations in Michigan that have filed for direct access to federal assistance, including the Keweenaw Bay Indian Community, and the Little Traverse Bay Band of Odawa Indians. Keweenaw Bay's proposal was awarded & they currently mid-process in completing their needs assessment.
- **Technical Assistance and Implementation Services.** The FCSA requires HHS to provide technical assistance and implementation services dedicated to improving services and permanency outcomes for Indian children and their families. Technical assistance to Michigan tribes and to other tribal programs across the state is being provided by the Midwest Child Welfare Implementation Center, out of University of Nebraska on the Lincoln Center on Children, Families and the Law.

#### **IMPROVING THE QUALITY OF STAFF WORKING WITH CHILDREN IN THE CHILD WELFARE SYSTEM**

- **Extended federal support for training of staff.** The FCSA expands the availability of federal training dollars, on a phased-in basis, to reach more of those caring for and working with children in the child welfare system, including relative guardians, staff of private child welfare agencies, court personnel, attorneys, guardian ad litem, and court appointed special advocates. Title IV-E currently covers 75% of the costs for the DHS to train new hires and covers 50% of the costs for training

private agency staff through the Child Welfare Training Institute (CWTI). It also covers 50% of the cost of CWTI's development and implementation costs for offering other training, such as specific transfer training for those moving from one field of child welfare practice to another (foster care, child protective services, adoption) and in-service training. In addition to training public and private staff and supervisors of child welfare agencies, CWTI partners with the State Court Administrators Office to offer training to court personnel, attorneys, guardian ad litem, court appointed special advocates, and judges. FCSA dollars are being explored to expand CWTI training to include training for resource families, including relative caretakers, foster and adoptive parents in early 2011. Training targeting resource families will focus specifically on understanding children's needs and will cover trauma and medication/poly-pharmacy issues.

*For more information on current advocacy efforts that impact youth in transition, visit Michigan's Children's website at <http://www.michiganschildren.org>, or contact Angelique Day at [day.angelique@michiganschildren.org](mailto:day.angelique@michiganschildren.org).*

428 W. Lenawee, Lansing MI 48933  
517.485.3500  
<http://www.michiganschildren.org>