# The Family First Act and Iowa: An Introduction to Opportunities, Challenges, and Upcoming Decisions

(October 19, 2018)

The Family First Prevention Services Act (FFPSA), approved on a bipartisan basis by Congress in February 2018, represents a major redesign in how the federal government structures federal financing of child welfare and is accompanied by a potential infusion of federal funds. The FFPSA, often referred to as the Family First Act, includes many components, but the main goals behind the law are helping families in crisis safely stay together and reducing the foster care population by:

1. Focusing on prevention of entry into foster care, and
2. Increasing the number of children successfully exiting foster care by reducing reliance on foster group care and shelter care.

These are worthy, child- and family-centered goals for our nation's child welfare system although Iowa has some implementation challenges ahead.

This brief highlights several key components of the FFPSA based on currently-available information. Guidance from the federal government due late fall should clarify some key questions and help states prepare for the significant child welfare reforms ahead.

## Two Major Changes in Funding to the States and One Big State Decision

### Background on Federal Funding for Child Welfare in Iowa

Historically, under Title IV-E of the Social Security Act, the federal government has provided funding to states to support child welfare efforts. It is the largest federal funding stream for child welfare. It has provided support to states in four areas: (1) foster care, (2) adoption assistance, (3) guardianship assistance; and (4) the Chafee Foster Care Independence Program. For the Iowa Department of Human Services (DHS) to receive reimbursement for foster care, adoption assistance, and guardianship, children must meet the income eligibility requirements.

In Iowa, these funds support a number of costs in each of these four areas. Regarding foster care, reimbursement goes toward expenses like food, clothing, shelter, placement, administrative costs, and training for caseworkers and foster care providers. Relating to adoption assistance, reimbursement covers adoption subsidies, administrative costs, and training for adoptive parents. Reimbursable guardianship assistance costs include kinship guardianship assistance payments and associated training and administrative costs. The Iowa Department of Human Services is in the process of noticing administrative rules to implement subsidized guardianship in accordance with the federal policies under the Fostering Connections to Success Act. The prospective guardian must be a licensed foster parent, and the child must reside in the homes for six months as a child in foster care. It is anticipated that the program will be implemented in the spring of 2019. Finally, Chafee, unlike the reimbursable areas, is not linked to income eligibility. *Through Chaffee, Iowa receives a flat amount of a little over $2.5 Million each year to spend on transitional services for youth likely to age out of foster care.*[i]

Some states have pursued demonstration waivers to use IV-E funding more flexibly to test innovative approaches to child welfare service delivery and financing. Unless a state has a waiver, IV-E funding has never been allowed to support programs that prevent children from coming into foster care. Iowa does not currently operate with a IV-E waiver.

Starting October 1, 2019, Title IV-E funding will change in two key ways for which Iowa leaders need to prepare.

## Major Changes in Funding

### (1) More Flexibility to Invest in Prevention for Families at Risk of Removal

**Under the FFPSA, money is available to states through Title IV-E for time-limited services to prevent entries into foster care.**[ii] These prevention services funds may be used for mental health, substance use, and in-home parenting skills services for two particular populations, regardless of their income:

- children at imminent risk of placement in foster care and their parents or kinship caregivers, and
- pregnant and parenting youth in foster care.

Beginning October 1, 2019, half of the cost of eligible prevention services may be reimbursed through IV-E; however, starting in 2027, the reimbursement will be tied to the federal FMAP funding formula.

The new federal funding for prevention is intended to supplement — not supplant — state funding for prevention services. *Under the maintenance-of-effort requirement, states must at least continue their FY2014-level spending for these same prevention services for candidates for foster care in order to draw down the funding.*

Services are allowable for up to 12 months with no limit on how many times a child and family can receive prevention services if the child continues to be at risk of entry into foster care. Services must be supported by evidence and trauma-informed.

## (2) IV-E Funding No Longer Available for Certain Foster Group Care/Shelter Placements

**Under the FFPSA, there are limitations on IV-E funding for placements that are not foster family homes. The limitations effect children in foster care in "child care institutions," a category that covers many of the state's current foster group homes and shelters.** After children are in care for two weeks, IV-E funding will only support their placement in specific settings:

- a setting specializing in providing prenatal, post-partum, or parenting supports to youth
- in the case of a youth who has attained 18 years of age, a supervised setting in which the youth is living independently;
- a setting providing high-quality residential care and supportive services to children and youth who are victims of or at risk of becoming victims of sex trafficking;
- a licensed family based residential treatment facilities for substance use; and
- Qualified Residential Treatment Programs (QRTP)

QRTP, a new term introduced by the FFPSA, has a high standard that many foster group care/ shelter placements in Iowa would have to work hard to meet in order to receive payment through IV-E. FFPSA places additional requirements on our current group home and shelter providers. A QRTP must be a program that[iii]:

- has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the required 30-day assessment of the appropriateness of the QRTP placement;
- to extent appropriate, and in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;

- facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;
- documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;
- provides discharge planning and family-based aftercare support for at least 6 months post-discharge;
- is licensed in accordance with the title IV-E requirements (section 471(a)(10) of the Act) and is accredited by any of the following independent, not-for-profit organizations: The Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation (COA), or any other independent, not-for-profit accrediting organization approved by HHS; and
- has registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state/tribal law, are on-site according to the treatment model, and are available 24 hours a day and 7 days a week. A rule of construction in section 472(k)(6) of the Act indicates that this requirement shall not be construed as requiring a QRTP to acquire nursing and behavioral health staff solely through means of a direct employer to employee relationship (sections 472(k)(4) of the Act).

Iowa could experience diminished foster care capacity unless the state adequately prepares and allocates dollars towards readiness:

1. The current foster group care and shelter contracts do not require accreditation.
2. FFPSA requires additional background checks for staff working in QRTP.
3. The current room and board rate do not take into consideration the expenses related to facilitating participation of families, siblings, and fictive kin of the child.
4. FFPSA requires 6 months of aftercare support and researched practices should be used to provide quality aftercare services that will prevent re-entry into care.
5. QRTPs are required to have nursing staff available 24/7.
6. A qualified individual must complete a 30-day assessment to determine appropriateness of a placement. This is not currently in our system.
7. Current group care and shelter providers are not required to implement a trauma informed treatment model.

8. The Recruitment, Retention, Training & Support (RRTS) of Resource Families contract will need support to increase the capacity for recruitment, retention, training, and support of enhanced foster homes to ensure least restrictive settings are available when appropriate for youth needing out of home placement.
    - Under FFPSA there is one-time, $8 million competitive grant available through 2022 to support the recruitment and retention of high-quality foster families.

### Big Decisions for the State of Iowa to Make Regarding Timing

States may delay implementation of these new limitations on IV-E reimbursement for foster care for up to two years. However, delaying implementation precludes states from taking advantage of the new prevention funding until implementation begins.

**The state of Iowa plans on delaying implementation of the prevention activities and the limitations on IV-Funding for placements that are not family foster homesto July 1, 2020.**

The requirements for additional background checks in foster group care and shelters was effective on October 1, 2018. A delay of this requirement is permitted if there is necessary legislation to move the implementation forward.

## Why Iowa Should Boost Prevention to Limit the Number of Children Entering Foster Care

Removing children from their families is traumatic for the children and costly to taxpayers. **The FFPSA presents an opportunity for the Iowa Department of Human Services to offer more supports for families at risk of having children enter foster care to ensure the best outcome for children: staying safely with their biological families whenever possible rather than being removed and entering foster care.**

This opportunity comes at a time when the Iowa foster care population, is growing. Over the last four years, more children have come into foster care than exited; a trend that is putting pressure on an already stressed system. This is expensive for the state, and an overburdened system creates increased risks for children. This challenge is not unique to Iowa. Nationwide, since 2011, the foster care population has been growing.

| Fiscal Year | Children in DHS Responsibility* | Change over Previous Year | Percent Increase |
|---|---|---|---|
| 2017 | 6290 | 672 | 10.7% |
| 2016 | 5618 | 129 | 2.3% |
| 2015 | 5489 | 16 | .3% |
| 2014 | 5473 | n/a | n/a |

*Number represent ending caseload counts for each fiscal year.

*In Iowa, about 62% of children who enter foster care eventually go home to their parents or primary caretakers*.[iv] If families had access to the right services and supports earlier, many of these children may have been able to remain safely with their families instead of entering the foster care system.

*Iowa's reunification numbers (62 percent)[v] are above the national average (51 percent)*.[vi] What may contribute to Iowa's above-average reunification numbers is that *Iowa has more children enter and remain in out of home care at a higher rate than the national average*.

- At the end of 2016, Iowa had just under 6,000 children in care, a rate of about 8.2 per 1,000 children in the population, compared with the national rate of about 5.5. Reducing entries into foster care through effective prevention services could also boost reunification and the number of children exiting foster care. Entries into care each year occur at a rate of about 6 per 1000 children in the population compared with a national rate of about 3.3. This number is somewhat difficult to interpret, however, given that children entering through the juvenile justice system are also included in the population. This is not true of foster care counts in many states. A total count of calendar year 2016 showed that 10,200 children were in out of home care for some portion of the year. Of those, 1,530 were placed through juvenile services, and 8,670 entered through child welfare services. If these figures hold true currently, they suggest that, at any one time, about 18 per cent of children in care are placed through juvenile justice.[vii]

Investing more in prevention should help stem the tide of growth in the state's foster care population and pay off in long-term cost savings to the state. *To be clear, this investment will not lead to an absolute reduction in removals, considering the increase of the number of kids living in poverty in Iowa (up 44% from 2000-2016).* [viii]

## Prevention Supports That Will Benefit Iowa Parents and Kids

There are several areas where Iowa children and families would benefit from additional investment in prevention. In 2017, according to the DHS Child Welfare By the Numbers, *65 percent of confirmed allegations of abuse or neglect in Iowa were denial of critical care*[ix]. Denial of critical care means failure to provide adequate food/nutrition, shelter, clothing, health care, mental health care, gross failure to meet emotional needs or failure to provide proper supervision that a reasonable and prudent person would. *Eleven (11) percent of confirmed allegations of abuse or neglect in Iowa were for dangerous substance.* Dangerous substances are defined as:

- Amphetamine, its salts, isomers, or salts of its isomers
- Methamphetamine, its salts, isomers, or salts of its isomers
- A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of people who are in the vicinity while the chemical or combination of chemicals is used or is intended to be used in any of the following:
- The process of manufacturing an illegal or controlled substance
- As a precursor in the manufacturing of an illegal or controlled substance
- As an intermediary in the manufacturing of an illegal or controlled substance
- Cocaine, its salts, isomers, salts of its isomers, or derivatives
- Heroin, its salts, isomers, salts of its isomers, or derivatives
- Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate

In Iowa, new prevention funding under the FFPSA would most likely be used to enhance services provided to some families through the Safety Plan/Family, Safety, Risk and Permanency (FSRP) services and the implementation of evidence-based, evidence-informed, promising, supported, or well-supported practices provided to keep children safely in their homes and out of foster care.

**It is important to note that the FFPSA takes a somewhat narrow approach to prevention that focuses on children "at imminent risk" of entering foster care, a category that states will define on their own.** Whether programs like the Community Care or home visiting programs would be eligible for IV-E funding will depend on how Iowa chooses to define "at imminent risk" of entering foster care. As FFPSA prevention is specifically aimed at safely allowing children to remain with their parents in their communities, Iowa should increase its investment in the continuum of prevention services that further that goal.

It is also important to highlight that only prevention programs with promising, supported, or well-supported practices will be reimbursable through FFPSA. Which existing Iowa programs will meet these standards and how Iowa expands the array of evidence-based, evidence-informed, promising, supported, or well-supported practices programs are questions DHS is currently exploring. We expect

further guidance from the U.S. Health and Human Services Department on the evidentiary requirements for funded prevention programs.

What we do know, to maximize positive outcomes for children and families, innovation and investment in evidence-based, evidence-informed, promising, supported or well-supported practices are needed. This will require greater flexibility based on regional needs, readiness which includes training, ramping up and purchasing evidence-based, evidence-informed, promising, supported or well-supported practices. In addition to costs related to implementation with fidelity. FFPSA requires more of providers as well as more from DHS to ensure fidelity to selected models which will require greater investment in Iowa.

## Iowa Should Invest in Quality Residential Treatment Programs, But There Will be Challenges at First

National research on the use of residential setting indicates that most children in foster care are best served in a family setting, yet it is imperative that Quality Residential Treatment Programs remain available to youth who are in need. Although residential settings should be included in the continuum of foster care placements as it may be the most appropriate option for some children with significant therapeutic needs, national research on the use of residential settings indicates that most children in foster care are best served in a family setting.[x] In fact, residential settings may lead to more behavior problems and result in fewer children finding a permanent home.[xi] Stays in residential settings should be based on the specialized needs of children. **High-quality residential treatment programs may be necessary to stabilize children with intensive therapeutic needs and the duration of services should be based on** the evidence-based, evidence-informed, promising, supported, or well-supported practices **and the individual child and family with the goal of transitioning to the least restrictive family setting.**

*In Iowa, about **12 percent** of youth in foster care were placed in foster group care or shelter in 2017 at any given time.*

**There is little doubt that reducing the use of foster group care/shelter as quickly as the FFPSA requires (by October 2019 or as late as October 2021) will likely be costly, at least initially, and challenging.** As noted earlier, there are investments that need to be made in order to ensure Iowa has services and providers eligible to help Iowa continue receiving federal financial assistance under the QRTP standards. Any loss of federal reimbursement for Iowa foster care/shelter providers means Iowa would have to

supplement the lost federal funding with general revenue. There is no time limit on using a foster group home or shelter that qualifies as a QRTP, but there will be a new review process to ensure children are not staying in a foster group care or shelter longer than necessary. The necessity of the placement must be assessed after 30 days. Then the need for continued care in that placement will be reassessed every 60 days. And if a child is in care for 12 months straight or 18 months total, under FFPSA, the Director of the DHS will have to sign off on the placement. The law also requires that states demonstrate procedures and protocols to ensure that youth in foster care are not inappropriately given mental health diagnoses to justify placements.

## Decisions Ahead for Iowa Policymakers: How to Prepare for Funding Changes

Iowa could take advantage of the new prevention funding and begin implementation of the FFPSA as soon as October 1, 2019 or delay implementation until as late as 2021 to give the state time to prepare to meet the new foster group care/shelter requirements.

- **The state of Iowa plans on delaying implementation to July 1, 2020.**

The delay allows Iowa more time to invest in meeting QRTPs standards, increase enhanced foster home and supports, invest in evidence-based, evidence-informed, promising, supported, or well-supported practices and establish more effective contracting processes for the prevention services outlined in FFPSA. The law also comes with new data collection, reporting, and evaluation requirements, which will require expenditures to update some of Iowa's existing information technology.

**Congress sent a clear message through FFPSA that child welfare should move in the direction of enhanced prevention services, family preservation, and reduced reliance on foster group care/shelter and an increased focus on adherence to research proven services.** Given this direction, Iowa should continue building on our state's array of existing prevention services and identify additional supports shown to help families at risk of child welfare involvement safely stay together**. This means that smart investment in services that help meet the needs of families—** evidence-based, evidence-informed, promising, supported, or well-supported practices **— should be top child welfare priorities in the 2019 legislative session.** Iowa should begin to map the current array of evidence-based, evidence-informed, promising, supported, or well-supported practices and not limit the market of these practices but identify gaps in the current system to allow for geographical differences that meet the needs of the diverse communities in the state of Iowa. Iowa should also begin identifying and implementing

strategies to recruit more foster family homes, including the investment in enhanced foster homes, and increase the capacity of foster group care/shelter providers to be able to meet the new QRTP standards so that Iowa can maximize federal funding opportunities for foster care/shelter placements under FFPSA.

There are still many unanswered questions related to FFPSA implementation; although federal guidance expected by late fall, should help Iowa leaders develop priorities and develop a plan for FFPSA implementation.

As Iowa leaders prepare to make the decision about when to implement the FFPSA, key questions to answer include the following:

- How will Iowa define a child at imminent risk of entering foster care?
- Which existing prevention services are most likely to reduce the number of children removed from their families and placed in foster care if scaled up?
- What investments need to be made to ensure prevention services are implemented at the frequency, intensity, and fidelity in which they were developed to produce lasting outcomes?
- Are there significant gaps in the types or geographic distribution of eligible prevention services?
- Does Iowa need to create, identify, or expand treatment and other prevention programs to ensure the state can maximize the federal funding?
- Does Iowa need to target recruitment efforts in certain areas of the state or for specific populations to ensure an adequate number of well-prepared and trauma-informed foster homes that can serve the unique needs of more youth in care? How fast can Iowa recruit new, high-quality foster families? How much will these recruitment efforts cost the state?
- What do quality residential treatment programs (foster group care/shelter) need to do to meet FFPSA's standards, how long will it take, and what efforts will be made to make it happen?
- What are the evidence-based, evidence-informed, promising, supported, or well-supported practices that should be a top priority investment during the 2019 legislative session?
- What type and how much funding is needed as the initial investment in the systemic change to move towards strong prevention and community-based services?
- What infrastructure is needed by the Iowa Department of Human Services to be compliant with FFPSA?
- What focused efforts need to be placed on youth aging out of the foster care system?

i Title IV-B (Federal Social Security): Annual Progress and Service Report (APSR) - FFY 2018: https://dhs.iowa.gov/sites/default/files/0.%20%20IA%202018%20APSR%20-%20ALL%20MATERIALS.pdf

ii Brady, Committee on Ways and Means Report 114-628, Congress.gov (Jun. 21, 2016) available at https://www.congress.gov/114/crpt/hrpt628/CRPT-114hrpt628.pdf ("The Committee believes the intent of this legislation is for states to use these new matching funds in the panoply of possible scenarios under which a child may be at imminent risk of entering foster care and would likely enter but for the provision of support services"); see Senator Chuck Grassley (R-Iowa), Preventing child abuse and neglect fatalities, The Hill (05/09/2018 12:10 PM EDT), http://thehill.com/blogs/congress-blog/politics/386807-preventing-child-abuse-and-neglect-fatalities ("If we can work to prevent child abuse and neglect from taking place, we can reduce the number of children in foster care"); see also H.R. Res. 1892, 115th Cong. (2018) (enacted), available at https://www.congress.gov/115/bills/hr1892/BILLS-115hr1892enr.pdf .

iii ACYF-CB-IM-18-02 (April 12, 2018: https://www.acf.hhs.gov/sites/default/files/cb/im1802.pdf

iv CWLA's Iowa's Children 2017: https://www.cwla.org/wp-content/uploads/2017/04/IOWA-revised-1.pdf

v CWLA's Iowa's Children 2017: https://www.cwla.org/wp-content/uploads/2017/04/IOWA-revised-1.pdf

vi 6 The AFCARS Report No. 24, U.S. Dep't of Health & Human Servs, Admin. Of Children & Families, Children's Bureau (Oct. 20, 2017), available at https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport24.pdf

vii The Child Welfare Policy & Practice Group Iowa Department of Human Services Initial Targeted Child Welfare Review (December 22, 2017) https://dhs.iowa.gov/sites/default/files/DHS_CW_Review_Final_Report_12.22.17.pdf

viii Anne E. Casey Foundation: Kids Count: https://www.cfpciowa.org/en/data/kids_count/

ix Calendar Year 2017: By the Numbers: https://dhs.iowa.gov/sites/default/files/childwelfarebythenumbers2017.pdf

x 1 U.S. Dep't of Health & Human Servs., Admin. for Children & Families, Children's Bureau, A National Look at the Use of Congregate Care in Child Welfare (2015), available at https://www.acf.hhs.gov/cb/resource/congregate-care-brief.

xi U.S. Dep't of Health & Human Servs., Admin. for Children & Families, Children's Bureau, A National Look at the Use of Congregate Care in Child Welfare (2015), available at https://www.acf.hhs.gov/cb/resource/congregate-care-brief; Congregate Care, Residential Treatment and Group Home State Legislature Enactments 2009-2013, National Conference of State Legislatures (2/10/2017), http://www.ncsl.org/research/human-services/congregate-care-and-group-home-statelegislative-enactments.aspx; Mary Dozier, Charles H. Zeneah, Allison R Wallin & Carole Shauffer, Institutional Care for Young Children: Review of Literature and Policy Implications, U.S. Nat'l Library of Medicine, Nat'l Inst. of Health, (2013 Mar 6) available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3600163/; The Annie E. Casey Foundation, Reducing Congregate Care: Worth the Fight (Apr. 4, 2012), http://www.aecf.org/blog/reducing-congregate-care-worth-the-fight/.