

F-1
Family First Prevention
Services Act

F-2
Foster Care

F-3
Medicaid Waivers

F-4
The Opioid Crisis

F-5
Recent Changes to
Health Professions'
Scope of Practice

F-6
Recent Telemedicine
Legislation in Kansas

F-7
State Hospitals

Ashley Stites
Fiscal Analyst
785-296-3181
Ashley.Stites@klrd.ks.gov

Health and Social Services

F-1 Family First Prevention Services Act

Background and History

The federal Family First Prevention Services Act (FFPSA), included in the Bipartisan Budget Act of 2018 (HR 1892), was signed into law on February 9, 2018. FFPSA enables states to use funds under Title IV-E and Title IV-B of the Social Security Act (designated in this article as SSA) to provide enhanced support to children at risk of entering foster care. The bill authorizes federal reimbursement of mental health and substance abuse prevention and treatment services, in-home parent skills-based programs, and kinship navigator services. The bill also includes new restrictions on federal reimbursement for children placed in non-foster home placements.

Prior to the enactment of FFPSA, the Title IV-E foster care maintenance payments program provided federal reimbursement to states for payments made to provide shelter, food, and clothing for children in foster care. The funding also covered administrative costs, training of child welfare staff and foster parents, recruitment of foster parents, and data collection.¹ States, territories, and tribes with an approved Title IV-E plan have the option to use these funds for prevention services for children at risk of entering foster care.

Title IV-B provides funding for services to ensure children at risk of entering foster care can safely stay at home. The funding can be used for child protective services, caseworker activities, counseling, emergency assistance, family preservation services, time-limited family reunification services, and family support or prevention services.² FFPSA eliminates the time limit for family reunification services, requires states to implement electronic interstate processing systems for children in foster care, and reauthorizes Regional Partnership Grants.

Part I – Prevention Activities Under Title IV-E

Eligibility

States that choose to provide Title IV-E prevention services must submit a Prevention Services and Programs five-year plan as part of the state's Title IV-E plan (SSA Section 471(3)(5)). The plan must describe the target population for the services, specific outcomes

for children and families, the state's evaluation strategy, the specific practices the state plans to use, the state's plan for implementation, the state's consultation with other agencies that serve children and families, steps taken to support and enhance child welfare caseworkers, the state's plan to oversee caseload size, and an assurance that the state will report to the U.S. Department of Health and Human Services (HHS).

The Kansas Department for Children and Families (DCF) intends to submit a Prevention Services and Programs five-year plan as part of its Title IV-E plan due on June 30, 2019. DCF is waiting on additional guidance from HHS.

States may use Title IV-E to provide prevention services to a child who is a "candidate for foster care," defined as a child at imminent risk of entering foster care but who can remain safely in the child's home as long as services or programs are provided or a child whose adoption or guardianship arrangement is at risk of disruption or dissolution (SSA Section 475(13)), a child in foster care who is pregnant or parenting foster youth (SSA Section 471(e)(2)(B)), or parents or kin caregivers (Section 471(e)(1) of the SSA).

Services available for federal reimbursement under Title IV-E include in-home parent skills-based programs (such as parent skills training, parent education, and individual and family counseling) and mental health and substance abuse prevention and treatment services provided by a qualified clinician. These services are limited to 12 months, beginning on the date the child or family is identified in a prevention plan as eligible for services under Section 471(e)(1)(A) and (B) of the SSA.

State Requirements

States must maintain a written prevention plan that identifies the prevention strategy, lists all services or programs that will be provided to or on behalf of the child, and complies with any other requirements HHS establishes. Additionally, in the case of a youth in foster care who is pregnant or parenting a child in foster care while in state custody, the prevention plan must be included in

the child's case plan and include the prevention strategy for any child born to the youth (SSA Section 471(e)(4)(A)).

Services and programs provided to or on behalf of the child must be trauma informed. Trauma-informed services are provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions (SSA Section 471(e)(4)(B)).

Any service provided must meet the following general practice requirements:

- The practice has a book, manual, or other available writings that specify the components of the practice protocol and describe how to administer the practice;
- There is no empirical basis suggesting, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it;
- If multiple outcome studies have been conducted, the overall weight of evidence supports the benefits of the practice;
- Outcome measures are reliable and valid, and are administered consistently and accurately across all those receiving the practice; and
- There is no case data suggesting a risk of harm that was probably caused by the treatment and that was severe or frequent.

In addition to the general practice requirements, the services must be provided in accordance with promising, supported, or well-supported practice requirements (SSA Section 471(e)(4)(C)). States may not receive a federal reimbursement unless the state plan includes a well-designed and rigorous evaluation strategy. HHS may waive this requirement if the evidence of the practice is compelling and the state meets continuous quality improvement requirements for the practice (SSA Section 471(e)(5)(iii)(II)). HHS is anticipated to issue guidance regarding specific

practice criteria and pre-approved services and programs by October 1, 2018.

States are required to collect and report information for each child for whom, or on whose behalf, mental health and substance abuse prevention and treatment services or in-home parent skills-based programs are provided. This information must include the specific services or programs provided, the duration of services, and the child's placement status at the beginning and the end of the one-year period for any child determined to be a candidate for foster care and whether the child entered foster care within two years after being determined a candidate for foster care.

DCF is currently identifying evidence-based practices in Kansas the agency may be able to develop to meet the requirements of FFPSA. These programs include Healthy Families, Parent Management Training–Oregon Model, Trust-Based Relational Intervention, and Health in Pregnancy. The agency is also considering other home visitation programs.

Federal Payments

Prevention services will be reimbursable at 50.0 percent from federal fiscal year (FFY) 2020 to FFY 2026. This includes allowable administrative costs necessary for the proper and efficient administration of the state plan and training costs for personnel employed or preparing for employment by the state agency or local agency administering the plan. Beginning FFY 2027, prevention services are reimbursable at the applicable Federal Medical Assistance Percentages (FMAP) rate. Additionally, at least 50.0 percent of the amount paid to the state in any fiscal year must be for prevention services that meet the well-supported practice criteria.

Maintenance of effort is required for foster care expenditures. States electing to provide Title IV-E prevention services and programs must maintain the same level of state foster care prevention expenditures each fiscal year as the expenditure amount for FFY 2014. States must report state foster care expenditures for each

fiscal year the state participates in the Title IV-E prevention program. State foster care prevention expenditures include Temporary Assistance for Needy Families (TANF), Title IV-B, Social Services Block Grant (SSBG), and any other state or local agency funds used for prevention services and activities (SSA Section 471(e)(7)).

Payments for Children with Parents in a Licensed Residential Treatment Facility

A child who is placed with a parent who is in a licensed residential treatment facility for substance abuse is eligible for Title IV-E payments if the recommendation for the placement is specified in the child's case plan before the placement, the treatment facility provides parenting skills training, parent education and individual and family counseling, and the facility has a trauma-informed treatment model (SSA Section 472(j)).

DCF is working to identify a substance abuse treatment program to provide the services required under FFPSA. The agency is in the process of developing referral policies and procedures.

Payments for Evidence-Based Kinship Navigator Programs

Approved kinship navigator programs are eligible for Title IV-E payments if the program is operated in accordance with promising, supported, or well-supported practices and meet the criteria for the practices (SSA Section 471(e)(4)(C)).

Annual Updates and Assistance

Beginning FFY 2021, HHS must annually publish the percentage of candidates for foster care who did not enter foster care, the total amount of expenditures made for mental health and substance abuse prevention and treatment services or in-home parent skills-based programs, and data regarding prevention services measures. Prevention services measures will be published annually for each state. HHS must submit periodic reports on the provision of prevention services and programs to Congress and make the reports available to

the public. FFPSA provides an appropriation of \$1.0 million per year, beginning FFY 2018, for the clearinghouse, data collection, and evaluations under Section 476(d) of the SSA.

Other Changes

Changes to Title IV-B

Title IV-B of the SSA promotes state flexibility in the development and expansion of a coordinated child and family services program that ensures all children are raised in safe, loving families by protecting and promoting the welfare of all children; preventing neglect, abuse, and exploitation of children; supporting at-risk families; promoting safety, permanence, and the well-being of children in foster care and adoptive families; and providing training, professional development, and support to ensure a well-qualified child welfare workforce (SSA Section 421). FFPSA makes the following changes to Title IV-B funding:

- Eliminates the time limit for family reunification services while in foster care and permitting time-limited family reunification services when a child returns home from foster care (SSA Section 431(a)(7));
- Requires states to implement an electronic interstate case processing system for children in foster care, guardianship, or adoption by 2026 (SSA Section 471(a)(25));
- Provides \$5.0 million in grants for FFY 2018 for states to develop the electronic interstate case processing system (SSA Section 437(b)); and
- Reauthorizes regional partnership grants that work to alleviate substance abuse and support parents for five years. These grants can be used on a statewide basis and can be awarded to both non-profit and state programs (SSA Section 437(f)).

DCF is currently partnering with the University of Kansas to provide Kansas Serves Substance Affected Families (KSSAF), a five-year project

funded through a regional partnership grant. KSSAF serves families with children ages zero to three who are in out-of-home placements due to reasons associated with parental substance abuse. The project began in 2014 and will continue through 2019.

Reviewing and Improving Licensing Standards for Placement in a Relative Foster Family Home

HHS is expected to identify reputable model licensing standards for foster family homes (as defined in Section 472(c) of the SSA) by October 1, 2018. States must report by April 1, 2019, whether state licensing standards are in accordance with model standards identified by the Secretary of HHS, and, if not, the reason for the specific deviation and a description as to why the national model standard is not appropriate for the state. Additionally, states must report whether the state has elected to waive standards established in Section 471(a)(10)(A) of the SSA for relative foster family homes and describe which standards the state waives. If the state elects to waive the standards, the state must explain how caseworkers are trained to use the waiver authority, whether the state has developed a process or provided tools to assist caseworkers in waiving non-safety standards to quickly place children with relatives, and a description of the steps the state is taking to improve caseworker training on the process. If the state is not electing to waive the standards, the state must report the reason why (SSA Section 471(a)).

Development of a Statewide Plan to Prevent Child Abuse and Neglect Fatalities

States must report on steps taken to track and prevent child maltreatment death. The state will submit a description of the steps the state is taking to compile complete and accurate information on the child deaths as required by federal law. This includes gathering relevant information on the deaths from organizations in the state (such as state vital statistics, child death review teams, law enforcement agencies, and offices of medical examiners), and describing the steps

the state is taking to develop and implement a comprehensive statewide plan to prevent the fatalities (SSA Section 422(b)).

Ensuring the Necessity of Placement That Is Not a Foster Family Home

FFPSA limits foster care maintenance payments to two weeks for placements that are not foster homes or qualified residential treatment programs (QRTP). Additionally, the state will only receive payments on behalf of a child in a placement other than a foster home or QRTP if the child is placed in a child-care institution or a licensed residential family-based treatment facility. Child-care institutions include QRTPs; a setting specializing in providing prenatal, postpartum, or parenting supports for youth; a supervised setting in which the child is living independently (for children 18 years and older); and a setting providing high-quality residential care and supportive services to youth who have been found to be, or are at risk of becoming, sex-trafficking victims.

Under FFPSA, the term “foster family home” means the home of any individual or family that is licensed or approved by the state where the foster child resides, adheres to the reasonable and prudent parenting standard, provides 24-hour substitute care for the child, and provides care for no more than 6 foster children (with some exceptions for parenting youth, siblings, meaningful relationships with a family, and special training) (SSA Section 472(c)).

QRTPs must have a trauma-informed treatment model, registered or licensed nursing staff on-site to the extent the program’s treatment model requires, facilitate outreach to family members, document family integration into the treatment process, and provide discharge planning and family-based care support for six months after discharge (SSA Section 472(k)(4)). A trained

professional or licensed clinician must complete an assessment for each child placed in a qualified residential treatment center to determine if the placement is appropriate. The assessment must determine the strengths and needs of the child using age-appropriate evidence-based validated functional assessment tools approved by HHS. The state will only receive federal payments on behalf of the child in a qualified residential treatment facility if the assessment is completed within 30 days. Additionally, if the assessment determines the placement in the QRTP is no longer appropriate, the child returns home, or the child is placed in a foster home or adoptive placement, federal payments will only be made on behalf of the child during the period necessary to transition the child home or to the new placement. The state will not receive any federal payment after 30 days of the determination that the placement in the QRTP is no longer appropriate.

As of June 30, 2018, 620 youths are currently placed in a congregate care setting, including psychiatric residential treatment facilities. Many of these facilities have indicated to DCF they can meet the QRTP standards by October 1, 2019.

Continuing Support for Child and Family Services

Several federal grants are available for child welfare programs under FFPSA. An appropriation of \$8.0 million is available through FFY 2022 for competitive grants to support the recruitment and retention of high-quality foster family homes. FFPSA also reauthorizes the Stephanie Tubbs Jones Child Welfare Services Program, the Promoting Safe and Stable Families Program, the Court Improvement Program, and the John H. Chaffee Foster Care Independence Program through FFY 2021.

- 1 NCSL. (2018, May 15). Family First Prevention Services Act (FFPSA). Retrieved from <http://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx>
- 2 NCSL. (2017, May 17). Child Welfare Financing 101. Retrieved from <http://www.ncsl.org/research/human-services/child-welfare-financing-101.aspx>

For more information, please contact:

Ashley Stites, Fiscal Analyst
Ashley.Stites@klrd.ks.gov

Erica Haas, Principal Research Analyst
Erica.Haas@klrd.ks.gov

Kansas Legislative Research Department
300 SW 10th Ave., Room 68-West, Statehouse
Topeka, KS 66612
Phone: (785) 296-3181