



June 14, 2016

The Honorable Kevin Brady
Chairman, House Ways and Means
Committee
1102 Longworth House Office Building
Building
Washington, DC 20515

The Honorable Sander M. Levin
Ranking Member, House Ways and Means
Committee
1106 Longworth House Office
Washington, DC 20515

Dear Chairman Brady and Ranking Member Levin:

The County Welfare Directors Association of California (CWDA) appreciates this opportunity to comment on provisions contained in the Family First Prevention Services Act (H.R. 5456). California's counties have a tremendous financial and policy stake in this area, given that counties administer child protection services and respond to over 500,000 of reports of abuse and neglect annually. Counties also rely on Title IV-E funds to support the majority of the foster care system, financing the entire non-federal share of the foster care program with local funds. While CWDA supports a number of the bill's provisions, we do have serious concerns with language in the congregate care section, as a number of those requirements will make it even more difficult for us to implement similar reforms already underway in California. Those comments are outlined below.

California counties are embarking on significant reform efforts with the State to reduce the use of congregate care settings for children in the foster care system by improving access to trauma-informed, home based care. This effort, known as the Continuum of Care Reform (CCR) effort, recognizes that the key to reducing congregate care use is to have a robust supply of foster families. Unfortunately, all states struggle in recruiting and retaining foster homes, including California. While our state has invested significant funding into recruiting, retaining and supporting foster parents, including relative caregivers, we have much work ahead.

Another barrier to reducing the use of congregate care is the availability of trauma-informed, mental health services for abused and neglected children within family environments. Programs such as Therapeutic Foster Care which provide intensive, therapeutic services delivered in foster family homes are greatly needed, and California is quickly working to build such a system, but it will take time. We urge Congress to consider integrating the components of the proposed Family-Based Services Act (S.429/HR.835) into this bill or adopting those measures as companions to this proposal.

Prevention Activities Under IV-E

There are several notable elements of this proposal that CWDA supports. CWDA welcomes the landmark provisions providing a federal financial match for up to 12 months for services to children and their biological, adoptive or kin family to prevent them from being placed into foster care. We support the provision that de-links eligibility for these families from the AFDC-FC “look back” standards, and we continue to urge Congress to de-link eligibility for all abuse and neglected children served in foster care. We also support the ability to draw down IV-E funding to maintain the child with a parent residing in a licensed residential treatment facility. Our concerns on the prevention section follow.

Imminent Risk: As in comments on previous drafts, CWDA continues to assert that the definition of those youth determined eligible for prevention services is defined too narrowly. Children and their families should have access to these services before abuse and neglect rises to the level that warrants imminent removal, in order to avoid trauma and harm to the child and increase the likelihood of maintaining an in-tact and functioning family unit.

Time Limit on Services: We recommend that families, in limited circumstances when deemed necessary, be afforded up to 24 months for services. Some families, particularly those struggling with substance abuse addictions, may need additional time and if they are progressing well in their treatments, should continue to have access to these critical services.

Funding of Evaluations: We are concerned with the prohibition of funding for promising, supported, or well-supported practice, unless the plan includes a well-designed and rigorous evaluation. Such evaluations could be costly to undertake and states and counties may not have the resources to do so. As a result, states and counties may not be able to avail themselves of the opportunity provided by this bill, resulting in fewer services to children, youth and families. Although the Secretary may waive this requirement, this may still deter states from implementing such practices and seems unnecessary given the practices are already demonstrated as promising or well-supported.

Tracking Per-Child Spending: This provision may prove to be a costly and labor-intensive issue. Counties often award contracts to community providers. Consequently, the provision will require significant tracking by contract agencies and counties. For service outcome reporting, counties would have to report the specific services or programs provided to each child and the amount spent on each service or program for each child and each contractor. We instead recommend total expenditures be reported for all children and families served, categorized by service type (e.g. substance use, mental health treatment).

Maintenance of Effort: In addition to prevention expenditures covered by TANF, VI-B, and SSBG, the bill includes other prevention expenditures made outside of those programs. Given the realignment of governmental responsibilities in 2011, California and our member counties will have to work to manually to isolate and identify those additional prevention-related

expenditures since those data are not captured through current financial claiming mechanisms.

Limiting Non-Foster Family Home Placements

CWDA supports the goal of reducing use of congregate care settings but urges caution in achieving this goal without causing undue harm to children. As noted previously, our 58 counties and their human services directors are deeply involved in ensuring a successful implementation of the Continuum of Care Reforms enacted under AB 403 to reform placement and treatment options for foster youth. Many aspects of California's own reform effort are consistent with this proposal, which we support, including the formation of family and permanency teams, inclusion of family in the child's treatment, requiring accreditation for all qualified residential treatment facilities, use of validated assessment instruments and allowing support services for six months post-discharge.

CWDA's members recognize that the proposed federal legislation intends to address many of the same issues as our state law, but the federal overlay of several proposed requirements of this act will further exacerbate and make even more challenging an already massive undertaking to increase capacity and support for foster families in California while simultaneously reducing the use of congregate care. We have the following concerns:

Funding Prohibitions: The bill prohibits federal funding if the assessment on the need for placement in a qualified residential treatment program is not completed within thirty days. Assessments require a trained, licensed clinician who is versed in child trauma to conduct multiple interview not only the child but family members and others connected with the family. CWDA recognizes that this is an ambitious timetable and urges that there be waiver authority provided in those circumstances when a county does not have enough clinicians to conduct the proper assessment by the deadline or additional time is needed to properly assess the child.

CWDA opposes the limit on federal funding for independent living facilities to youth over age 18. California offers and wants to continue to provide Transitional Housing Placement Programs (THPP) for certain youth age 16 and older to prepare them for adulthood. THPP helps participants emancipate successfully by providing a safe environment for youth, while learning skills that can make them self-sufficient. Participants may live alone, with departmental approval, or with roommates in apartments or single-family dwellings with an employee or an employee living on site. Child welfare continues to identify permanency options while they are preparing for adulthood and thus wishes to ensure this placement option remains available for older foster youth.

Limits on QRTP Placements: CWDA has significant concerns about the bill's provision limiting placements in a Qualified Residential Treatment Program (QRTP) to only children

with a serious emotional or behavioral disorders. This provision could potentially be limiting to children who do not meet medical necessity for specialty mental health services in order to qualify for entitlement services under federal EPSDT in California, and could consequently deny a service option to children with behavioral or treatment needs who cannot be served in a home. For example, youth who have run away on multiple-occasions, those with behavioral needs not rising to the level of disorder, and youth who may be pending or in juvenile status and require temporary separation to address their offender status, are all likely situations where placement into a group setting, at least on a temporary basis, is warranted for the safety of the youth, while those behaviors can be addressed and a suitable caregiver that is also acceptable to that youth is located. For Probation-served youth, congregate care is a step-down from more restrictive placements such as juvenile camps and detention centers, and thus, this prohibition is likely to increase placement into these less-desired, more restrictive settings.

On-Site Licensed Staff: The provision requiring licensed or certified nursing staff and other clinical staff on site during business hours is onerous and costly. This bill has the effect of medicalizing treatment of all foster youth. Not all children will have a need for both medical and mental health services on-site. We have concerns that children with only medical needs would be placed with youth who have severe behavioral needs. In rural counties, staffing these facilities in this way may be impossible. Clearly, clinical treatment and staffing should be available 24 hours a day, seven days a week, but agencies should be able to determine how to staff the facility.

Accreditation: The accreditation requirements aligns with California's efforts in its Continuum of Care Reforms. We are concerned, however, with the capacity of accrediting bodies to complete all the assessments necessary by October 1, 2019 in California alone, much less the entire country.

Juvenile Justice Population Increases: CWDA questions why states would be required to certify that they will not implement policies that will result in a "significant increase" in juvenile justice placements. If there is a federal policy interest in this matter, it would appear to be one in which states should align their policies with this federal act and make efforts to *reduce* the juvenile justice population.

Qualified Individual: The bill's definition of "qualified individual" is narrow and would ban county child welfare agencies from conducting the assessments and would ban a clinician working with the provider. Often, these are the very individuals with the required trauma-informed training to understand the needs of children and families and develop appropriate service plans. Additionally, the proposal contains a provision requiring the use of a validated instrument when conducting such assessments, which will support fidelity when performing assessments. Furthermore, the county itself will likely pay for the work of the 'qualified

individual'. While the bill allows for states to request a waiver from this requirement, the provision itself signals that the federal government does not trust public entities to make placement decisions in the best interest of the child.

Court Approval: Within 60 days of the placement, the measure requires the court to approve such placement into a congregate care setting based on an assessment. CWDA members are concerned with the tight timeframe, and note that the timing of the ultimate review by the court is not within the control of the county agency. Furthermore, while we welcome the language requiring training of judges and other legal personnel on the bill's child welfare policies and payment limitations on non-foster family homes, those provisions still do not necessarily address the procedural delays and/or decisions made by the judge which may not comport with the provisions and/or intent of the legislation.

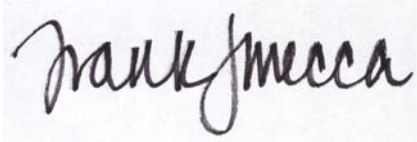
Continued Placements: Requiring states to submit to the Secretary of Health and Human Services the justification for a continued placement in the QRTP is excessive. Administratively, the time it will take the county to review/provide such documentation to the state, the state to review and approve the justification and then submit it to HHS, means counties would have to start the process early for a number of placements in case a specific placement does indeed need a continuation. Failing to do so for a larger number of cases could result in the loss of federal funding for the county and a pre-mature end to treatment for the child, with little or no time for the agency to seek an alternative placement. Instead, we recommend requiring states to enact policies to minimize the likelihood of lengthy stays in a congregate care setting, as California has already done through statute, with standard oversight by the Secretary.

Other Provisions

CWDA supports other provisions contained in this proposal, specifically allowing states to extend Chafee Foster Care education and training vouchers up to age 23, encouraging the use of electronic systems when placing children across state lines, and extending for five years the Promoting Safe and Stable Families and Child Welfare Service programs under IV-B, as well as the Adoption and Legal Guardianship Incentive Payments, as those authorizations are set to expire at the end of this fiscal year.

Thank you for considering our views. If you have questions about our positions, please have your staff contact Tom Joseph, Director of CWDA's Washington Office at 202.898.1446 or tj@wafed.com.

Sincerely,

A handwritten signature in black ink that reads "Frank Mecca". The signature is written in a cursive, flowing style.

Frank Mecca | Executive Director

cc: Will Lightbourne, California Department of Social Services