

December ____, 2009

Carmen R. Nazario
Assistant Secretary for Children and Families
U.S. Department of Health and Human Services
901 D Street, SW
Washington, D.C. 20024

Dear Ms. Nazario:

We write you today concerning the Program Instruction (CB-PI-08-007) issued by the Administration for Children and Families on December 24, 2008. This Program Instruction will have a negative impact on tens of thousands of children in California and should be withdrawn.

When the 110th Congress passed the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) the intent was to provide foster children with the things all children need to succeed: a safe home, a caring family, an education, and access to health care. The act creates an unprecedented federal commitment and provides assistance and federal matching dollars to states and counties to achieve those goals. Among the important provisions in the law that we strongly support is a new program to provide kinship guardianship assistance payments to grandparents and other relatives who have assumed legal guardianship of children. This reform will, for the first time, provide federal assistance to relatives providing safe and stable homes for foster youth.

The State of California has the largest child welfare system in the nation with 58 counties operating programs assisting 72,000 children. Having realized that subsidized guardianship placements are often in the best interest of foster children, California and its counties have operated its own Kinship Guardianship Assistance Payment (Kin-GAP) Program since 2000. The Kin-GAP program enables children who would otherwise be in the foster care system to be cared for by relatives, thus providing a stable home to at-risk children and saving millions of dollars in foster care costs.

The Program Instruction issued by ACF would allow a state or tribe to claim Title IV-E for only those children that the agency enters into a new kinship guardianship assistance agreement on or after the first day of the quarter in which the approved Title IV-E plan was submitted to ACF; thus eliminating federal matching funds for those existing Kin-GAP cases. The consequences of ACF's interpretation are dire for children in California.

Currently, California has 16,000 existing Kin-GAP cases that will be ineligible for federal funding unless the Program Instruction is withdrawn. Children in existing Kin-GAP cases would not be eligible for the same Medicaid health coverage as children in new Kin-GAP cases, despite the act categorically providing Medicaid to children in Kin-GAP programs.

Unfortunately, this program guidance will penalize California and other states that have taken initiative to create Kin-GAP programs. Further, this guidance will penalize the children who are now in stable homes simply because of the date they were placed with relatives.

In order to qualify under the current guidance, California will have to remove 16,000 children from their homes and place them in foster care for six months so that they qualify as a “new” case. This guidance will result in the loss of approximately \$70 million in federal funds for California’s child welfare system at a time of massive declines in revenues and increasing strains on the state’s budget. This outcome is contrary to the expressed purposes of the legislation to connect and support relative caregivers and improve outcomes for children in foster care.

We all supported the Fostering Connections to Success and Increasing Adoptions Act of 2008 because we believed it would help to provide safe and stable homes for children in our state and around the country. ACF’s interpretation of the law penalizes not only the states that have done the right thing, but more importantly the children who are in safe and stable homes. This is not what we intended when we voted last year.

We request that Program Instruction be withdrawn.

Cc: Secretary Kathleen Sebelius

Sincerely,

The California Delegation