



U.S. Senate Finance Committee

*Written Comments for Hearing, “The Family First Prevention Services Act:
Successes, Roadblocks, and Opportunities for Improvement”*

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Submitted by the Child Welfare League of America
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Chairman Wyden, Ranking Member Crapo, and Members of the Senate Committee on Finance, thank you for the opportunity to submit this statement for the record.

The Child Welfare League of America (CWLA) is a coalition of hundreds of private and public agencies that, since 1920, has worked to serve children and families who are vulnerable. Our expertise, leadership and innovation on policies, programs, and practices help improve the lives of millions of children across the country. Our impact is felt worldwide.

We appreciate the opportunity to submit these comments in response to the recent hearing about the implementation of the Family First Prevention Services Act of 2018 (FFPSA). CWLA joined many advocacy organizations in endorsing the final product in 2016 and we were pleased with its enactment two years later. Unlike the current eligibility requirements related to Title IV-E foster care and subsidized guardianship, we were especially supportive of the effort to expand certain services and practices not tied to either family separation or a complicated income eligibility standard not based on the needs of the families we serve.

Like other significant child welfare legislation, such as the 1980 Adoption Assistance and Child Welfare Act (PL 96-272), the 1985 Senate Finance Committee action to provide the first funding of \$45 million to help young people in foster care with transitional independent living services, or the 2008 Fostering Connections and Increasing Adoptions Act (PL 110-351), these major policy changes take time to implement. The Family First Transition Act of 2019 (the Transition Act) was helpful in granting states and Tribes some flexibilities to facilitate smoother implementation, but these flexibilities and additional dollars have now expired or will be expiring soon. The first years of the FFPSA took place during a global pandemic that threw many systems into disarray and, in some instances, caused serious delays, so it is not surprising that progress has been slow. Nonetheless, we have some observations and recommendations for improvements, which are detailed below.

While this legislation offers important advancements in child welfare policy, orienting Federal funding and attention toward the prevention of foster care, the child welfare system cannot and should not have to solve all the barriers and challenges these families involved with foster care face. There is a need for coordination and shared accountability for preserving families' ability to care for their child(ren) and preventing children from going into foster care among all child- and family-serving systems in our country, and ultimately, it should not fall to the child welfare system to have the sole responsibility to and oversight of such collaboration. Communities and other child serving agencies must have the tools and resources they need to support families and prevent maltreatment if we have any hope of significantly decreasing family separation and foster care utilization. ; Communities and other child serving agencies must have the tools and resources they need to support families and prevent maltreatment if we have any hope of significantly decreasing family separation and foster care utilization. Just as we don't want emergency department resources used for the common cold when serious and urgent medical concerns need these vital resources, child protection is best reserved for situations where safety risks are high and there is imminent danger.

As a result, we would be remiss if we did not call for greater action in the areas of mental health and substance use prevention and treatment, and a stronger income and economic support system that can address poverty, housing and homelessness and many of the other barriers families facing family separation confront. This Committee has jurisdiction over many programs that can promote greater stability for children and families, such as TANF, Medicaid, and the tax code; therefore, it is imperative that the Committee commit to advancing policy changes to support child wellbeing in each of these programs, not just in Titles IV-E and IV-B. The challenges facing families are more significant than any one funding stream can address and the child welfare system cannot be expected to solve all of these issues.

The Title IV-E Prevention Services Clearinghouse

FFPSA established the Title IV-E Prevention Services Clearinghouse to conduct an objective and transparent review of research on programs and services intended to provide enhanced support to children and families and prevent foster care placements. To date, a relatively small number of programs have received ratings that qualify them for reimbursement; as of May 2024, the clearinghouse has reviewed just 177 individual programs, and approved only 85 of these, just under half. Only 19 programs have been granted the highest rating of "well-supported," but FFPSA requires that 50% of state spending must be used on well-supported programs.

Given the slow progress of the clearinghouse and the urgent need for additional support for families at risk of family separation, there is a need for Congress to take steps to make the clearinghouse work more effectively.

Eliminate the Requirement for 50% of Spending on Well-Supported Programs

The Transition Act suspended for two years the requirement that states must spend 50% of their FFPSA funding on programs that meet the "well-supported" standard and then gradually phased it back in; FY 2024 is the first year that states must fully meet this requirement. As noted above,

there are only 19 programs in the clearinghouse with this rating, making this a nearly impossible requirement for states to meet. States have noted that this 50% requirement means that they have a much more limited selection of programs available, regardless of whether the well-supported programs actually meet the needs of the children and families that are being served. States then have less funding available to spend on programs that better align with the needs of their communities, and the result is that families of color do not receive culturally-responsive services under this program.

CWLA recommends that the Committee either permanently eliminate the requirement that states spend 50% of their FFPSA funds on well-supported programs or suspend it for a much longer period of time, such as ten years, to accommodate for the slow addition of new programs in the clearinghouse.

Additional Funding for Research and Evaluation

The high evidentiary standards for the clearinghouse require rigorous, costly research that many states, Tribes and programs are unable to fund. This barrier is particularly onerous for programs that focus on underserved populations, such as Black and Native families, children of more than one race, and rural communities. There is a need for Congress to provide additional, long-term funding for states, researchers, and universities to conduct the rigorous research needed for programs to meet the standards for inclusion in the clearinghouse. CWLA supports efforts underway to include a competitive grant for FFPSA research in the next reauthorization of Title IV-B of the Social Security Act. We also recommend that the Committee authorize and fund formula grants for states to fund research over at least ten years to increase the number and diversity of programs available through the clearinghouse. We realize some of this cost can be offset as “administrative” expenses but to effectively implement research we need greater federal funding for state selected research.

Address Disproportionality and Disparities Through FFPSA

CWLA also recommends funding set-asides specifically for research on programs to address disproportionality and to serve specific populations. As mentioned above, the cost of conducting research is a barrier for programs that serve communities of color, American Indian/Alaska Native populations, children and families who are more than one race, rural communities, and other specific populations. There are not enough programs that are normed for families that are not White and are not living in rural communities, including a lack of adaptations of programs that have already been accepted to the clearinghouse. However, the field continues to grapple with disproportionate representation of and disparities for children and families of color in the child welfare system. Additional funding for these programs to conduct research could help address this problem.

Another recommendation to address the lack of programs for specific populations is to allow for population-specific adaptations of programs that have already been accepted into the clearinghouse to automatically be included as well, or to significantly reduce the evidentiary standards for these programs. Programs are more effective when they can be adapted to the unique cultural and ethnic realities of the families being served. Allowing for adaptations to be

included will expand the services available for states to meet the needs of diverse populations. In the meantime, we recommend that Congress grant a transitional period in which the states are allowed to draw down the FFPSA funds for culturally responsive practice-based services and programs that have been developed for specific populations of color while they are being researched for eventual inclusion in the clearinghouse so that states are more able to serve these populations of children and families in a more respectful and effective way. We believe such an allowance would reduce the disproportionality and disparities that currently exist and appear to be increasing in child welfare.

Service Capacity for Approved Programs

One of the key issues with FFPSA is the lack of trained providers that can offer the clearinghouse-approved services and programs included in states' prevention plans. Some of this issue originates in the shortages in the mental health and behavioral health workforces, the extremely low rates of Medicaid, and the restricted provider networks within Managed Care models, but other causes are rooted in the structure of FFPSA. The complexity of reporting requirements and the administrative burden required for the providers to deliver the clearinghouse-approved services and programs means that fewer providers are willing to offer the services. States are still struggling to draw down FFPSA dollars, either because of issues with candidacy for the programs or barriers in their claiming procedures, so they are unable to give community-based service providers the volume of clients needed in the specific programs that are approved by the clearinghouse; this exacerbates the issue with low capacity in the programs, and in some cases, leads to providers ceasing to offer the services altogether, making them inaccessible for the relatively small number of families at risk of entering the child welfare system that could benefit from them. This lower capacity often leads to a matching issue, in which the providers might be offering a clearinghouse-approved program or service in one geographic area in a state but the families that need and qualify for the services live a significant distance away, making that service inaccessible for the family; this problem is particularly acute in rural and frontier communities.

The lack of additional implementation funding has restricted the capacity of states to adequately fund providers to expand their capacity. CWLA recommends that the Committee address low Medicaid reimbursement rates and provide additional implementation funding for States and community-based providers to expand capacity in both clearinghouse-approved programs and programs that are currently being evaluated for inclusion in the clearinghouse.

There is currently no provision in FFPSA to facilitate coordination with other systems, which could help to alleviate some of the capacity issues. States child welfare agencies would be better equipped to meet the needs of children and families if the Medicaid, behavioral health, and economic support agencies had a responsibility and shared accountability for the children and families being served by FFPSA.

One example is in the adoption field: many families that have adopted children find that they are in need of additional services post-adoption, and these families can be deemed eligible for FFPSA services. Typically, families often don't want to turn to the child protection agency to receive these supports and would prefer to access services through community-based mental and behavioral health providers. Typically, families often don't want to turn to the child protection agency to receive these supports and would prefer to access services through community-based mental and behavioral health providers. Coordination and shared funding could help to facilitate more effective service provision for these families. Therefore, CWLA recommends that the Committee consider ways to promote and incentivize this collaboration among child- and family-serving systems at the state and local level, with an emphasis on requiring other systems to share child welfare's responsibility to provide these supports.

Establishing Candidacy

The definitions for candidacy for FFPSA services require that children be labeled as being at "imminent risk of foster care entry," which limits the ability of states to use the funds for more upstream prevention and has the unintended consequence of pushing more families to be connected to the child welfare system when they require services. Ms. JooYeung Chang from the Doris Duke Foundation offered an interesting recommendation on this issue of candidacy, stating:

"States should be given flexibility to identify risk at a population level based on data that shows who and where there is the greatest risk of foster care placement. Eligibility for prevention services under Family First could be modeled on other federal programs like the Community Eligibility Provision administered by USDA, which allows high-poverty schools and districts to provide breakfast and lunch at no charge to all students. Community eligibility reduces administrative paperwork, increases program participation, eliminates stigma, and makes it easier to implement innovative program models." (From her written testimony)

While the idea of community eligibility is novel and holds significant promise, more analysis may be needed to understand the advantages and implementation challenges it may pose. CWLA supports some expansion of the definition of candidacy that would allow for services to be provided in community-based settings to families before the children are at "imminent risk," in order to better prevent child maltreatment and child welfare involvement.

Children and Youth with Complex Behavioral Health Concerns

There is a significant lack of mental and behavioral health services for children and youth across the nation, and even where they exist, these services can be difficult to access due a combination of issues such as: the lack of providers with the relevant expertise, the low payment rates, Managed Care limited provider networks, insurance reimbursement barriers, and long wait times. Without a robust array of services, including developmentally and culturally responsive ones, that are accessible when and where they are needed, it is impossible to address the growing mental health and behavioral concerns of all children. This lack of services makes it difficult for caregivers and child welfare agencies alike to access the services needed for children and youth

in their care. When families are unable to access mental and behavioral health services in the community, they are advised to go to the child welfare system to access the services, as child welfare is required by law to provide them. Often the challenges of being unable to access necessary services exhaust the parents or caregivers, leading them to give up custody of their youth, a practice that has been clarified to be discriminatory in recent regulations on children with disabilities. It is critical for the Committee to address these issues to avoid the unintended consequence of more families going to child welfare so that they can get the needed mental and behavioral health services because they do not exist in the community, which will create further stress on an already overburdened system.

CWLA makes the following recommendations for the Committee in addressing the mental and behavioral health needs of children and families.

Invest in the full array of mental health and behavioral services provided through the behavioral health system.

The child welfare system cannot and should not be expected to provide the array of mental and behavioral health services needed to address the needs of children with complex and acute mental health needs. Services approved and delivered through FFPSA will not be able to fully meet these needs. It is critical that the behavioral health system in each state be funded appropriately and held responsible for the provision and funding of sufficient numbers of quality services, as well as of the developmentally and culturally responsive ones, to meet the mental health and behavioral health needs of all children, adults, and families in the state, including those at risk of child welfare involvement. The behavioral health system is best equipped to provide these services; when it fails to do so, the child welfare system becomes the defacto behavioral health system because it is required to provide those services to the children in out of home care. In order for the behavioral health system to meet this mandate, there must be sufficient high-quality and developmentally- and culturally- responsive mental health and behavioral health prevention, community-based services that include early identification and treatment services, 24/7 respite and crisis intervention services, intensive in-home treatment services and the right range of residential treatment interventions. The Committee should invest in and support the full array of services offered by the behavioral health system, address barriers to accessing existing services and fund the expansion of options available through Medicaid. This would help ensure children and families are getting the help when they need it in their homes and communities and greatly reducing the need for any care or treatment outside of the home in keeping with the overall intent of the Committee and reducing any unintended consequences.

Working With The Committee To Address Mental Health Needs of Youth in Care

For some youth, a temporary stay in a residential treatment facility is necessary to meet their mental health treatment needs. Implementation of the QRTP model is an opportunity to make important reforms in residential care. The most significant barrier states and counties experience in implementation of QRTPs has been Medicaid's IMD exclusion. Under Title IXX of the Social Security Act, Medicaid defines facilities that provide diagnosis, assessment, and treatment

interventions with more than sixteen beds as Institutes of Mental Disease (IMDs). It prohibits the use of Medicaid funding for any medical or therapeutic services while the patients are in these settings. The Centers for Medicare and Medicaid Services (CMS) has indicated that residential facilities meeting the QRTP requirements, as written in Title IV-E law, are to be classified as IMDs. This determination means that a youth in a QRTP, who is by definition a youth with higher needs, cannot be covered by Medicaid for any reason, even for emergency physical health needs. The Committee should clarify that QRTPs are exempt from the IMD exclusion so that the rigorous requirements under the QRTPs can be implemented; there is precedent for Congress exempting young people and other vulnerable populations from the IMD exclusion. We believe we can find common ground on an issue that must be addressed if we are to help many youth in care.

Prioritize family-based aftercare services and address barriers within Medicaid.

The QRTP is meant to be a time-limited residential treatment intervention, with the goal of youth returning to their family/created family. To this end, the QRTP is required to provide family-based aftercare support for at least six months post-discharge from the QRTP to ensure that the family and youth have the supports they need so the youth successfully return to their family/created family and community. States are rightly relying on the behavioral health system to provide the necessary quality developmentally and culturally responsive mental health and behavioral health services, but Medicaid does not sufficiently fund the providers to provide these services. The lack of children' and youth's behavioral health providers that accept Medicaid means there are many places where the needed support is not available at all, and that there are often long wait times where services do exist. Changes to Medicaid reimbursement rates are needed to help address this issue.

Best practice in family-based aftercare services includes the use of family peer mentors or advocates (sometimes called peer-parent partners or other similar titles) as one of the supports available to the family when the youth is in the QRTP and when the youth return home. Family peer partners are equipped to help with continuity, adjusting to the new circumstances, and creating psychological safety for both the family and the youth. However, Medicaid only pays for this service when the youth have a diagnosis and often it is the family that really needs this support. The Committee should ensure family peer partners are widely available to youth exiting QRTPs and their family by either requiring Medicaid coverage when the youth is in foster care or creating a separate funding mechanism in Title IV-E.

Kinship Caregivers

Kinship navigator programs were mentioned frequently during the hearing, from Ms. Tapozada and other witnesses. These programs provide vital support to kinship caregivers, helping them to navigate complex service systems in order to provide for the needs of the children in their care. However, it is very difficult for these programs, which are largely resource and referral models, to meet the evidence requirements for the clearinghouse; to date, only a handful of programs have been accepted into the clearinghouse, and none have been rated at the highest level. The Committee should consider other options for funding these programs, either by making an exception the evidence standard or by establishing a separate funding stream outside of FFPSA.

Conclusion

We wish to again thank Chairman Wyden and Ranking Member Crapo for hosting this hearing, for convening an excellent panel of expert witnesses, and for their attention to and support of the children and families at risk of involvement with the child welfare system. We look forward to supporting the Committee in advancing policy to promote the wellbeing of all children.