

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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INFORMATION MEMORANDUM

TO: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E and/or Title IV-B of the Social Security Act

SUBJECT: NEW LEGISLATION – Public Law 115-123, the Family First Prevention Services Act within Division E, Title VII of the Bipartisan Budget Act of 2018.

LEGAL AND RELATED REFERENCES: Titles IV-B, IV-E, and section 1108 of the Social Security Act (the Act) as amended by Public Law 115-123, enacted February 9, 2018.

PURPOSE: To inform States and Tribes of the enactment of the *Family First Prevention Services Act* and provide basic information on the new law.

BACKGROUND: The President signed the Bipartisan Budget Act of 2018, [Public Law \(P.L.\) 115-123](#) into law on February 9, 2018. P.L. 115-123 includes the Family First Prevention Services Act (FFPSA) in Division E, Title VII. FFPSA amends the title IV-B, subparts 1 and 2 programs to reauthorize and make other revisions, the title IV-E foster care program to create new optional prevention funding under title IV-E, place title IV-E payment limits on child care institutions, reauthorize the Adoption Incentives Program, and other changes. The major changes are described below (please refer to attachment A for the complete amendments). **Disclaimer:** Information Memoranda (IMs) provide information or recommendations to States, Tribes, grantees, and others on a variety of child welfare issues. IMs do not establish requirements or supersede existing laws or official guidance.

EFFECTIVE DATES: Please note that P.L. 115-123 has various effective dates, some of which provide for a limited period of delay as follows:

- **Legislation Delay.** Delay permitted when the Secretary of the U.S. Department of Health and Human Services (HHS) determines that legislation (other than legislation appropriating funds) is required for an agency to comply with the title IV-B or IV-E plan requirements imposed by the amendment. The “delayed effective date” is defined as the first day of the first calendar quarter after the close of the first regular session of the legislature body after enactment. If the state/tribe has a two-year legislative session, each year of the session is deemed to be a separate regular session of the legislature (sections 50734(b)(1) and 50746(a)(2) of P.L. 115-123). The

amendments for which the Secretary will consider granting delayed effective dates under this provision are the amendments to sections 422(b)(15)(A)(vii), 422(b)(19), 471(a)(20)(D), and 471(a)(36) of the Act.

- Delay for up to two years for certain provisions that are effective 10/1/19: A title IV-E agency may request a delayed effective date not to exceed two years for the provisions limiting federal financial participation for placements that are not in foster family homes and those requiring assessment, documentation of the need for placement in a qualified residential treatment facility, and the certification for preventing increases to the juvenile justice population. If an agency so requests, this means that the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period of time (section 50746(b) of P.L. 115-123). If a State requests a delay, the Secretary will provide it up to the statutory limit. The provisions that may be delayed are the amendments made to sections 472(a)(2)(C), 472(c), 472(k), 474(a)(1), 471(a)(37), and 475A(c) of the Act by P.L. 115-123.
- Delay for Indian tribes, tribal organizations and consortiums: Delay permitted when HHS determines that an Indian tribe, tribal organization, or consortium with a title IV-E plan under section 479B of the Act, a cooperative agreement, or contract requires additional time as necessary to comply with any of the amendments to the Act made by Parts I, II, and III of P.L. 115-123 (section 50734(b)(2) of P.L. 115-123).
- Title IV-E Waivers: If the following provisions are inconsistent with an approved title IV-E waiver in effect on the date of enactment, the amendments to the section will not apply before the waiver expires: sections 422(b)(15)(A)(vii) and 471(a)(20) of the Act (section 50746(d) of P.L. 115-123).

We reference the effective dates and delays permitted in the applicable sections of the Act below. CB will issue instructions on requesting a delayed effective date in the near future.

INFORMATION:

Title IV-E Prevention Services:

- **Time-limited foster care prevention program and services**: Provides new optional title IV-E funding for time-limited (one year) prevention services for mental health/substance abuse and in-home parent skill-based programs for candidates for foster care (as defined in section 475(13) of the Act) without regard to whether the child would be eligible for title IV-E foster care, adoption, or guardianship, pregnant/parenting foster youth, and the parents/kin caregivers of those children and youth (sections 471(e), 474(a)(6) and 475(13) of the Act). See attachment B for more information on this provision. Effective 10/1/18, but claiming may not begin until 10/1/19 per section 474(a)(6) of the Act.

Title IV-E Plan Requirements and Foster Care Requirements:

- **Limitations on Title IV-E foster care payments for placements that are not foster family homes**: Title IV-E foster care payments are limited to two weeks for child care institutions per section 472(k) of the Act, unless it is a specified placement. Title IV-E agencies may continue to claim administrative costs for the duration of the period in the child care institution regardless of whether it meets the restrictions described in section 472(k) of the Act. Effective 10/1/19, and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming financial participation (FFP) for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period. See attachment C for more information on this provision.
- **Criminal Record and Registry Checks for Adults Working in Child-Care Institutions**: Amends the title IV-E plan to require procedures for fingerprint-based criminal records checks of

national crime information databases, and child abuse and neglect registry checks on any adult working in a child care institution. However, title IV-E agencies may use alternative procedures by reporting them to HHS describing why the required procedures for the checks are not appropriate for the agency (section 471(a)(20) of the Act). Effective 10/1/18, with legislation delay and title IV-E waiver delay per section 50746(a)(2) and (d) of P.L. 115-123.

- **Electronic case processing system:** Modifies the title IV-E plan requirement for the orderly and timely interstate placement of children to require that state title IV-E agencies have a centralized electronic interstate case processing system by 10/1/2027 (section 471(a)(25) of the Act). The amendments are effective 10/1/18. However, states do not have to implement until 10/1/2027. Tribal title IV-E agencies are exempt from this requirement (section 479B(c)(4) of the Act).
- **Model Licensing Standards for Foster Family Homes:**
 - HHS must identify national model licensing standards for foster family homes (section 50731 of P.L. 115-123).
 - Adds a title IV-E plan requirement (section 471(a)(36) of the Act) that title IV-E agencies must provide HHS, by 4/1/2019, specific and detailed information about foster family home licensing standards and whether they meet model licensing standards identified by HHS, waivers of non-safety licensing standards for relative caregivers and case worker training.
 - Effective upon enactment (2/9/18), with the legislation delay and delay for tribes permitted per section 50734(b) of P.L. 115-123.
- **Preventing increases to the juvenile justice population:** Adds a title IV-E plan requirement that title IV-E agencies must certify they will not enact policies that will significantly increase the state/tribe's juvenile justice population in response to the restrictions on title IV-E foster care payments for child care institutions in 472(k) of the Act (section 471(a)(37) of the Act). Effective 10/1/19 and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period.
- **Limit on number of children in a foster family home:** Revises the definition of foster family home to limit a home to six children. Allows title IV-E agencies to make exceptions to the numeric limitation for parenting youth to remain with their child, to allow siblings to stay together, to allow a child with a meaningful relationship with a family to stay with that family, and to allow a family with special training or skills to care for a child with severe disabilities (section 472(c) of the Act). Effective 10/1/19, and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period.
- **Proof of foster care:** Adds a requirement to provide official documentation to prove the child was in foster care to the list of documents a youth must be provided before aging out of foster care (section 475(5)(I) of the Act). Effective upon enactment (2/9/18).
- **Title IV-E foster care maintenance payments for children with parents in a licensed residential family-based treatment facility for substance abuse:** Allows title IV-E foster care payments for up to 12 months for an eligible child placed with a parent in a licensed residential family-based substance abuse treatment facility (section 472(j) of the Act).
 - To be eligible, the following conditions must be met:
 - **Eligible Child.** The child must either be eligible for title IV-E foster care maintenance payments, or meet all the eligibility requirements for title IV-E foster care maintenance payments except the AFDC eligibility requirements (note that a child who does not meet the AFDC requirements is not categorically eligible for Medicaid) (section 472(j)(2) of the Act).

- **Case Plan.** The recommendation for the placement is specified in the child's case plan before the placement.
 - **Mandatory Facility Services.** The treatment facility must provide parenting skills training, parent education, and individual and family counseling.
 - **Trauma Informed.** The substance abuse treatment, parenting skills training, parent education, and individual and family counseling must be 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 to address the consequences of trauma and facilitate healing (section 472(a)(2)(C) and (j) of the Act).
- Effective 10/1/18.

Title IV-E Adoption Assistance, Delay of Adoption Assistance Phase-In of Applicable Child

Requirements: Effective 1/1/18, the full implementation of the title IV-E adoption assistance de-link provisions is delayed until 6/30/2024 (section 473(e)(1) of the Act). This means that title IV-E agencies may only apply the “applicable child” requirements to children who will reach at least age two by the end of the fiscal year their adoption assistance agreement was entered into from 1/1/18 until 6/30/2024. For this period, title IV-E agencies must determine a child’s eligibility for the title IV-E adoptions assistance program as a child who is “not an applicable child” if the child will not reach age two by the end of the fiscal year the adoption assistance agreement is entered into. If the title IV-E agency determined such a child eligible for title IV-E adoption assistance under the “applicable child” requirements after 1/1/18, the agency must assess whether the child would continue to be eligible as a child who is “not an applicable child” (section 50781(a) of P.L. 115-123). Due to this provision, we withdraw [ACYF-CB-IM-17-05](#), issued September 28, 2017.

John H. Chafee Foster Care Program for Successful Transition to Adulthood (formerly the John H. Chafee Foster Care Independence Program):

- Revises the John H. Chafee Foster Care Program for Successful Transition to Adulthood (the Chafee program) purposes to specify that it is available to youth who have experienced foster care at age 14 or older, among other changes to the purposes (section 477(a) of the Act).
- Makes education and training vouchers (ETV) available to eligible youth ages 14-26, but limits the youth’s participation in the ETV program at 5 years total (section 477(i)(3) of the Act).
- Permits states and tribes to provide the Chafee program up to age 23, if the agency extended the age for title IV-E foster care to 21 or provides comparable services to those youth using state or any other funds outside of title IV-E (section 477(b)(3) of the Act).
- Revises the existing requirement to provide the Chafee program to youth who have aged out of foster care by clarifying that youth may be eligible if they aged out at an age other than 18 as long as they have not attained age 21 (or age 23 if the state or tribe has extended foster care to youth up to age 21) (section 477(b)(3) of the Act).
- Revises the limitation on use of funds for room and board by clarifying that not more than 30 percent of the Chafee allotment may be expended for room or board for youths who have aged out of foster care and have not attained 21 years of age (or 23 years of age, in the case of a state or tribe that has extended foster care to age 21).
- Allows re-allocation of unexpended funds and provides a process for the Secretary to redistribute funds to states and tribes (section 477(d)(4) and (5) of the Act).

- In addition, as described below under “HHS Reports to Congress,” HHS is required to develop and submit to Congress a report on outcomes for youth in and aging out of foster care, based on data submitted to the National Youth in Transition Database (NYTD).
- Effective upon enactment (2/9/18).

Title IV-E Funding for Evidence-Based Kinship Navigator Programs: Creates optional funding under title IV-E at 50-percent FFP for kinship navigator programs that meet the existing kinship navigator grants requirements in section 427(a)(1) of the Act and that meet the promising, supported, or well-supported practices requirements of the IV-E prevention services program, regardless of whether the children/families served are eligible for title IV-E (section 474(a)(7) of the Act). The requirements under section 427(a)(1) of the Act describe the purpose of the kinship navigator grants, which are to assist kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they are raising and their own needs. Effective 10/1/18.

Adoption and Legal Guardianship Incentive Programs: Reauthorizes the Adoption and Legal Guardianship Incentive Programs and extends availability of appropriated funds through FY 2021 (sections 473A(b)(4) and (h)(2) of the Act). Effective as if enacted on 10/1/17.

Annual Outcomes Report: Revises existing requirements for the annual outcomes report to Congress regarding the data to be reported on placements in non-foster family home settings (section 479A(a)(7)(A) of the Act). Effective as if enacted on 1/1/18 (section 50746 of P.L. 115-123).

Title IV-B:

- **Reauthorizes all title IV-B programs at current statutory funding levels through FY 2021 with changes** to plan requirements and service definitions, among other things as described.
- **Modifies title IV-B, subpart 1 plan for protocols to prevent inappropriate diagnoses:** Requires states and tribes to include in their title IV-B Health Care Oversight and Coordination plan procedures to ensure that children in foster care are not diagnosed inappropriately with mental illness and other disorders leading to inappropriate non-foster family home placements (section 422(b)(15)(vii). Effective 1/1/18, with the legislation delay and title IV-E waiver delay permitted per section 50746(a)(2) and (d) of P.L. 115-123. HHS must evaluate this requirement and report to Congress (section 476(e) of the Act).
- **Modifies existing title IV-B, subpart 1 plan requirement related to child maltreatment deaths:** Requires states to describe the steps they are taking to track and compile complete information on child maltreatment deaths from several specified sources and steps to develop and implement a statewide plan to prevent fatalities (section 422(b)(19) of the Act). Effective 10/1/18, with the legislation delay permitted per section 50734(b)(1) of P.L. 115-123.
- **Modifies Title IV-B, Subpart 2 Service Definitions:**
 - Revises the definition of “family support services” to include supporting and retaining foster families so they can provide quality family-based settings for children in foster care (section 431(a)(2)(B)(iii) of the Act). Effective upon enactment (2/9/18).
 - Revises and renames the definition of “family reunification services” (formerly “time-limited family reunification services”) to allow 15 months of family reunification services for children who return home from foster care, and to remove the 15-month limitation for a child in foster care to receive reunification services (section 431(a)(7)(A) of the Act). Effective 10/1/18.
- **Grant for foster family recruitment and retention:** Authorizes \$8,000,000 (from money not otherwise appropriated out of the Treasury) for FY 2018 for competitive grants to states, Indian

tribes, or tribal consortia for the recruitment and retention of high-quality foster families to increase their capacity to place more children in family settings. The grants must be focused on states, Indian tribes, or tribal consortia with the highest percentage of children in non-family settings and the funding must remain available through FY 2022 (section 436(c) of the Act). Effective upon enactment (2/9/18).

- **Title IV-B, subpart 2 grants for electronic interstate case-processing system:** Authorizes a \$5,000,000 set aside from the discretionary appropriation for Promoting Safe and Stable Families program for discretionary grants for states to develop an electronic interstate case-processing system to expedite interstate placements of children in foster, guardianship, or adoptive homes (section 437(g) of the Act). Effective 10/1/2018.
- **Revises and re-names the regional partnership grant (RPG) program that assists families affected by substance abuse to focus on heroin, opioids, and other substance abuse:**
 - Requires that the state child welfare agency and the state agency that administers the substance abuse prevention and treatment block grant to be partners in the grant application, and slightly revises the list of optional partners.
 - Requires that the grants be disbursed in two separate phases: a planning phase and an implementation phase, expands the current RPG application requirements to include descriptions of additional substance abuse and treatment goals and outcomes for children, parents and families, and requires semiannual reports from grantees to the Secretary (current requirement is an annual report).
 - Reauthorizes the grant program through FY 2021, and reduces the authorized possible grant amounts from between \$500,000 to \$1,000,000 to between \$250,000 and \$1,000,000 (section 436(b)(5) and 437(f) of the Act).
 - Effective date: 10/1/18.
- **Court Improvement Program training on non-foster family homes:** Amends the Court Improvement Program to require state court grantees, as a condition of receiving a Court Improvement Program grant, to train specified legal professionals on child welfare policies and title IV-E payment limitations for children in non-foster family homes (section 438(b) of the Act). Effective as if enacted on 1/1/18.

Title IV-B, subpart 3:

- **Data exchange standards:** Amends title IV-B, subpart 3 requirements for regulations designating federally required data exchange standards for title IV-B/IV-E agencies in consultation with an OMB interagency work group for:
 - Information that title IV-B and IV-E agencies are required under Federal law to electronically exchange with another agency, and
 - Federal reporting and data exchanges required by law (section 440 of the Act).

HHS Reports to Congress:

- **Electronic interstate case-processing system required by title IV-E:** Implementation of the electronic interstate case-processing system (section 437(g)(5) of the Act).
- **Outcome measures on children currently or previously in foster care:** Description and analysis of outcome measures using data from the National Youth in Transition Database and any other data related to outcome measures for such children (section 477(f)(2) of the Act).
- **Title IV-B, subpart 1 protocols to prevent inappropriate diagnoses:** HHS must evaluate this requirement and report to Congress (section 476(e) of the Act).
- **Title IV-E Prevention Programs:** Periodic reports based on the provision of title IV-E prevention services and programs and the technical assistance, best practices, clearinghouse, data collection,

and evaluations carried out by HHS under section 476(d) of the Act relating to prevention services and programs (section 476(d)(4) of the Act).

Government Accountability Office (GAO) studies and reports:

- **State reinvestment of savings resulting from increase in adoption assistance:** GAO must study and report to Congress and to HHS on the extent to which states are complying with the requirements in section 473(a)(8) of the Act related to reinvesting the savings resulting from the phase out of the AFDC income eligibility requirements for title IV-E adoption assistance payments (section 50782 of P.L. 115-123). No dates specified.
- **Impact of congregate care limits on juvenile justice:** GAO must study and report to Congress, by 12/31/2025, the impact of the title IV-E foster care maintenance payments limit on state juvenile justice systems (section 50741(d)(2) of P.L. 115-123).

The Children’s Bureau will provide further guidance on the title IV-B and IV-E provisions through Program Instructions at a later date.

INQUIRIES TO: Children’s Bureau Regional Program Managers

/s/

Jerry Milner
Commissioner, ACYF

Attachments:

- A – [Public Law 115-123](#) (FFPSA: pages 169-206)
- B – Time-limited foster care prevention program and services
- C – Limitations on title IV-E foster care payments for placements that are not foster family homes
- D – CB Regional Office Program Managers