



Child Welfare Demonstration Projects, Part I: **Child Welfare Waivers Underutilized by States; States with Waivers Report Mixed Results** Innovative Projects Rare

This article is the first in a series about the use of the federal waiver to fund child welfare demonstration projects. This article examines the federal funding of child welfare services, the restrictions on funding that necessitate states' use of the waiver for innovative projects, the history of the waiver program, and the requirements for a demonstration project. It also provides an overview of project types approved by the U.S. Department of Health and Human Services (HHS), and a summary of the results.

Future articles in this series will explore factors that prevent or deter states from submitting proposals, examine the review process within HHS,¹ and try to determine why broad experimentation originally sought by states and authorized by Congress has not materialized.

By Bill Grimm and Sean Tanner

Improving outcomes for children in foster care or at risk of entering foster care... will require experimentation on a broad scale, rigorous evaluation, and aggressive dissemination of proven practices. Federal child welfare waivers have encouraged such innovation.

To promote innovation and constant exploration of the best ways to help children who have been abused and neglected, the Commission recommends that the federal government expand and improve its successful waiver programs.²

—Pew Commission on
Children in Foster Care

In its highly publicized report last year, *Fostering the Future*, the Pew Commission on Children in Foster Care recommended dramatic changes in federal funding of child welfare services and improvements in the courts' handling of child abuse and neglect cases. The Commission also recognized the need to continue and strengthen some existing federal programs. Among these was the Waiver Demonstration Project.

Initiation of Waivers

Waivers were first authorized by Congress in 1994, with the goal of improving foster care by freeing a state's use of federal dollars from some of the restrictions of Titles IV-B and IV-E of the Social Security Act. They were originally available to only a few states. Three years later, with the passage of the Adoption and Safe Families Act of 1997, availability was expanded to encourage more states to experiment and to allow additional projects to be undertaken simultaneously.³ Several times since then, Congress has extended the waiver authority.⁴ Another extension is attached to legislation pending in this session.⁵

Though states quickly sought to take advantage of the waivers when first authorized, they have been surprisingly underutilized in the ensuing years. Several states received approval for multiple waivers: Maryland and Illinois each had three; Oregon and New Mexico had two. Six states were approved but withdrew their projects prior to implementation. Several other states abandoned projects early. Since the waiver's inception, the range of projects undertaken by the states has grown, yet most projects remain limited to a few areas. More than a third of the states with approved projects used the waiver to establish subsidized guardian-

¹ The administrative record, including correspondence sent to the state by HHS and the state's responses, are public documents. *Information Memorandum*, ACYF-CB-IM-03-06, at 13.

² The Pew Commission on Children in Foster Care, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care*, at 30 (2004). The Commission was established to develop recommendations to improve outcomes for children in the foster care system.

³ Adoption and Safe Families Act of 1997, Pub.L. No. 105-89 §301, 111 Stat. 2127 (1997).

⁴ Pub. L. No. 108-40 §5, 117 Stat. 836, 837 (2003) (Welfare Reform Extension Act of 2003); Pub. L. No. 108-262, 118 Stat. 696 (2004) (TANF and Related Programs Continuation Act of 2004).

⁵ S. 667 109th Cong. § 401 (2005) (extending waiver authority through 2010).

ship programs. Among the remaining projects, five created managed care models of service; four developed flexible funding projects; and four increased services to substance-abusing parents. In 2004, the number of applications grew, but the range of new projects remains small and several of the applications again come from states that already have approved waivers.

Although the Pew Commission described the waivers as “successful,” their overall success is a matter of some debate. Three projects designed to improve outcomes for children entering care because of a parent’s substance abuse demonstrated success in reducing the length of time children in those families spent in out-of-home placement.⁶ An evaluation of Illinois’ subsidized guardianship found that permanent homes for children in the demonstration group increased and those children “perceived guardianships as providing as much security as adoption.”⁷

On the other hand, managed care strategies implemented in 14 Ohio counties did not show significant differences between the model and control counties on either safety outcomes or permanency rates.⁸ Colorado, Connecticut, and Washington terminated their managed care projects early.⁹ Some critics argue that improvements reported by some of the projects are often statistically insignificant. Others worry that the waiver project diverts funds away from proven strategies to less certain, often ineffective methods of service delivery. Still others claim that the problem is not with the projects funded with waiver money, but rather the slow, onerous,

and restrictive application process.¹⁰ The requirement of cost-neutrality is believed to deter some states from applying.¹¹ Furthermore, if the success of the program is measured by the variety of projects undertaken and the extent to which successful models of service are replicated, then the project’s overall success is less clear.

Federal Funding of Child Welfare Services¹²

Federal funds support many aspects of state and county child welfare programs, including: foster care; adoption assistance; independent living; family preservation and support; expenses for program administration; training of staff, adoptive parents, and foster care providers; and the development and operation of automated data systems.¹³ During state fiscal year 2002¹⁴, more than \$22.2 billion was spent on child welfare services in the 50 states, Puerto Rico, and the District of Columbia. Federal funds from a variety of sources—Titles IV-E and IV-B of the Social Security Act, Medicaid, and Social Services Block Grants—made up more than half of all expenditures for that period. The remainder of the funds came from state (37 percent) and local governments (12 percent).¹⁵ The majority of federal funds supporting child welfare services come from Titles IV-E and IV-B.

Title IV-E Funds

Title IV-E is the largest single source of federal funding for child welfare services, accounting for 48 percent of total federal spending on child welfare in 2000 and swelling to 53 percent

and \$4.8 billion by 2004.¹⁶ While there are restrictions on the use of Title IV-E expenditures (*see discussion below*), the rhetoric about these limitations, even by the federal agency overseeing their use, fails to acknowledge the wide variety of purposes for which they *can* be used. For example, a few months ago, HHS Secretary Tommy Thompson, in announcing the extension of Ohio’s demonstration project, said:

*[F]unds provided under Title IV-E are reimbursed as an open-ended entitlement, but may only be used to pay for room and board expenses of eligible children in foster care.*¹⁷

However, IV-E funds may be used for many activities other than just room and board, and, in fact, most of these funds do not go to pay room and board. Title IV-E funds can be used for the following purposes:¹⁸

- **Foster care maintenance payments.**¹⁹ Federal law specifies that these payments cover the cost of food, clothing, shelter, school supplies, daily supervision, insurance, personal incidentals, and travel to the child’s parents’ home for visitation. These federal funds may not be used to pay for the care of a foster child in a facility that accommodates more than 25 children. In FY 2002, over \$1.7 billion of IV-E funds were used to reimburse states for room and board expenses for foster children living in a foster home or other facility.²⁰

⁶ Michelle Herman, *Treating Substance Abuse in the Child Welfare System*, at 4 (National Conference of State Legislatures Children’s Policy Initiative 2004).

⁷ *Fostering the Future*, at 22 citing Children and Family Research Center, University of Illinois at Urbana-Champaign, *Illinois Subsidized Guardianship Waiver Demonstration: Final Evaluation Report*, 2003.

⁸ U.S. Dep’t of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM 03-06*, Appendix III at 5 (November 24, 2003).

⁹ *Id.* at 6-7.

¹⁰ The Pew Commission recommended “that HHS streamline the waiver application and approval process....” *Fostering the Future*, at 31.

¹¹ The cost neutrality provision is a Congressional mandate and makes the state, not the federal government, liable for costs exceeding the state’s usual IV-E allotment.

¹² The summary of federal funding that follows is drawn largely from the Urban Institute’s study *The Cost of Protecting Vulnerable Children IV*.

¹³ U.S. Dep’t of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-98-01*, at 2 (February 13, 1998).

¹⁴ Most state fiscal years (SFY) run from July 1 to June 30 while the federal fiscal year (FFY) runs from October 1 to September 30.

¹⁵ Scarcella, Bess, Zielewski, Warner, & Geen, *The Cost of Protecting Vulnerable Children IV: How Child Welfare Funding Fared During the Recession*, at vi (2004 Urban Institute).

¹⁶ *Fostering the Future*, at 13.

¹⁷ U.S. Dep’t of Health & Human Services Administration for Children and Families, *HHS Announces Extension of Child Welfare Waiver in Ohio* (January, 2005). Available at http://www.acf.hhs.gov/news/press/2005/Ohio_waiver.htm.

¹⁸ *Fostering the Future*, at 13

¹⁹ 42 U.S.C. §§ 671(a)(1), 672, 674 (a)(1), 675(4).

²⁰ *Costs of Protecting Vulnerable Children IV*, at 17, Table 4. This figure does not include an additional \$800 million paid to states for room and board from other federal funding sources. *Cost of Protecting Children*, at 10 Table 2.

- **Adoption assistance.**²¹ Federal funds reimburse states for ongoing payments to parents who have adopted a “special needs” child from foster care, as well as one-time costs related to completing the child’s adoption, such as attorneys’ fees, court costs, and home studies. In FY 2002, the federal government paid out more than \$2.2 billion to the states for the adoption assistance program including almost \$1 billion in adoption assistance payments.²²
- **Adoption incentive program.**²³ States receive \$4,000 for every foster child adopted over the number of children adopted in the baseline year and \$6,000 for every special needs child adopted that exceeds the baseline figure. In 2003, \$14.9 million was awarded to 25 states and Puerto Rico for increasing the number of children adopted from foster care. Awards ranged from more than \$3.5 million paid to Florida, to \$20,000 to Nebraska.²⁴ In 2004, \$17.9 million was awarded to 31 states and Puerto Rico.²⁵ This was the first year in which states were eligible for an additional bonus of \$4,000 for each child age nine and older adopted from the public child welfare system.
- **Training of staff, foster, and adoptive parents.**²⁶ States may seek reimbursement for 75 percent of the costs of training child welfare staff. These funds may be used for “long term training” of existing and prospective staff including a bachelor’s or graduate degree. Costs of training provided to foster and adoptive parents, including their attendance at conferences,

are also reimbursable. The state may provide the training directly or contract it out. If it uses its own staff, then salaries, travel, and per diem are included. Some states contract out some of their training to community colleges. In FY 2003, \$214 million in IV-E funds went to pay for training of staff, and foster and adoptive parents.²⁷

- **Administrative costs.**²⁸ A variety of activities on behalf of children in foster care and their families are paid for under IV-E administrative costs. Among other things, reimbursable activities include: a caseworker’s assessment of the family and child; development of the case plan; preparation of reports for the court and attendance at court hearings and other reviews; and quality assurance activities. In FY 2002, IV-E administrative costs reimbursements to the states exceeded the amount states claimed for foster care maintenance.
- **Automated data management systems.**²⁹ States may use these funds for the planning, design, development, and installation of automated child welfare systems. The system must meet certain specifications to be eligible for the funds. Though the federal match has been as high as 75 percent at times, the current federal financial participation rate is 50 percent.
- **Chafee Foster Care Independence Program.** These federal funds help states offset the care of a particular population of youth in foster care—those who are likely to remain until age 18 and those between 18 and

21 who have “aged out” of foster care. Up to 30 percent of the federal dollars can be used to pay for housing such youth. Other monies may be used for a wide spectrum of services to help these youth make the transition to independence, including basic living skills training, employment preparation, and substance abuse prevention. Unlike other IV-E programs, this is a capped entitlement. States receive a share of the \$140 million based on their percentage of the total children in foster care and are required to provide a 20 percent match from non-federal sources.

Title IV-B and Other Federal Funds

Title IV-B, both subparts I and II, allows states greater latitude than Title IV-E in their use of federal money to provide or purchase child welfare services.³⁰ First of all, these funds can be used for any child or family regardless of family income. Acceptable uses of subpart I funds³¹ cover a broad array of family services, including: preventing the breakup of families and promoting reunification; preventing abuse/neglect and delinquency; protecting homeless children; assuring adequate care of children in out-of-home placements; and placing children in adoptive homes. Subpart II dollars are divided among four broad service categories: family preservation; family support; time-limited family reunification; and adoption promotion and support.³² States also may allocate a portion of their IV-B funds for foster care maintenance payments.³³ Unlike Title IV-E, however, Title IV-B funds have been capped. For the fiscal year 2004, \$693.7 million was appropriated for Title IV-B.³⁴

21 42 U.S.C. §§671(a)(1), 673, 674 (a)(2).

22 *Costs of Protecting Vulnerable Children IV*, at 17 Table 4.

23 42 U.S.C. §673A.

24 U.S. Dep’t of Health & Human Services, HHS News: *HHS Awards \$14.9 Million in Bonuses to States for Increasing the Number of Adoptions of Foster Children*, (September 12, 2003).

25 U.S. Dep’t of Health & Human Services, HHS News: *HHS Awards \$17.9 Million in Adoption Bonuses* (October 14, 2004).

26 42 U.S.C. §674 (a) (3) (A) & (B); 45 C.F.R. §1356.60. See U.S. Dep’t of Health & Human Services, Administration for Children and Families, *Child Welfare Policy Manual* §8.1H for a detailed description of allowable costs under this category.

27 Children’s Defense Fund, *Child Welfare in the United States Fact Sheet* (January 2005). Available at <http://www.childrensdefense.org/childwelfare/financing/factsheets/default.aspx> (last visited April 5, 2005).

28 See U.S. Dep’t of Health & Human Services, Administration for Children and

Families, *Child Welfare Policy Manual* §8.1B for a detailed description of allowable costs under this category.

29 42 U.S.C. §674 (a) (3)(C).

30 Many states contract out a variety of child welfare services including family and group foster care, staff and caregiver training. A few states have privatized much of their child welfare system. See, e.g. Children’s Rights Inc., *Privatization of Child Welfare Services: Challenges and Successes* (2003). Available at http://childrensrights.org/Policy/resources_CRresources_privatization.htm (last visited April 8, 2005).

31 42 U.S.C. §625 (a)(1)(A) through (F).

32 42 U.S.C. §629 (a).

33 Using this fund source, states can defray some of the costs of caring for a child in foster care who is not eligible for IV-E funds because he was removed from a home that was not income eligible. HHS has warned some states that they are exceeding the percentage of IV-B dollars that can be used for these purposes. U.S. Dep’t of Health & Human Services, Administration for Children and Families, *Program Instruction ACYF-CB-PI-03-07* (November 20, 2003).

34 Administration for Children & Families Fact Sheet. Available at <http://www.acf.hhs.gov/opa/factsheets/childrensbureau/factsheet.html>

In addition to Title IV-E and IV-B, many of the costs associated with foster care are paid with federal funds from the Social Services Block Grant (SSBG)³⁵, Medicaid, and Temporary Assistance for Needy Families (TANF). In fact, those three funding sources together account for more of the costs of foster care room and board payments and administration of the foster care program than all the Title IV-E funds.³⁶

Restrictions on Federal Funding

The federal funding scheme for child welfare services is a complicated morass of statutes, regulations, and policies. For example, a child's eligibility for IV-E is tied to a determination that his family would have been eligible for a federal assistance program—Aid to Families with Dependent Children (AFDC)—that no longer exists. The Pew Commission has called for an end to this AFDC link.

In order to claim administrative costs, states are required to develop complicated cost-allocation plans to ensure that only expenditures associated with IV-E eligible children are claimed.³⁷ Nevada's IV-E administrative cost allocation plan for Clark County took almost two years for federal approval.³⁸ Similarly complex cost allocations are required for child welfare data information systems.³⁹

As yet another example of complex and often outdated fiscal policies, states are permitted to use Title IV-B subpart I funds for foster care maintenance payments and day care related to training for employment—but the maximum amount that can be used for those purposes is limited to the state's

share of Title IV-B funds received in 1979.⁴⁰

States may claim IV-E funds only for children who satisfy Title IV-E eligibility criteria, including the AFDC link.⁴¹ In 2002, approximately 55 percent of children in foster care nationwide were eligible for Title IV-E payments.⁴² The percentage of children in foster care who are IV-E eligible varies considerably from one state to the next. In 2002, 20 states established IV-E eligibility for 61 percent or more of their children in foster care, while 15 had less than 50 percent penetration.⁴³ States applying for waivers often seek to use Title IV-E funds for all families and children regardless of the AFDC link.⁴⁴

Some funding restrictions seem at odds with other federal mandates. For example, even though the federal statute requires that reasonable efforts be made to prevent a child's placement in foster care, Title IV-E funds may not be used to provide or purchase services aimed at preventing children from entering foster care.⁴⁵ None of the costs of child abuse investigations, counseling, and other supportive services may be funded with Title IV-E dollars. Title IV-B funds may be allocated to these services but these costs represent only 5 percent of the total federal expenditure on child welfare in fiscal year 2000, and \$693 million of the 2004 budget. Title IV-E funds also may not be used for substance abuse prevention and treatment, as well as a host of other services that are critical to families and children in the foster care system. Waivers to allow IV-E funds to be used for these types of services are among the most frequent waiver requests.

Occasionally, HHS has granted states a grace period before applying restrictions on IV-E dollars. Implementation of the bar on using IV-E funds to pay for a child's placement in an unlicensed relative's home has been delayed several times.⁴⁶ Recently, HHS issued proposed regulations to end those extensions and bar administrative costs associated with a child placed in other Title IV-E ineligible placements—e.g., detention facilities and hospitals.⁴⁷

History and Overview of Waivers

When the Waiver Initiative began, the child welfare system was "in a period of great crisis and great challenge."⁴⁸ Demonstration projects were authorized "to foster new, creative efforts...to stimulate meaningful changes in the delivery of child welfare services and foster more effective methods of service delivery."⁴⁹ States whose waiver applications were approved were freed from some of the restrictions attached to Titles IV-B and IV-E funding. The Waiver Initiative originally allowed only 10 demonstration projects. The first round of proposals was due by July 1995. In 1997, Congress expanded HHS' authority to allow 10 new projects per fiscal year for 1998-2002. This was followed by announcements in the *Federal Register* soliciting applications in March 1998,⁵⁰ and February 1999.⁵¹ Announcements for fiscal years 2000 and 2001 were issued through an Information Memorandum published in February 2000 in which HHS implemented a "rolling application process whereby a State may apply at any point within a fiscal year."⁵² In 2003 and 2004, Congress extend-

³⁵ See, *SSBG 2002: Helping States Serve the Needs of America's Families, Adults and Children*, for a description of SSBG uses for child welfare services. Available at <http://www.acf.hhs.gov/programs/ocs/ssbg/annrpt/2002/index.html>.

³⁶ *The Cost of Protecting Vulnerable Children* IV Urban Institute report at 31 (2004).

³⁷ 15 C.F.R. §95. 501 et. seq., Child Welfare Policy Manual §8.1c.

³⁸ Personal communication with Susan Klein-Rothschild, Director Clark County Department of Family Services (March 25, 2005).

³⁹ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Program Instruction ACYF-CB-PI-01-05* (April 16, 2001).

⁴⁰ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Program Instruction ACYF-CB-PI-03-07* (November 20, 2003).

⁴¹ This "AFDC Link" is complicated and subject to some dispute. E.g., *Rosales v. Thompson*, 321 F.3d 835 (9th Cir. 2003). Title IV-E eligibility is based on other criteria, e.g. judicial determinations that reasonable efforts to prevent placement were made and the child's continuing in the home "would be contrary to the welfare of such child." 42 U.S.C. §672.

⁴² *The Costs of Protecting Vulnerable Children IV*, at 18. CDF reports for the same year that only 47% percent of children in foster care received IV-E foster care payments. Children's Defense Fund, *Child Welfare in the United States Fact Sheet*, (January 2005.).

⁴³ *Id.* Figure 6.

⁴⁴ E.g., 63 Fed Register 37388 (July 10, 1998) (Arkansas proposal).

⁴⁵ Child Welfare Policy Manual §8.1B (The costs of services or other activities related to the prevention of placement are not foster care administrative costs and are therefore not reimbursable.)

⁴⁶ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Program Instruction ACYF-CB-PI-02-08* (October 2, 2002).

⁴⁷ 70 Fed. Reg. 4803 (January 31, 2005).

⁴⁸ 60 Fed. Reg. 31478 (June 15, 1995). This same alarm was repeated when HHS announced the 1998 proposals. U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-98-01* (February 13, 1998).

⁴⁹ *Id.*

⁵⁰ 63 Fed Reg. 10637 (March 4, 1998).

⁵¹ 64 Fed. Reg. 6099 (February 8, 1999).

⁵² U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-2000-2001* (February 4, 2000).

ed the program for one year as part of the extension of the TANF program. Legislation pending in this session would extend authorization for the program through 2010.⁵³

Certain protections for children and families served by child welfare agencies are not subject to waiver.⁵⁴ The list, which has not changed since the program's inception, includes:

- Periodic reviews and permanency (formerly dispositional) hearings;
- Procedural safeguards for parents;
- Requirements specifying the contents of a child's case plan;
- Confidentiality of records;
- Fair hearings;
- Foster care and adoption data reporting requirements; and
- Child placement protections, including the requirement that the child's placement is the most family-like and in close proximity to the parents.

When waivers were first authorized, Congress specified three types of projects that must be funded if appropriate applications were submitted:⁵⁵

- Identifying and addressing barriers that result in delays in adoption of children in foster care;
- Identifying and addressing parental substance abuse problems, including placement of children with their parents in residential treatment facilities specifically designed to promote family reunification; and
- Carrying out projects designed to address kinship care.

Since the original enactment 10 years ago, Congress has not changed these priority areas.

Other than the expansion of the waiver program to allow 10 additional projects each year, little has changed in the program's structure

and requirements since 1994. In 1997, Congress added a requirement that states approved for new projects provide health care coverage for special needs children adopted from foster care.⁵⁶ Since then, the Congressional extensions of the waivers have contained no substantive amendments to the program. All 50 states, the District of Columbia, and Puerto Rico may apply for a waiver. Since Indian tribes do not receive Title IV-E funds directly, they are not eligible, although they may join in a state's application.

Despite HHS' early commitment to "an expeditious review of state proposals,"⁵⁷ the process has been quite slow at times. Most of the first series of demonstration projects authorized by the 1994 legislation were not approved until late 1996 or mid-1997. (See Table I.) More recently, California's application has been held up for more than a year.

TABLE I
First Round of Demonstration Projects⁵⁸

State	Nature of Project	Approval Date
California	1. Extended voluntary placement 2. Guardianship/kinship permanence 3. Intensive services	August 1997
Delaware	Services to substance abusing caregivers	June 1996
Illinois	Assisted guardianship	September 1996
Indiana	Reduced placement in group and institutional facilities; intensive home and community-based services	July 1997
Maryland	Assisted guardianship	April 1997
Michigan	Managed care / wraparound services	December 1997
New York	Managed care	December 1997
North Carolina	1. Assisted guardianship 2. Flexible funding to reduce use of foster care and length of stay	November 1996
Ohio	Managed care	February 1997
Oregon	Managed care	October 1996

⁵³ HR 2350 §5.

⁵⁴ See, e.g., U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-98-01* at 7 (February 13, 1998).

⁵⁵ 42 U.S.C. 1320-9 (a)(3).

⁵⁶ Adoption and Safe Families Act §301 (a)(4).

⁵⁷ 60 Fed. Reg. 31478 (June 15, 1995). See also, 63 Fed. Reg. 37387 (July 10, 1998).

⁵⁸ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-98-01*, Appendix III.

Following Congressional expansion of the Waiver Initiative in 1997, proposals from 17 additional states were submitted.⁵⁹ The states requesting waivers were Arkansas, Connecticut, Florida, Iowa, Kansas, Maine, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, Oklahoma, Texas, Washington, West Virginia, and the District of Columbia. In September 1998, HHS approved eight of those applications—Connecticut, Kansas, Maine, Mississippi, Montana, New Hampshire, New Jersey, and Washington.

In early 1999, HHS issued another notice soliciting applications. This *Information Memorandum* had essentially the same format and content as the earlier announcements.⁶⁰ The response to this announcement was significantly less enthusiastic than the preceding year. Only five states submitted a proposal and two of those came from

states already operating demonstration projects—Illinois and Maryland. Two states whose proposals were not approved in the previous round submitted new applications—Florida and W. Virginia.

By September 1999, HHS had approved 30 demonstration projects in 21 states and the District of Columbia. The projects fell into seven categories. Over the next few years, several states decided to terminate their projects early or did not implement them at all. By November 2003, only 12 states had active demonstration projects. (See Table II.)

In sum, for fiscal years 1998-2002, HHS was authorized to approve up to 10 demonstration projects each year for a total of 50 new projects in addition to the 10 already approved under the original 1994 legislation. Instead of 60 projects, HHS approved only half the number they could have, and

one-sixth of those projects were never implemented.

Congressional authorization lapsed and was not reinstated until late in fiscal year 2003. No new projects were solicited in that year. As part of the TANF reauthorization in 2003, HHS was again authorized to approve waivers, and invitations went out to the states in November. In response, 12 states submitted applications. Disappointingly, a majority of those applications sought authorization for subsidized guardianship programs.

Generally, demonstration projects are restricted to a maximum duration of five years. Not all states have taken advantage of the full five years. Several discontinued their project early. Others requested an extension. In 2002, HHS' Administration for Children and Families began accepting requests for extensions because many states experienced delays in the start up

TABLE II
Demonstration Projects Approved Through September 1999⁶¹

Type of Project	Approved Projects	Projects Terminated Early or Withdrawn ⁶²	States with Approved Project
Assisted guardianship/kinship permanence	8	1 (CA)	California, Delaware, Illinois, Maryland, Montana, New Mexico, North Carolina, Oregon
Capped IV-E allocation/flexibility to local agency	6	2 (NY & FL)	Florida, Indiana, New York, North Carolina, Ohio, Oregon
Managed care	6	4 (CO, MD, WA, TX)	Colorado, Connecticut, Maryland, Michigan, Texas, Washington
Intensive service	3	1 (DC)	California, Mississippi, District of Columbia
Permanency efforts	3	2 (CA, TX)	California, Maine, Texas
Substance abuse services	5	2 (MD, WV)	Delaware, Illinois, Maryland, New Hampshire, West Virginia
Tribal administration of IV-E funds	1	0	New Mexico

⁵⁹ 63 Fed Reg. 37387 (July 10, 1998).

⁶⁰ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum* ACYF-CB-IM-99-03 (January 21, 1999).

⁶¹ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum* ACYF-CB-IM-200-01, Appendix III (February 4, 2000).

⁶² U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum* ACYF-CB-IM-03-06, Appendix III (November 24, 2003).

of their projects.⁶³ Since then, all nine states requesting an extension received it.

The amount of IV-E funds allocated to demonstration projects varies considerably. In 2002, Oregon's flexible funds waiver was less than \$700,000, representing just 1.1 percent of all child welfare federal funds for that year.⁶⁴ In that same year, Illinois expended over \$135 million, Indiana \$2.3 million, and Michigan a little over \$1 million on their demonstration projects.⁶⁵

Waiver Requirements

While granting HHS considerable discretion in approving demonstration projects, Congress did impose certain requirements that all applicants must meet. In addition to promoting the goals of titles IV-B and IV-E, all projects:

- Must be cost-neutral to the federal government;⁶⁶
- Must not exclude children and families eligible under existing law for the benefits under Title IV-E;⁶⁷
- Must include an independently conducted evaluation;⁶⁸ and
- Must be limited to five years subject to an extension by the Secretary of HHS.⁶⁹

HHS program instructions and other policy announcements clarified a number of issues left open by the legislation. From the outset of the program, though not mandated by the legislation,⁷⁰ HHS encouraged or favored random assignment of children and families to the group served by the project and control group.⁷¹ HHS clarified that the costs of the project's evaluation are not included in the cost-neutrality calculation. States may claim the full federal share—50 percent—of the costs of the evaluation. Evidence of broad

public involvement in the development of the proposal must be provided in the state's application. Among the ways states may satisfy the public involvement requirement are notices in newspapers, using a commission whose meetings are open to the public, and providing formal notice and comment under the state's administrative procedures act.⁷² Small-scale projects appear to be favored by HHS, in part because they limit fiscal and programmatic risk and help to expedite the negotiation process.⁷³

Initially, HHS acknowledged that project costs might be greater in the beginning, and was willing to "allow states to project cost neutrality over the life of the demonstration project."⁷⁴ In later directives, it advised states that it "expects to participate only to a very limited extent in the financing of any project that requires significant 'up front' expenditures."⁷⁵ HHS imposed a cap for such payments at "roughly 5 percent above the amount the state would have received for the quarter and further restricted these up-front costs to the early quarters of the project."⁷⁶

Types of Projects Solicited

In its initial announcement of the waivers, HHS provided states with an extensive list of program ideas, including:⁷⁷

- Training AFDC recipients or other low-income persons to provide specialized foster care, thereby reducing the amount spent on institutional care. Families willing to act as a long-term resource for children needing specialized care would be provided with housing subsidies or homeownership assistance.
- Using IV-E funds restricted to foster care maintenance to pay

for preventive services to avoid or shorten a child's time in out-of-home care.

- Improving the quality of services and lowering costs for children placed in out-of-home institutional placements by returning them to specialized foster and group homes.
- Subsidizing guardianships.
- Using IV-E funds to pay the cost of an apartment for a youth leaving foster care.
- Expanding the availability of respite care for foster families.
- Testing a managed care concept.
- Entering agreements with Indian tribes to permit full access to Title IV-E funds.
- Entering agreements with courts to speed adoptions.
- Combining a Title IV-E waiver with a Title IV-A waiver—e.g., a waiver allowing a state "to continue AFDC payments for a period of time for a family from which children had been removed but where reunification is the goal and the loss of AFDC benefits would likely result in homelessness."

In subsequent announcements⁷⁸ this list was modified to solicit the following types of proposals:

- Participating in joint Medicaid-child welfare demonstrations to "improve the availability, quality and continuity of health and mental health care for children in foster care and their birth families," leading to prevention of foster care placement and/or reducing the time children spend out-of-home.
- Using alternative dispute resolution methods such as family conferences or other forms of mediation that would help to move children more quickly to adoption.

⁶³ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-02-06* (May 23, 2002).

⁶⁴ Child Welfare Partnership, *Evaluation of Oregon's Title IV-E Waiver Demonstration Project: Final Report*, at 110-111 Figures 7 & 8 (2003).

⁶⁵ *The Costs of Protecting Vulnerable Children IV*. At 17 Table IV.

⁶⁶ 42 U.S.C. §1320a-9 (g). The determination of cost neutrality is difficult, requiring states to project the amount of such funds that would be expended by the state under the state plans [IV-E & B] if the project were not conducted." *Id.*

⁶⁷ 42 U.S.C. §1320a-9 (b)(2).

⁶⁸ 42 U.S.C. § 1320a-9 (f).

⁶⁹ 42 U.S.C. 1320A-9 (d). The Secretary's authority to grant extensions past the five-

year limitation was part of the amendments to this section in the Adoption and Safe Families Act, Pub. L. 105-89 §301 ©. 111 Stat. 2128 (1997).

⁷⁰ The legislation did state that "where appropriate [the project shall provide] for random assignment of children and families to groups served under the project and to control groups." 42 U.S.C. 1320a-9 (e)(1).

⁷¹ 60 Fed Reg. 31480-31481.

⁷² U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-98-01*, at 12.

⁷³ *Id.* at 14.

⁷⁴ 60 Fed. Reg. 31480 (June 15, 1995).

⁷⁵ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-03-06*, at 8 (November 24, 2003); *Information Memorandum ACYF-CB-IM-98-01* at 15 (February 13, 1998).

⁷⁶ *Id.*

⁷⁷ 60 Fed. Reg. 31483.

⁷⁸ U.S. Dep't of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-98-01*, at Appendix I.

- Using neighborhood-based foster care in which foster parents act as mentors for birth parents, and other community residents are trained as parent aides or entry-level staff for social services agencies.

In its 1999 announcement, HHS highlighted the types of “model child welfare projects in which the Department may be most interested.”⁷⁹ Once again it emphasized projects “testing new approaches to improve the delivery of services for American Indian families” as well as projects aimed at improving health and behavioral health to children in or at risk of entering foster care. It also added a category for “service improvements for adolescent youth.”

When HHS published its most recent list of “Demonstration Topics of Interest to the Department,” it suggested two areas for projects focusing specifically on adolescents: (1) increasing and hastening the reunification of older youth in care with their parents; and (2) promoting placements of adolescents in less restrictive settings, promoting their adoption, and improving their transition to independent living.⁸⁰ HHS also suggested post-adoption supportive services targeted at decreasing the incidence of adoption disruptions. HHS also reiterated its call for applications improving child welfare services for American Indian families and improving access to behavioral health care by coordinating child welfare services with Medicaid, substance abuse, and mental health programs.

The states’ response to these HHS suggestions has been disappointing. A comparison of these lists to the actual applications submitted during the last 10 years shows that many of the ideas went unheeded.

Provisions of Federal Law Waived

Most states sought waivers of multiple provisions of federal law in order to carry out their demonstration projects. One of the most frequently requested waivers allowed the state to use federal funds earmarked for foster children’s room and board for a wide range of child and family services to prevent foster care placement and/or to reduce the child’s length of stay in out-of-home care. Oregon, one of the first 10 states to receive a waiver, used these flexible funds to pay security deposits on housing, purchase heating fuel or groceries for a family, hire staff to expand the use of family decision meetings, and contract with drug and alcohol facilitators to connect substance abusing parents to a treatment program.⁸¹

Many states sought waivers permitting them to serve all children and families, not just those who met IV-E financial and other eligibility requirements.⁸² In these states, the number of non-IV-E families served by the waiver sometimes exceeded IV-E eligible families.⁸³ Several states chose to implement their demonstration projects throughout the state.⁸⁴ Many, however, sought waivers of the state-wideness requirement,⁸⁵ so that they could limit the project to a few counties or regions.⁸⁶ Some states implementing subsidized guardianship programs applied for waivers of IV-E adoption assistance requirements that limit federal funds for monthly subsidies to special needs children who are adopted.

Eight Types of Approved Projects⁸⁷

Demonstration projects approved in the last 10 years fall into eight categories:

1. Assisted guardianship/kinship permanence
2. Capped IV-E allocations and flex-

ibility to local agencies

3. Managed care payment systems
4. Services to substance-abusing caretakers
5. Intensive service options
6. Enhanced training for child welfare staff
7. Adoption services
8. Tribal administration of IV-E funds

Following is a brief overview of each type of project, including examples from several state projects in each category; and summaries of the independent evaluations required by federal law (although in many instances only interim evaluations are available). Subsequent articles in this series will provide a more detailed description of the status and results of project evaluations.

In its instructions to states applying for waivers, HHS emphasized that one of the guiding principles was a “focus on improving outcomes for children and families.”⁸⁸ Those outcomes include preventing out-of-home placements, reducing the time children are separated from their families, improving the safety of children, and expediting a child’s placement in a permanent home.⁸⁹

1. Assisted Guardianship/Kinship Permanence

Most of these projects approved by HHS use title IV-E money to encourage relatives and other caregivers to obtain legal custody/guardianship of a foster child when neither adoption nor reunification is viable. The child achieves permanency and exits the foster care system. Monthly stipends up to the amount of foster care payments are provided to the guardians in order to ease the burden of care. This long-term expense is expected to be offset by a reduction in case management

⁷⁹ U.S. Dep’t of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-99-03*, at Appendix I.

⁸⁰ U.S. Dep’t of Health & Human Services, Administration for Children and Families, *Information Memorandum ACYF-CB-IM-2000-01*, Appendix I, at 3-4 (February 4, 2000).

⁸¹ Child Welfare Partnership, *Evaluation of Oregon’s Title IV-E Waiver Demonstration Project: Final Report*, (2003).

⁸² E.g., Child Welfare Partnership, *Evaluation of Oregon’s Title IV-E Waiver Demonstration Project: Final Report*, at 9 (2003); Institute of Applied Research, *Indiana Title IV-E Child Welfare Waiver Demonstration Project: Final Evaluation Report*, at _ (2003) (2003)

⁸³ E.g., *Indiana Final Report*, at iii.

⁸⁴ E.g., *Indiana Final Report*, at iii; Marvin Mandell, Donna Harrington, Malinda Orlin, *The Effect of Subsidized Guardianship on Exits from Kinship Care: Results from Maryland’s Guardianship Assistance Demonstration Project*, at 6 (2001).

⁸⁵ 42 U.S.C. §671(a)(3) requires that the state’s plan for services “shall be in effect in all political subdivisions of the State....”

⁸⁶ Institute of Applied Research, *Mississippi Title IV-E Child Welfare Waiver Demonstration Project: Interim Evaluation Report*, at ii (2004) (limited to eight counties).

⁸⁷ In the section that follows, we sometimes refer to the *Summary of Title IV-E Child Welfare Waiver Demonstration Projects* (May 2004) posted on HHS’ website. In most instances, we relied on the actual interim or final reports or other summaries outside HHS.

⁸⁸ IM 2000-01 at 4.

⁸⁹ *Id.* at 5.

and fewer court costs. For example, children for whom guardianship has been granted no longer require periodic reviews by the court.

There is considerable variation among the guardianship projects, especially eligibility of children and caregivers; amount of the subsidies; and the length of time in continuous placement with the caregiver. Maryland, for example, limited eligibility to children living with relatives, provided a \$300 monthly subsidy, and required a minimum of six months with the relative caregiver.⁹⁰ Montana's waiver targeted children at least 12 years of age who were placed with the prospective guardian for at least a year. Subsidized guardianships in Oregon were pursued for children ages 4-17.

Assisted guardianship has been used more than any other single type of project. Illinois has had particularly high level of success relative to other projects. The state's guardianship program was able to increase both the number of children who achieved permanency (4 percent increase) and the rate of achievement (25 percent relative increase).⁹¹ The differences in rates tended to be greatest for older children, ages 6-13, who are often more difficult to place in adoptive homes or are less interested in breaking legal ties with their birth parents.⁹² Though no significant increase in child safety was found, the programs did not appear to compromise the safety of children in the demonstration group. Overall, the state's evaluation report found that assisted guardianship:

*...does exactly what policymakers expected it to do. It increases the rate of permanency and provides an option for families who do not want to or cannot consider adoption.*⁹³

2. Capped IV-E Allocations and Flexibility to Local Agencies

Projects in this category allocate Title IV-E funds to counties that use the money in a more flexible way. Funds that without the waiver could only be used for foster care room and board payments are typically used to prevent out-of-home placement and facilitate reunification.

Indiana allowed its counties to use the funds for a variety of intensive community or home-based service alternatives to institutional placement. These included child and family counseling, parenting and homemaker education, job-related services, and legal assistance. The counties using waiver money were able to improve certain immediate experiences of the children and their families, including:

*...the avoidance of foster care placement, reductions in out-of-state placements, shortened length of time in placement, increased reunification ... and increased family satisfaction*⁹⁴

Collectively, counties using waiver funds saw a 10 percent rise in reunification compared with non-waiver control groups.⁹⁵ While these results are encouraging, the overall success of the waiver project was described by researchers as "modest." In what the evaluators called "more remote outcomes"—recurrence of child abuse and subsequent re-entries into foster care—there was no statistically significant difference between the waiver and control groups.⁹⁶

North Carolina's waiver permitted 19 counties to use funds for a wide range of services, including substance abuse and domestic violence treatment, respite care, family therapy, contract services to recruit families for special needs adoptions, and risk assessment.⁹⁷ Researchers reported

"a reduced probability of out-of-home placement in waiver counties."⁹⁸ On a positive note, the report found that "even as waiver counties were shifting toward serving fewer, but more troubled children in out-of-home care, the length of stay for them did not increase. In fact, it continued to decrease."⁹⁹ Data on re-entry rates suggested that waiver counties were more successful than other counties in decreasing re-entry rates.¹⁰⁰

Oregon's project, on the other hand, showed much less success. Under Oregon's plan, flexible funds were used for four basic purposes: (1) One-time payments for such things as security deposits, groceries, or heating oil in order to prevent foster care placement; (2) expansion of family decision meetings; (3) creation of services not typically provided by child welfare agencies, such as alcohol and drug treatment, and housing assistance; and (4) subsidized guardianship. Five impact questions were included in the evaluation of Oregon's waiver:

- Likelihood of children remaining home within one year of abuse/neglect.
- Likelihood of returning home within one year of placement.
- Likelihood of establishing permanent placement with relatives within one year of abuse/neglect.
- Likelihood of changing placements within the first year of foster care.
- Likelihood of re-abuse of child by the same caretaker within one year of the original abuse.¹⁰¹

Researchers found that children served by offices with flexible funds were more likely to remain in their homes within one year of the abuse/neglect incident. However, there were no differences between waiver and comparison groups on the other four measures.

⁹⁰ Marvin Mandell, Donna Harrington, Malinda Orlin, *The Effect of Subsidized Guardianship on Exits from Kinship Care: Results from Maryland's Guardianship Assistance Demonstration Project*, at 5-6 (2001). Maryland's \$300 subsidy represented a \$112 increase over the

TANF basic grant received by unlicensed kin caregivers; but for relatives who were licensed foster parents, assuming guardianship of the child, it meant a loss of \$300 a month.

⁹¹ Mark Testa, Leslie Cohen, & Grace Smith, *Illinois Subsidized Guardianship Waiver Demonstration: Final Evaluation Report*, at 69 (2003).

⁹² *Id.* at 72.

⁹³ *Id.*

⁹⁴ *Indiana Final Report*, at vi-ix.

⁹⁵ *Id.* at viii.

⁹⁶ *Id.* at ix-x.

⁹⁷ Charles S. Usher, Judith Wildfire, *Evaluation of North Carolina's Title IV-E Waiver Demonstration*, at ES-3-4 (2002).

⁹⁸ *Id.* at ES-7.

⁹⁹ *Id.* at ES-8.

¹⁰⁰ *Id.* at ES-9.

¹⁰¹ Child Welfare Partnership, *Evaluation of Oregon's Title IV-E Waiver Demonstration Project: Final Report*, at 16-17 (2003).

On another positive note, the report found that “even as waiver counties were shifting toward serving fewer, but more troubled children, in out-of-home care, the length of stay for them did not increase. In fact, it continued to decrease.”

3. Managed Care Payment Systems

States in this category attempt to restructure financing mechanisms for particular services and groups. In all five of the states that have undertaken such projects, some portion of fiscal responsibility is transferred to the service providers. Generally, if the providers manage to produce positive results (usually meaning fewer children in care), they are given a monetary reward. If the results are not positive (or neutral), they share the increase in costs with the state. Not surprisingly, most states have found it difficult to entice service providers into such an agreement. This is one of the primary reasons, along with state budget crises, that four out of the five states that initiated managed care payment projects have terminated or discontinued them. Only Michigan found their project to be somewhat successful. ACF describes the Michigan’s results:

*...the experimental group received a broader and more flexible range of mental health and support services, such as respite care, childcare, and assistance with household expenses.*¹⁰²

Despite this element of success, outcomes for families and children in Michigan’s project were not encouraging:

*No statistically significant differences have emerged between experimental and control groups in placement stability, re-entry into care, or child safety.*¹⁰³

4. Services to Substance-Abusing Caretakers

Despite the longstanding and well-documented prevalence of substance abuse among families in the child welfare system, very few states have used the waiver process to create innovative approaches to helping these families. A 1999 Oregon study found that:

*Sixty-six percent of families involved with the child welfare agency had drug and/or alcohol involvement. In cases where children were placed in substitute care, 62.4 percent of parents are drug and/or alcohol involved.*¹⁰⁴

Florida’s more recent survey of in-home protective supervision cases found that “52 percent had substance abuse treatment as a required element of their case plan.”¹⁰⁵ But with the exception of Illinois, the states that have pursued projects in this area are among the states with the smallest foster care populations.

These projects seek to address the needs of families in which children are in foster care or at risk for entering care due to their parent’s or guardian’s substance abuse.¹⁰⁶ The approaches taken by three of the four states¹⁰⁷ that have undertaken these projects are similar. Both Delaware and New Hampshire used waiver money to hire certified substance abuse (AOD) counselors to work with Child Protective Services (CPS) staff.¹⁰⁸ In Delaware, AOD counselors conducted substance abuse assessments of parents, developed case plans with CPS workers, linked clients with treatment providers, and sometimes filled in as the parent’s counselor in the gap between referral of the parent and an opening in a drug or alcohol treatment program. In an effort to prevent children from entering care, New Hampshire’s

licensed alcohol and drug abuse counselors (LADACS) are assigned to parents earlier in the case. They are brought in to work with the family and CPS worker when the CPS investigation begins and before the case goes to court.

Illinois put their funds toward “recovery coaches” who work with families in which children have already been removed to foster care. Title IV-E dollars are used to contract with a non-profit community provider that provides teams of substance abuse specialists, including a “tracker” responsible for locating difficult clients. Coaches conduct clinical assessments, initiate drug testing, assist clients to locating resources for domestic violence, housing and mental health needs, and meet regularly with parents to improve treatment completion rates support.

All three states’ demonstration groups reported decreases in the length of time children stayed in foster care.¹⁰⁹ Delaware reported an average reduction of 90 days over the control group, New Hampshire 103 days¹¹⁰, and Illinois 142 days over children in the control group. The number of families accessing treatment also improved. Fifty percent of parents in Illinois’ demonstration project had their first treatment episode within 40 days of their court appearance while it took 100 days for parents in the control group to realize the same rate of success.¹¹¹ Delaware linked about one third of the families served - representing a nearly 100 percent increase over the pre-demonstration period. New Hampshire’s data showed other positive results.¹¹² Families receiving demonstration services had a lower percentage of abuse/neglect recurrence. On child well-being measures, researchers found that for children 4 to 17 in the demonstration group, there

¹⁰² Summary of Title IV-E Child Welfare Waiver Demonstration Projects (May 2004) available at <http://www.acf.hhs.gov/programs/cb/initiatives/cwwaiver/summary.htm> (last visited April 11, 2005).

¹⁰³ *Id.*

¹⁰⁴ Oregon Final Report, at 67.

¹⁰⁵ Summary of State Proposals for New Child Welfare Demonstration Projects at <http://www.acf.hhs.gov/programs/cb/initiatives/cwwaiver/proposal/fl.htm> (last visited 3/29/2005).

¹⁰⁶ The information that follows was taken primarily from Michelle Herman, *Treating Substance Abuse in the Child Welfare*

System (National Conference of State Legislatures 2004)(hereinafter ‘*Treating Substance Abuse*’).

¹⁰⁷ Maryland set out to use something akin to a “wraparound model” to help treat substance abuse, but fell short of their goal and cancelled their demonstration project two years early due to an insufficient number of referrals.

¹⁰⁸ *Treating Substance Abuse*, at 2-3.

¹⁰⁹ *Treating Substance Abuse*, at 4-5.

¹¹⁰ New Hampshire’s results are for a small group of children – 17 in the control group and 15 in the demonstration group.

¹¹¹ *Treating Substance Abuse*, at 5.

¹¹² *Id.*

were declines in anxiety and depression, withdrawn/depressed behavior, and aggressive behavior. All three states also reported some cost savings. Delaware's project ended in December 2002. Both Illinois and New Hampshire have received short extensions.

5. Intensive Service Options

Demonstration projects in this category provide an array of intensive services in an effort to reduce out-of-home placement. To date, two states—California and Mississippi—have implemented these types of projects. (California's project will be described in a later article in this series.)

Mississippi's demonstration is limited to eight counties in two regions of the state. Approximately 200 families were randomly assigned to the experimental or control group. They include families and children in or at risk of entering the foster care system. Typical services include school supplies, medical care, and assistance for families' personal needs. An interim report has been issued for Mississippi's project.¹¹³ For most outcome measures, including the proportion of experimental children who remained at home, reduced placements in group and institutional care, and number of placement providers, no statistically significant differences have yet been found.

6. Enhanced Training for Child Welfare Staff

Concerns about the child welfare workforce have again attracted Congressional attention. In January 2005, Congresswoman Stephanie Tubbs Jones (Ohio), along with 24 cosponsors, introduced a bill that would provide for loan forgiveness for social workers who agree to work for child protective services agencies. In prior

sessions, legislation with similar objectives has been introduced in the House and Senate.¹¹⁴

Illinois is implementing a training program for public- and private-sector child welfare providers. Such training includes a four-week classroom-based program as well as field support (coaching, shadowing, and quarterly boosters) for new private agency hires. These measures are expected to improve permanency outcomes through increased professional competence. An evaluation is forthcoming.

7. Adoption Services

Maine has opted to use the waiver portion of its Title IV-E funds to strengthen its adoption services. The state's focus is on various aspects of the adoption process, including professional training for adoption service providers and post-adoption services aimed at preventing dissolution. The professional training was given to mental health providers and other personnel in the adoption services industry. To date, no statistically significant improvements have been found. There are, however, encouraging data in favor of the post-adoption services on four variables: (1) Physical and emotional health of caregivers; (2) family members' attachment to the adopted child; (3) trust between the caregiver and the adopted child; and (4) caregivers' assessment of the quality of family life after adoption.¹¹⁵

8. Tribal Administration of IV-E Funds

New Mexico is the only state to implement a project with a tribe. Its demonstration project includes a single tribe – the Zuni Pueblo. Negotiations with the Navajo Nation were underway at the time of the most recent evaluation update.¹¹⁶ Under the waiver, the tribe is granted autonomy in

claiming and administering Title IV-E funds directly from the federal government. It has the authority to pay and receive reimbursement for out-of-home care maintenance, adoption assistance, subsidized guardianship, independent living, and related administrative expenses.¹¹⁷

Six outcome areas are included in the project's evaluation. They are quality of placement (including cultural appropriateness), permanency, overall child well-being, biological family functioning and safety, satisfaction of caregivers, and costs. Outcomes are assessed using caregiver surveys and interviews, an Individual Case Outcome Form (ICOD) designed by the researchers, and the North Carolina Family Assessment Scale.

The most recent evaluation of New Mexico's project is limited by several factors, including problems with data collection from participating tribes, and the relatively small number of children involved in the project.¹¹⁸ However, the report suggests that a positive by-product of the waiver may be that tribes will have access to technical assistance around fiscal issues, "such as developing cost allocation plans and coordinating funding streams in order to participate in Title IV-E."

Pew Commission Recommendations

The Pew Commission made several recommendations that would relax some of the restrictions on the use of federal funds for child welfare services, thereby making some waivers unnecessary. Among these was the Commission's call for expansion of Title IV-E eligibility to allow federal guardianship assistance for all children who leave foster care to live with permanent, legal guardians, whether related to the child or not.¹¹⁹ The federal government would share

¹¹³ Institute of Applied Research, *Mississippi Title IV-E Child Welfare Waiver Demonstration Project: Interim Evaluation Report Executive Summary*, (2004).

¹¹⁴ E.g., HR 1534 & 2437 Child Protection Services Workforce Improvement Act; S. 409 (Loan Forgiveness).

¹¹⁵ *Summary of Title IV-E Child Welfare Waiver Demonstration Projects* (May 2004) available at <http://www.acf.hhs.gov/programs/cb/initiatives/cwwaiver/summary.htm> (last visited April 11, 2005).

¹¹⁶ Triwest Group, *New Mexico Title IV-E Waiver Evaluation: Evaluation Update*, at 5 (2002 rev. February 2, 2003).

¹¹⁷ *Id.*

¹¹⁸ *Id.* Triwest Group, *New Mexico Title IV-E Waiver Evaluation: Evaluation Update*, at 30 (2002 rev. February 2, 2003). As of September 20, 2002, 14 children in the Zuni Pueblo were included and 8 children from other tribes. *Id.* at 13.

¹¹⁹ Pew Commission Report, at 20-22.

in the costs of guardianship assistance, matching state dollars at the same rate as foster care and adoption assistance. States would still determine if the guardianship subsidy would be the same amount as the foster care benefit, although Pew:

...urges states to be mindful of the impact [decisions on the relative amount of the guardianship subsidy] can have on promoting or discouraging permanence.... [S]etting adoption or guardianship assistance at lower levels than foster care payments may hinder efforts to ensure permanence for children. This may be especially true when seeking permanence and stability for children with special needs.¹²⁰

According to a national survey conducted by the Children's Defense Fund in 2003, 34 states and the District of Columbia have a subsidized guardianship program.¹²¹

The Commission also recommended that Indian tribes be granted the option of directly accessing federal funding for foster care and other child welfare services.¹²² There are approximately 550 federally recognized tribes in the U.S. However, under current federal law, tribes operating their own child welfare systems are not eligible for Title IV-E funds.¹²³ ¹²⁴If the Pew recommendation is implemented, all tribes will be eligible and waivers could be used for purposes other than expanding eligibility.

Conclusion

Demonstration projects have not been universally successful. Some projects that demonstrated success in multiple sites have not been replicated as expected. Given the overwhelming incidence of substance abuse among families involved in the child welfare system, it is a mystery why so few states' waiver applications addressed this desperate need. It is also unknown why many other states did not move to implement the service delivery models that demonstrated success with these families. Too many waivers have gone to support basic changes in IV-E eligibility, such as subsidized guardianships, rather than experiment more broadly with novel approaches. Even in the current group of 12 applications, seven sought approval to expand subsidized guardianships already tested in many states.

HHS' own public statements hardly provide a ringing endorsement of the waivers. For example, when granting an extension of Ohio's managed care waiver this January, HHS described the benefits of the waiver in language that focused more on process than outcomes:

- Enhanced use of managed care strategies;
- Increased ability to provide services to populations in need;
- Increased prevention services; and
- New prevention activities.

There was no mention of the extent to which the goals of the project—improving stability of children in foster care and promoting adoption—were achieved.

Both Congressional priorities and HHS guidance on favored projects have been ignored during the 10 years that the waiver program has been in effect. In its February 2000 list of Demonstration Topics of Interest to the Department, HHS noted “[t]he majority of families entering the child protective and foster care systems are tackling substance abuse and mental health problems.” Yet while several states conducted small projects addressing improved coordination of services between child welfare and substance abuse agencies, not a single jurisdiction has initiated a joint placement project specifically mentioned in the federal statute. No state has taken up HHS's suggestion to submit proposals that coordinate their funding and programs with Medicaid, substance abuse, domestic violence, and mental health programs. States also have ignored HHS' invitation to target pregnant and parenting teens in the community.

Many projects have addressed the kinship care issue, but most have been limited to funding subsidized guardianships. Few, if any, focused on the problem of effective searches for relatives upon the child's entry into care so that later disruptions are unnecessary.

¹²⁰ Pew Commission Report, at 23.

¹²¹ Mary Bissell & Jennifer Miller, ed., *Using Subsidized Guardianship to Improve Outcomes for Children*, at 3 (2004). See also, Children's Defense Fund, *States' Subsidized Guardianship Laws at a Glance* (October 2004).

¹²² Pew Commission Report, at 24-25.

¹²³ HHS is authorized to make payments of Title IV-B funds directly to tribes. 42 U.S.C. §628.

¹²⁴ Pew Commission Report, at 24-25.

No state has sought to use the funds to improve the front-end search for relatives, though this is often a problem. Some states have addressed barriers to adoption, but few have focused on adoption of older children in care. Only one demonstration project in 10 years has addressed improved services to tribes.

Future articles in this series will explore factors that prevent or deter states from submitting proposals, examine the review process within HHS,¹²⁵ and try to determine why the broad experimentation sought by the states and authorized by Congress has not materialized. The next article will

examine the managed care and capped entitlement evaluations and their implications for authorizing greater flexibility in the use of federal funds.

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¹²⁵ The administrative record, including correspondence sent to the state by HHS and the state's responses, are public documents. *Information Memorandum, ACYF-CB-IM-03-06*, at 13.

Children's Defense Fund Releases State Fact Sheets On Foster Care, Other Child Welfare Programs

As Congress considers President Bush's 2006 budget proposal, the Children's Defense Fund (CDF) has released new national and state fact sheets on child abuse and neglect. The fact sheets provide a snapshot of children in each state's child welfare system and the funding sources for the care and services provided.

Based on data from federal and state governments and the work of researchers, the fact sheets:

- Provide data on abused and neglected children, children in foster care, children who have left foster care, and children living with relatives (kinship care).
- Identify the proportions of child welfare funding that come from federal, state and local sources.
- Describe the federal and state funding that supports child welfare.
- Highlight expenditures and trends within the Title IV-E Foster Care Program, the single largest source of federal child welfare funding.

The CDF has released this information for use by children's advocates, policy makers and the public to pursue child welfare reform at the national, state and local levels.

The fact sheets are available online: <http://www.childrensdefense.org/childwelfare/financing/factsheets/default.aspx>