



Supplemental Testimony of
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August 27, 2010

Hearing to Review the Use of Child Welfare Waiver Demonstration Projects to
Promote Child Well-Being

Subcommittee on Income Security and Family Support
Committee on Ways and Means
U.S. House of Representatives

Thank you for the opportunity to submit supplemental testimony, on behalf of the Center for Law and Social Policy (CLASP), following the July 29, 2010 hearing to review the use of child welfare waiver demonstration projects to promote child well-being. As I testified last month, CLASP believes that reauthorizing child welfare waiver authority is the wrong policy approach to take at this time. Instead we believe it is critical to tackle comprehensive financing reform – reform that will both infuse new resources into and redirect resources within the child welfare system to provide needed services and supports that keep children out of foster care whenever safely possible. Therefore, we are extremely pleased that Chairman McDermott and Ranking Member Linder requested that all witnesses submit testimony describing what comprehensive financing reform should entail.

CLASP believes there are three broad components of comprehensive financing reform:

- *Expanding Title IV-E funds to support the full continuum of services needed by children who have experienced or are at risk of experiencing child abuse and neglect, rather than simply funding out-of-home placements.*
- *Increasing support to enhance the child welfare workforce since the delivery of effective services and interventions is dependent on these workers.*
- *Increasing accountability – both fiscal accountability and accountability for the outcomes children and families experience – to ensure the increased investments and flexibility provided by comprehensive financing reform are well used.*

Before turning to each of these components, I would like to review briefly how the current financing structure developed and the challenges this structure presents to addressing the needs of children and families.

Federal support for child welfare over the last 40 years has largely focused on providing out-of-home care to children who have been abused or neglected.

The vast majority of federal support for child welfare is available only after harm has occurred and children are removed from their families.¹ Title IV-E of the Social Security Act (Title IV-

¹ As noted in my testimony of July 29, 2010, the nation spends perhaps 30 cents on prevention for every dollar we spent on out-of-home care. There are a variety of ways to calculate this ratio – none of them perfect. For this analysis, we have compared the various sources of federal child welfare spending in 2006. This data was gathered and analyzed by Child Trends, [*See*, Child Trends, "Federal, State, and Local Spending to Address Child Abuse and Neglect in SFY 2006" December 2008, Appendix A]. For our estimate of the ratio of spending on out-of-home placements to spending to prevent out-of-home placements we considered the following expenditures to be for out-of-home placements: Title IV-E spending (which is almost exclusively for the care of children in out-of-home placements) and Medicaid targeted case management services and rehabilitative services to children who are involved with the child welfare system, which could in theory include some children who are involved with the child welfare system but not in out-of-home placements who are receiving such Medicaid services, but more likely relates to expenditures for children in foster care or children receiving adoption assistance who are automatically eligible for Medicaid. We considered the following expenditures to be for services and supports to keep children in their homes: Title IV-B, the Child Abuse Prevention and Treatment Act, and the Social Services Block Grant. Funds from these three sources are also used for children who are in out-of-home placements but since we lack good data

E), the single largest federal child welfare source of funding, generally cannot be used to prevent child abuse and neglect from occurring nor to intervene when it is still possible to keep a child safely at home. This is, as Chairman McDermott noted at the hearing, largely an artifact of how the Title IV-E program developed as an offshoot of the old Aid to Families with Dependent Children (AFDC) program. In the 1960's a number of states denied assistance through the AFDC program to families where they deemed the homes "unsuitable." In response, the federal government instructed states to assist the families in making their homes "suitable" so that children could safely remain in them or if it was not possible to remedy the home situation, states were to remove the children and place them in safer situations. In exchange, the federal government agreed to pay a portion of the costs of caring for the children who would have received AFDC payments had they not been removed from their homes.²

In 1980, Title IV-E was created as its own program, rather than an offshoot of AFDC, and provided assistance to children in foster care and children who left foster care for adoption because they could not return to their birth families. However, since the program had grown out of the AFDC program, assistance was available only to children who were removed from families who would have been eligible for AFDC at the time of their removal. This historic link to the AFDC program remains since Title IV-E eligibility is tied in part to the AFDC income eligibility criteria in place in 1996 when AFDC was replaced with the Temporary Assistance for Needy Families (TANF) program. As a result of having to "look back" to the AFDC income eligibility standards, fewer children are eligible for Title IV-E each year. In addition to the practical problems this "look back" creates, it also raises important questions of equity: "why should an abused or neglected child's eligibility for federal assistance turn on the income of the parents who mistreated him?" and "doesn't the federal government have a responsibility to all abused and neglected children, not just those who come from the poorest families?"

More recent federal reforms to Title IV-E welfare focused largely on helping children exit foster care, rather than preventing the need for foster care.

In 1997, the Adoption and Safe Families Act (ASFA) was enacted with a goal of preventing children from lingering in foster care. The intent was to encourage states to provide families the services they need so children could quickly and safely return home, but to move towards an alternative permanent family for a child if reunification could not be achieved within 12-15 months. ASFA also recognized that alternative permanent families could be created through either adoption or placement of the child with a fit and willing relative who would care for the

on what proportion goes to what population, we will make the conservative assumption that all of it goes to children who are not in out-of-home placements. This led to a calculated ratio of approximately 30 cents spent on services to prevent maltreatment and avoid foster care for every dollar spent on out-of-home placements. TANF is also a significant federal source of child welfare funding but it is more difficult to estimate what portion of these services are going to support children in out-of-home care and what proportion support children in their homes. Thus, we exclude TANF expenditures out of our ratio calculation. Others have calculated ratios more along the lines of 10-15 cents spent on prevention and early intervention for every dollar spent on out-of-home care. Thus, our estimate seems quite conservative.

² Frame, L. (1999). Suitable Homes Revisited: An Historical Look at Child Protection and Welfare Reform. *Child and Youth Services Review*, 21 (9-10), 719-754.

child outside the child welfare system. In large part, the focus of ASFA was on helping children leave foster care as quickly as possible.

In 2008, the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections) was enacted to build upon the work of ASFA. Fostering Connections, for example, recognized the value of placing children with relatives both while in foster care and as a means of helping them exit foster care. The law included a number of provisions to increase the likelihood of children being placed with relatives – including requiring notice to relatives when a child enters foster care and giving states the option to provide on-going assistance to meet the needs of a child when a relative become a guardian and offers the child a permanent home. Fostering Connections took a number of steps to improve the experience of children while in foster care, particularly by lessening the traumatic moves and separations that often occur with foster care. The legislation included provisions to require siblings be placed together, unless doing so is contrary to their safety or well-being. Similarly, the law requires states to ensure that children are able to remain in the same school when they enter foster care or have to change placements, unless remaining in the same school is not in their best interests. Fostering Connections also gave states the option to extend foster care to youth beyond age 18 in hopes of helping these youth find permanent families and prepare for adulthood.

While Fostering Connections took many critical steps towards improving outcomes for children who enter foster care, it did relatively little to try to prevent children from needing to enter foster care in the first place. As the champions of the legislation noted upon its enactment, Fostering Connections was a first step, a down payment. There was broad recognition that the more difficult challenge of realigning the financing structures to prevent abuse and neglect and avoid foster care when possible remained.

Prior to the enactment of Fostering Connections, CLASP, together with nearly thirty national organizations, formed the Partnership to Protect Children and Strengthen Families and released a set of recommendations for reforming child welfare financing.³ Many of those recommendations were included in Fostering Connections. Since the legislation was enacted, the groups that formed the initial Partnership, along with a number of other organizations, have been working diligently to develop a set of recommendations about the next steps in comprehensive reform – steps that build off the important progress of Fostering Connections. Our recommendations will not be cost neutral in the short term because we do not believe it is possible to change significantly the outcomes for children and families without additional investments, particularly when up to two-thirds of children who experience abuse or neglect are not known to the system and when forty percent of the children found to have been abused or neglected get no services to ameliorate the harm of that maltreatment.⁴

³ See, recommendations at: <http://www.clasp.org/admin/site/publications/files/0359.pdf>

⁴ Sedlak, A.J., Mettenburg, J., Basena, M., Petta, I., McPherson, K., Greene, A., and Li, S. (2010). *Fourth National Incidence Study of Child Abuse and Neglect (NIS-4): Report to Congress*. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families. available at: http://www.acf.hhs.gov/programs/opre/abuse_neglect/natl_incid/index.html.; U.S. Department of Health and Human Services, *The Third National Incidence Study of Child Abuse and Neglect*, (Washington, DC: 1996); and U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2010). *Child Maltreatment 2008* available at: http://www.acf.hhs.gov/programs/cb/stats_research/index.htm#can.

The work of this group is not yet complete, so in this testimony I am not speaking for the Partnership or any of the other organizations who have worked collaboratively to develop recommendations. On the other hand, I want to acknowledge that I am drawing from the initial recommendations released in 2007 that were not enacted in Fostering Connections and also borrowing the good ideas that have been shared in the process of developing the next set of recommendations. Based on this work, the remaining testimony sets forth the components of comprehensive financing reform CLASP believes are essential to improving the outcomes of children and families who come in contact with the child welfare system.

Expand Title IV-E funds to support the full continuum of services needed by children and families who come to the attention of the child welfare system – a continuum that extends from prevention to post-permanency.

As the above review of the evolution of the Title IV-E program makes clear, the focus of this program has always been on children who have been removed from their homes and placed in foster care. In part this is because of how the program grew out of the old AFDC program. In part, I think it also reflected a lack of knowledge in the field about how to actually prevent abuse and neglect from happening and how to engage families where maltreatment occurred to address the problems that led to the maltreatment and safely keep the children at home. As a field, we have long struggled with how to deal with the front end of the system – namely prevention and early intervention. However, as I noted in my testimony last month, we have learned a great deal in the last decade or so about how to prevent abuse and neglect and how to intervene early to keep children safely at home. We have learned a great deal about the role untreated mental health problems, substance abuse and domestic violence play in families where child abuse and neglect occurs. We have learned that the majority of maltreatment is neglect, not the headline claiming cases of sadistic physical abuse or sexual abuse.⁵ We have increased our understanding of the link between poverty and maltreatment and how lack of resources, and the resulting stress, contribute to maltreatment, particularly neglect.

This increased knowledge has helped us identify more effective ways of assisting vulnerable children and families. We know that responding to families in less adversarial ways can make a difference. When we approach families using “alternative or differential” responses where we engage family members as partners, carefully assess their needs and connect them to services and supports to address those needs, we can improve the outcomes children and families experience. We have learned more about how to effectively connect families with needed services, for example, through the use of high quality home visitation programs. We have learned more about how to effectively address substance abuse among women with children, especially when those women have a history of trauma or untreated mental health issues. We have learned that residential, family-based substance abuse treatment for these women and their children tends to be more effective than the more traditional, male focused models. We have

⁵ U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau. (2010). Child Maltreatment 2008 available at: http://www.acf.hhs.gov/programs/cb/stats_research/index.htm#can.

also learned much more about how to effectively teach parenting skills and strategies that are tailored to the needs of particular parents and children. Finally, we have learned that the consequences of abuse and neglect often last beyond the point a child returns home, is adopted or moves to legal guardianship with a relative and that providing post-permanency or after care services are often needed to maintain the stability of those families and meet the children's needs.

Unfortunately, our funding of such innovative approaches has not kept pace with our knowledge development. Most of the funding still remains tied to removing children from their families. Thus, if we are to change the outcomes children and families experience, CLASP believes Title IV-E funding must be restructured to support the full continuum of services from prevention and early intervention services to post-permanency and after care services.

There are a number of ways to do this, variations of which have been proposed in the past. First, *the allowable uses of Title IV-E should be expanded to cover a range of critical services*. A version of this approach was included in the Invest in Kids' Instruction, Development and Support Act of 2008 (H.R. 5466). Second, *states that successfully reduce their foster care caseloads should be allowed to retain the monies they no longer need for foster care and redirect those resources into the service continuum*. This was one of the recommendations of the Pew Commission on Children in Foster Care. Third, *the link to the old AFDC income eligibility criteria should be eliminated to provide federal support for all children who have experienced or are at risk of abuse or neglect and the savings states realize from the expanded federal support for children should then be reinvested into the service continuum*. This "de-link" provision was part of Fostering Connections in terms of eligibility for adoption assistance, though not for foster care or guardianship assistance.

CLASP believes that none of these individual proposals can bring about the comprehensive reform needed. We believe that redirection and reinvestment alone will be insufficient – for many of the same reasons that waivers cannot bring about the changes needed. In addition to redirection and reinvestment, Title IV-E will also need to be expanded to cover new services. The combination of these approaches will result in the necessary infusion of new funds while also increasing the efficient use of existing funds. Together these proposals can provide Title IV-E support for the entire continuum of services needed to prevent abuse and neglect, treat it when it occurs and ameliorate long term harm to those who experience it.

Increase support to enhance the child welfare workforce

In addition to increasing the services available to children and families, effective reform will require more support for child welfare workers – from the front line workers to supervisors to child welfare directors. The heart of child welfare work happens where the worker interacts with the family, builds rapport with them, understands their strengths and weaknesses, identifies underlying problems, connects the family to needed services, ensures that those services are provided and are in fact appropriate, continually works with the family to assess needs and adjust services so underlying problems can be resolved and the family can care for their children. Workers need skills and knowledge to do this difficult job well, yet turnover is so high that the

typical child welfare worker has only two years experience and carries a caseload more than twice what is recommended.⁶

There are several reforms that are needed to enhance the workforce. First, child placement and administrative claims under Title IV-E should be separated and reimbursed at different rates. Child placement activities, the type of activities described in the preceding paragraph, are not the typical “administrative” activities usually thought of in other federal programs. They are in fact the crux of child welfare work. These **“child placement” activities should be treated as “services” and be reimbursed at the federal medical assistance percentage (FMAP) rate** like foster care maintenance, adoption assistance and guardianship assistance payments currently are. Truly “administrative” activities performed by child welfare workers should continue to be reimbursed at the 50 percent administrative matching rate.

Second, **Title IV-E training funds should be expanded to include training for all staff who work with children who come to the attention of the child welfare system**. Fostering Connections took important steps in this direction by expanding the allowable use of Title IV-E training funds to private agency staff, court personnel, guardians ad litem, attorneys involved in abuse and neglect proceedings and Court Appointed Special Advocates. In addition, Title IV-E training funds should be allowed to cover the cost of training staff in related agencies including education, health, mental health, substance abuse prevention and treatment, juvenile justice, law enforcement and domestic violence prevention and intervention agencies. The covered training would be limited to topics related to the intersections of these issue areas and child welfare.

In addition to increasing Title IV-E support for training and casework, **Congress should fund a national study of the child welfare workforce** that examines such topics as: caseload and workload standards; education and training requirements; compensation levels; staff retention and turnover; and how these factors relate to the outcomes children and families experience. The information gleaned from this study will help guide states in developing practices that enhance the workforce and the outcomes experienced by children and families who come in contact with the child welfare system.

Increase fiscal accountability and accountability for the outcomes children and families experience

CLASP envisions comprehensive financing reform that dramatically changes what services are available to children who have experienced abuse or neglect and those at risk of experiencing such maltreatment, as well as their families. We hope many more children and families are served without turning to foster care. In order to know if these new and redirected investments actually make a difference, a comprehensive financing package will need a number of accountability measures.

⁶ U.S. General Accountability Office, [Child Welfare: HHS Could Play a Greater Role in Helping Child Welfare Agencies Recruit and Retain Staff, GAO-03-357](#) (Washington, D.C.: March 31, 2003)

In terms of fiscal accountability, states must be required to maintain their current level of spending (federal, state, local and private) for child welfare services so that new federal investments do not simply supplant current investments. If such supplantation occurs, the result is no increase in services and supports for children and families. Thus, ***any comprehensive financing proposal must include a maintenance of effort requirement.***

In terms of accountability for the experiences of children and families, there are a number of outcome measures that would provide valuable information about the impact of the financing reforms proposed above. Specifically, ***outcome measures should be added which:***

1. ***Measure the safety of children who come to the attention of the child welfare system*** and receive prevention and early intervention services but who are diverted from foster care and from mandatory on-going supervision by the child welfare agency and/or court;
2. ***Better measure children's stability while in foster care***, including placement moves, school moves, placement with siblings and placement with relatives;
3. ***Measure placements in family settings*** compared to placements in residential treatment, congregate care or shelter settings;
4. ***Better measure the safety of children who exit foster care***; and
5. ***Better measure the number of children who exit foster care without a permanent family*** (for example, those who run away or are missing and those who age out of care without being reunified with their birth families, adopted or placed with legal guardians).

In addition, ***it is critical that the data on all outcome measures be reported by racial/ethnic groups and by age***, so that we are able to assess if there are particular subgroups that need additional or different interventions to improve the outcomes they experience.

Finally, ***comprehensive financing reform should include process measures that help us assess the impact of financing reforms on service provision.*** For example, do the financing reforms result in a change in the type of services being provided? Who is receiving these services and for how long? Are the services provided actually meeting the needs of the children and families who receive them?

Conclusion

CLASP believes that to really improve the outcomes children and families experience we must enact comprehensive financing reform. Over the last fifteen years, important steps have been taken to move children in foster care out of foster care and into permanent families. However, not enough has been done to prevent children from entering or re-entering foster care. CLASP believes we now have the knowledge to dramatically reduce the number of children who need to be removed from their homes. We have learned a great deal about how to help children safely remain with their families. However, we have not changed our financing structures to support the service continuum needed to keep children safely out of foster care. It is time to realign these financing structures so child welfare workers have the tools they need to prevent abuse and

neglect; to intervene early so children can safely remain with their families and avoid foster care; to quickly, and safely, return children to their families when it is necessary to place them in foster care; and to provide the supports necessary to maintain permanent families when children return home, are adopted or move to legal guardianship with relatives.

From CLASP's perspective, comprehensive financing reform includes three components: (1) expanding Title IV-E to support the full continuum of services needed by children who have experienced or are at risk of experiencing child abuse and neglect, as well as their families; (2) increasing support to enhance the child welfare workforce who provide the critical link that ensures that children and families actually receive the right services and supports once a robust continuum of services is developed; and (3) increasing accountability – both fiscal accountability and accountability for the outcomes children and families experience – to ensure the new investments and flexibility provided by comprehensive financing reform are well used. We would be happy to work with you to provide more detail on each of these components and hope that you will take up the challenge of enacting comprehensive child welfare financing reform to effectively promote child well-being.