

ACF

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INFORMATION MEMORANDUM

TO: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Titles IV-B and IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

SUBJECT: NEW LEGISLATION – The Child and Family Services Improvement and Innovation Act (Public Law (Pub. L.) 112-34)

LEGAL AND RELATED REFERENCES: Titles IV-B, IV-E and section 1130 of the Social Security Act

PURPOSE: This is to inform State, Tribal and Territorial Titles IV-B and IV-E agencies of the enactment of the Child and Family Services Improvement and Innovation Act (Pub. L. 112-34), which reauthorizes programs funded under title IV-B and to provide basic information about the provisions of this law.

INFORMATION: The President signed Pub. L. 112-34 into law on September 30, 2011. Generally, Pub. L. 112-34 extends programs funded under title IV-B of the Social Security Act (the Act) through fiscal year (FY) 2016 and authorizes new demonstration projects through FY 2014. A draft compilation of the revised Social Security Act is attached and will be available at <http://www.acf.hhs.gov/programs/cb/index.htm>.

A summary is provided below of many, but not all provisions in Pub. L. 112-34. This summary is intended to introduce the enacted provisions rather than provide substantive guidance on implementing the law.

Reauthorizes Title IV-B, subpart 1 Stephanie Tubbs Jones Child Welfare Services Program

- Pub. L. 112-34 reauthorizes, through FY 2016, the title IV-B, subpart 1 Child Welfare Services Program and amends several plan requirements. It continues the title IV-B, subpart 1 funding at the current authorization level of \$325 million.

Title IV-B, subpart 1 Plan Requirements:

- Title IV-B agencies must now include in the plan for the ongoing oversight and coordination of health care services for children in foster care an outline of:
 1. how the title IV-B agency will monitor and treat emotional trauma associated with a child's maltreatment and removal, in addition to other health needs identified through screenings; and
 2. protocols for the appropriate use and monitoring of psychotropic medications, as part of its current oversight of prescription medicines (sections 422(b)(15)(A)(ii) and (v) of the Act).
- Pub. L. 112-34 adds two new title IV-B, subpart 1 plan requirements:
 - State and Tribal title IV-B agencies must describe activities undertaken to:
 1. reduce the length of time children under age five are without a permanent family; and
 2. address the developmental needs of children served under titles IV-B and IV-E (section 422(b)(18) of the Act); and
 - State title IV-B agencies must describe the sources used to compile information on child maltreatment deaths and, if applicable, why certain sources of information from the State vital statistics department, child death review teams, law enforcement agencies or offices of medical examiners or coroners are excluded and how the agency will include the information (section 422(b)(19) of the Act).
- Effective Date: October 1, 2011.

Reauthorizes Title IV-B, subpart 2 Promoting Safe and Stable Families Program

- Pub. L. 112-34 reauthorizes, through FY 2016, the title IV-B, subpart 2 Promoting Safe and Stable Families Program as well as funding for research, training and technical assistance, the court improvement program, State monthly caseworker visit formula grants and competitive regional partnership grants and amends plan requirements. It authorizes \$345 million in mandatory funds and up to \$200 million in discretionary funds to programs under title IV-B, subpart 2 of the Act.
- *Title IV-B, subpart 2 Plan Requirements:* Under the title IV-B, subpart 2 plan, the State or Tribal title IV-B agency must describe how it identifies which populations are at the greatest risk of maltreatment and how it targets services to those populations (section 432(a)(10) of the Act).
- *Definitions:* Pub. L. 112-34 amends the following title IV-B, subpart 2 definitions:
 - The definition of family support services is amended to add mentoring as an allowable purpose;

- The definition of time limited reunification services is amended to allow peer-to-peer mentoring and support groups for parents and primary caregivers, as well as services and activities to facilitate access to and visitation of children with parents and siblings (sections 431(a)(2) and (7) of the Act); and
- The definitions of “Indian Tribe” and “Tribal organization” are amended to conform to the definitions used in the Indian Self-Determination and Education Assistance Act. This makes the definitions of “Indian Tribe” and “Tribal organization” consistent across title IV-B, subparts 1 and 2 programs (sections 431(a)(5) and (6) of the Act).
- *Department of Health and Human Services (HHS) Reports:* HHS must make the State title IV-B annual expenditure and service report publicly accessible via the HHS website by September 30th annually. HHS must now include in the report both the individual State title IV-B agency reports and tables providing national totals for each required element, including planned and actual spending by service category for title IV-B, subpart 2 programs and planned spending by service category for title IV-B, subpart 1 programs (section 432(c) of the Act).
- Effective Date: October 1, 2011.

Adds new section, Title IV-B, subpart 3 Data Standardization for Improved Data Matching

Standard Data Elements: HHS must regulate standard data elements for information that title IV-B agencies are required to report under title IV-B (section 440(a) of the Act).

- The standard data elements must be developed in consultation with an Office of Management and Budget interagency work group (section 440(a)(1) of the Act).
- The standard data elements must, to the extent practicable, meet certain requirements including:
 - be nonproprietary and interoperable; and
 - incorporate interoperable standards that are developed and maintained by the following:
 1. an international voluntary consensus standards body, such as the International Organization for Standardization;
 2. intergovernmental partnerships, such as the National Information Exchange Model; and
 3. Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulations Council (sections 440(a)(2) and (3) of the Act).

Data Standards for Reporting: HHS must regulate data reporting standards to govern the reporting under title IV-B by title IV-B agencies (section 440(b) of the Act).

- The data reporting standards must be developed in consultation with an Office of Management and Budget interagency work group (section 440(b)(1) of the Act).
- The data reporting standards must, to the extent practicable, meet certain requirements including:
 - incorporate a widely-accepted, nonproprietary, searchable, computer-readable format;
 - be consistent with and implement applicable accounting principles;

- be capable of being continually upgraded as necessary; and
- incorporate existing nonproprietary standards, such as the eXtensible Business Reporting Language (sections 440(b)(2) and (3) of the Act).
- Effective Date: October 1, 2012

Monthly Caseworker Visit Standards and Use of Funds

- ***Monthly Caseworker Visit Targets:*** Pub. L. 112-34 revises the monthly caseworker visit data standards as follows:
 - ***For each of FYs 2012-2014:*** State title IV-B agencies must ensure that the total number of monthly caseworker visits to children in foster care is not less than 90 percent of the total number of monthly caseworker visits that would occur if each child is visited once per month.
 - ***For FY 2015 and each FY thereafter:*** State title IV-B agencies must ensure that the total number of monthly caseworker visits to children in foster care is not less than 95 percent of the total number of visits that would occur if each child is visited once per month.
 - ***For FY 2012 and each FY thereafter:*** At least 50 percent of monthly caseworker visits must occur in the child's residence.
 - If a State title IV-B agency fails to meet any of the applicable standards, the State title IV-B agency's grant for the following FY under title IV-B, subpart 1 is subject to a reduction in Federal Financial Participation of one, three or five percentage points, depending on the amount by which the agency misses the standard (section 424(f) of the Act).
- ***Use of Monthly Caseworker Visit Funds:*** Pub. L. 112-34 revises the purpose for the use of title IV-B, subpart 2 formula grants provided to State title IV-B agencies for monthly caseworker visits. The law now specifies that State agencies must use monthly caseworker visit funding to improve the quality of caseworker visits with an emphasis on caseworker decision making and caseworker recruitment and retention (section 436(b)(4)(B)(i) of the Act).
- Effective Date: October 1, 2011

Targeted grants to increase the well being of, and to improve the permanency outcomes for, children affected by substance abuse (Regional Partnership Grants)

- ***Removes Emphasis on Methamphetamine:*** Regional Partnership Grants (RPG) are competitive, targeted grants awarded to regional partnerships that provide integrated activities and services that are designed to increase the safety, permanency and well-being of children who are in an out-of-home placement as a result of a parent's or caretaker's methamphetamine or other substance abuse. Pub. L. 112-34 removes references to methamphetamine, including the requirement that gave weight to grant applications that focused on methamphetamine use (section 437(f) of the Act).
- ***Extension:*** HHS may extend grants for two additional FYs at a reduced Federal match of 70 percent for the sixth FY and 65 percent for the seventh FY (sections 437(f)(3)(B)(ii) and (6)(A)(iv) and (v) of the Act).

- *Multiple Grants*: The statute now specifies that grantees may apply for and be awarded multiple grants (section 437(f)(3)(C) of the Act).
- *Reports*: In addition to the statutorily required reports for grantees and HHS, HHS now must evaluate and report on the effectiveness of current grants by December 31, 2012 and for grants funded for FYs 2012-2016 by December 31, 2017. The report must include an analysis of the grantees' success in meeting performance indicators and addressing the needs of families with methamphetamine or other substance abuse problems (section 103(c)(3) of Pub. L. 112-34).
- Effective Date: October 1, 2011.

Court Improvement Program

- Pub. L. 112-34 reauthorizes the State court improvement program (CIP) at the following annual funding levels:
 - \$9 million in mandatory funds plus 3.3 percent of the discretionary funds appropriated under the title IV-B, subpart 2 Promoting Safe and Stable Families Program for the basic CIP grant;
 - \$10 million in mandatory funds for the data collection and analysis CIP grant; and
 - \$10 million in mandatory funds for the training CIP grant (section 438(c)(3) of the Act).
- Pub. L. 112-34 also makes the following administrative and programmatic changes:
 - Requires each State court applicant to submit a single application that specifies each State CIP grant purpose for which the court is applying (section 438(b)(2) of the Act).
 - Adds concurrent planning and increasing and improving engagement of the entire family in court processes relating to child welfare, family preservation, family reunification and adoption to the purposes of the basic and training State CIP grants (sections 438(a)(2)(A) and (C) of the Act).
- Pub. L. 112-34 allocates \$1 million for the creation of a Tribal CIP. Tribal CIP grants will be awarded on a competitive basis. Eligible applicants include Indian Tribes and Tribal consortia that:
 1. are operating a title IV-E program in accordance with section 479B of the Act; or
 2. plan to operate a title IV-E program and have received a title IV-E plan development grant, as authorized by section 476 of the Act; or
 3. have a court responsible for proceedings related to foster care or adoption (section 438(c)(3)(A)(iv) of the Act).
- Effective Date: October 1, 2011.

Case Plan and Case Review System

- ***Timing of Educational Stability Case Plan Requirement:*** Titles IV-B/IV-E agencies must now meet the educational stability case plan requirement at the time of each placement change, not just at initial placement into foster care as was the original requirement under Pub. L. 110-351, the *Fostering Connections to Success and Increasing Adoptions Act of 2008* (section 475(1)(G) of the Act).
- ***Credit Reports for Youth in Foster Care:*** Pub. L. 112-34 amends the case review system definition to require that each child age 16 and older in foster care receives a copy of any consumer credit report each year until discharged from foster care, and must be assisted in interpreting the credit report and resolving any inconsistencies (section 475(5)(I) of the Act).

Title IV-E Adoption Assistance Program Reinvestment

- Title IV-E agencies must now document how savings (if any) are spent when using the applicable child eligibility criteria in the title IV-E adoption assistance program (sections 473(a)(2)(A)(ii) and (e) of the Act).
- Effective Date: October 1, 2011.

Renewal of Authority to Approve Demonstration Projects Designed to Test Innovative Strategies in Child Welfare Programs

Pub. L. 112-34 amends section 1130 of the Act to allow HHS to approve up to 10 new child welfare waiver demonstration projects in each of FYs 2012-2014, and provides new application and eligibility criteria, as follows:

- ***Tribal Eligibility:*** An Indian Tribe, Tribal organization or consortium approved to operate a title IV-E program is eligible to apply to conduct demonstration projects.
- ***Duration of Demonstration Projects:*** New demonstration projects may be conducted for up to five years, and extended with HHS approval. However, all current and new projects must end by September 30, 2019.
- ***Goals of Demonstration Projects:*** Applicants must demonstrate that the proposed project is designed to accomplish one or more of the following goals:
 - To increase permanency by reducing time in foster care and promote successful transition to adulthood for older youth;
 - To increase positive outcomes for infants, children and families in their homes and communities, including Tribal communities, and improve the safety and well-being of infants, children and youth; or
 - To prevent child abuse and neglect and re-entry into care (section 1130(a)(3)(A) of the Act).
 - In meeting those goals, applicants may elect to establish a project designed to:
 1. permit title IV-E foster care maintenance payments to be made on behalf of a child residing with a parent in a long-term therapeutic family treatment center that provides substance abuse treatment

services, children’s early intervention services, as well as other health, mental health and vocational training services (sections 1130(a)(3)(A)(ii) and (8)(B) of the Act).

2. identify and address domestic violence that endangers children and results in the placement of children in foster care (section 1130(a)(3)(A)(ii) of the Act).

- *Application Requirements:*
 - Applicants must demonstrate readiness to implement the proposed demonstration project by providing a narrative description of the title IV-E agency’s capacity to effectively use the authority that describes changes or planned changes in the policies, procedures or other program elements that will enable the title IV-E agency to successfully achieve the goal or goals of the project (section 1130(a)(3)(B) of the Act).
 - Applicants for new demonstration projects must now account in the application for Federal, State, local and private investments used in the past two FYs for the services that will be provided under the waiver and pledge to submit an annual accounting (section 1130(e)(7) of the Act).
- *Requirement to Implement Child Welfare Program Improvement Policies:* In order to be approved to conduct a demonstration project, the title IV-E agency must implement at least two “child welfare program improvement policies” within three years of the application. One of the program improvement policies may have been implemented prior to the submission of the application, but at least one policy must be new. The policies are listed in statute and include, but are not limited to: extending title IV-E assistance up to age 21, electing to operate a title IV-E guardianship assistance program, establishing a child welfare bill of rights for children in foster care, and implementing plans for meeting the comprehensive health and mental health care needs of children in foster care, through such means as ensuring that the child has a medical home and regular wellness medical visits, and when appropriate, addressing the issue of trauma (sections 1130(a)(3)(C) and (7) of the Act).
- *Evaluation:* Pub. L. 112-34 retains statutory requirements for each title IV-E agency authorized to conduct a demonstration to obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by HHS (section 1130(f) of the Act).
- *Cost Neutrality:* Pub. L. 112-34 retains provisions requiring that the demonstration project be cost neutral to the Federal government over the period of the demonstration; in other words, the amount of Federal funds used to support the demonstration project may not exceed the amount of Federal funds that would have been expended by the title IV-E agency under titles IV-B and IV-E of the Act if the demonstration project had not been conducted (section 1130(h) of the Act).
- *HHS Consideration in Reviewing and Evaluating Demonstration Project Proposals:*
 - While title IV-E agencies may propose to use an experimental research design employing random assignment of participants to treatment and control groups for its evaluation design, Pub. L. 112-34 prohibits HHS

from considering whether a proposed project uses random assignment when evaluating proposals (section 1130(a)(6) of the Act).

- HHS must now consider the effect of the proposed demonstration project on the applicant's ability to implement a Child and Family Services Review program improvement plan, in addition to the applicant's ability to comply with any court order in place that determined that the title IV-E agency's child welfare program failed to comply with titles IV-B or IV-E of the Act or the U.S. Constitution (section 1130(a)(5) of the Act).
- *Grantee Reports:* Title IV-E agencies must submit periodic reports to HHS on activities conducted under new demonstration projects and post the reports to the title IV-E agency's website (section 1130(g)(1) of the Act).
- *HHS Reports:* HHS must periodically report to Congress on the status of waivers and on the overall results of the title IV-E agency evaluations with recommendations for administrative/legislative changes (section 1130(g)(2) of the Act).
- Effective Date: September 30, 2011

Government Accounting Office (GAO) Report

- GAO must report to Congress within 12 months of enactment on alternative sources of Federal funding used by States or other entities for the same purposes for which funding is provided under title IV-B, subparts 1 or 2 (section 102(f) of Pub. L. 112-34).
- Report requirements include:
 - assessing the needs of families eligible for services under title IV-B, which must include identifying underserved communities; and
 - information on:
 1. supports to enable caseworkers to investigate and safely manage their caseloads;
 2. wait times families encounter to receive substance abuse and other preventative services; and
 3. the number of families on waiting lists for these services, including how the delay affects reunification for these families.
- Effective Date: September 30, 2011

Inquiries to: Children's Bureau Regional Program Managers

/s/

Bryan Samuels
Commissioner
Administration on Children, Youth and Families

Attachment A: Children's Bureau Regional Program Managers

Attachment B: Public Law 112-34

Attachment A: Regional Program Managers

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II	<p>Region II - New York City Junius Scott junius.scott@acf.hhs.gov 26 Federal Plaza, Rm. 4114 New York, NY 10278 (212) 264-2890 States and Territories: New Jersey, New York, Puerto Rico, Virgin Islands</p>	VII	<p>Region VII - Kansas City Rosalyn Wilson rosalyn.wilson@acf.hhs.gov Federal Office Building Room 276 601 E 12th Street Kansas City, MO 64106 (816) 426-3981 States: Iowa, Kansas, Missouri, Nebraska</p>
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V	<p>Region V - Chicago Angela Green angela.green@acf.hhs.gov 233 N. Michigan Avenue Suite 400 Chicago, IL 60601 (312) 353-9672 States: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin</p>	X	<p>Region X - Seattle Tina Minor tina.minor@acf.hhs.gov 2201 Sixth Avenue, Suite 300, MS-70 Seattle, WA 98121 (206) 615-3657 States: Alaska, Idaho, Oregon, Washington</p>

Attachment B: Public Law 112-34

The text of the law will be posted as soon as it becomes available.