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Commentary on "Child Welfare Waivers: The Stakes for Families"

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"Don't let us sit in the [foster care] system for so long. It's horrible not having parents or a place to call home."

-Joe, 17

Wexler's article provides hope that we may be responding to Joe's request. Funding for child protection programs in each state is provided by a combination of federal, state, and, sometimes, local sources. One of the principal sources of federal funding is established under the Title IV-E program. At present, these Title IV-E dollars are allocated to support foster care and adoption-related services. It is estimated that, in 2012, the federal government, through the Department of Health and Human Services (HHS), will provide 7 billion dollars to the states in Title IV-E aid. Two and one-half billion of this will be allocated to adoption-related services, but the remaining $4.5 billion will now be eligible for state-requested waivers. This means that states that request and are granted a waiver for their portion of this $4.5 billion will not be confined to devoting these funds exclusively to foster care. Beyond the minimum allocation for foster care, states with waivers may choose to assign these funds to safe, proven alternatives to foster care consistent with local needs, thus encouraging creativity in structuring options for the specific circumstances of a child.

This waiver authority had previously existed for HHS, but expired in 2006. Congress and President Obama in September 2011 reestablished the ability of HHS to grant 10 such waivers each year over the next 3 years. A state's waiver may address only a limited portion of its IV-E funds for a narrowly targeted purpose or be broadly drawn and allow the full IV-E portion to be received as a flat grant. Waivers usually extend for a period of five years with an inflation adjustment built into the state's entitlement. In the current divisive political climate, it is of note that the Senate voted unanimously in favor of the legislation that included reintroduction of these waivers.

Waivers address some current weaknesses in the IV-E program. At present, if a state is able to reduce needless foster care, its federal IV-E funds are reduced. The waiver will not result in a loss of IV-E funds for states that are able to reduce needless foster care or for utilization of funds for safe alternatives to foster care. Waivers also discourage state legislatures from decreasing existing state support because such cuts will result in the loss of IV-E funding. The waiver provides greater flexibility at the state level for program determination, while, at minimum, maintaining the current state funding level. Wexler highlights the fiscal incentive of

placing control of the use of funds in local hands, because these states will not receive an increase in IV-E funding if their foster care placements increase; the state will be responsible for covering these additional costs. Finally, each state that receives a IV-E waiver is required to arrange for independent evaluations of the utilization of the funds received under the waiver. While promoting most efficient use of the funds, this requirement always demands accountability.

In his article, Wexler reviews only the results found under the independent evaluation conducted by Florida when it received a large-scale waiver in 2006. The positive results of Florida's use of its $140 million annual IV-E foster care funds included a 35% reduction in the number of children in foster care on any given day, maintenance of state levels of support despite consideration by the state legislature of slashing the child welfare budget, the avoidance of reversing positive reforms as a panic reaction to negative press over horrific abuse cases, and, most significantly, the increased safety of children as a result of allowing caseworkers to devote time to children in danger rather than addressing needless removals. Other state waiver results are not addressed, although most are favorable, or at best, status quo.

States that receive waivers will be able to use some of the funds previously restricted to foster care to increase funding for prevention and family preservation. Because the largest portion of each state's federal IV-E dollars is restricted for foster care, other non-restricted federal funds are used to make up deficits in other areas. When states need additional funding for investigations or foster care maintenance payments, for example, the shortfall is covered by the diversion of monies from federal aid programs without the restrictions currently built into the IV-E program.

The article is critical of the diversion of funds through the less-restrictive federal funding programs to areas such as child abuse investigations and related work. Title IV-B falls into two broad categories. The first, Promoting Safe and Stable Families (PSSF), is intended to provide family support, preservation, reunification and adoption promotion and support, but while states received $336 million in 2009, only $252 million was committed to keeping families together. The second category within Title IV-B is the Child Welfare Services (CWS) program. CWS, which contributed $275 million to the states in 2009, has almost no strings, and significant portions of states' funds were diverted to programs other than family preservation. Wexler argues that all of this $275 million could have been used to keep families together if the states had chosen to use the funds to do so. This argument, however, followed to its natural conclusion, would argue against waivers. If the waiver program successes

to date are due to the wisdom of allowing local control over program funding, it would seem that the states are already doing this with CWS funds; that some of these funds are used for other services that are part of the child protection system does not diminish the desire for family preservation but merely recognizes the reality that such services are required.

One common concern expressed in a number of waiver programs was the need to ensure clear communication internally. Some reports indicated that, although good, the final results were not optimal, due to poor training internally. Reauthorization of the Title IV-E waiver will promote advances in our child welfare system by enabling and encouraging the states to use programs most appropriate to the local need, promoting creative thinking and study of optimal placement options, and utilizing and establishing services for family placement and reunification. The ability of those “on the ground” to assess and plan based on the needs of the child and the family versus what the funds will allow the worker to plan can help reduce or eliminate needless foster placements. Success in these areas means increased efficiency and more funds available for prevention efforts. It will be essential, however, that states implementing alternative use of federal funds through the Title IV-E waiver ensure clear guidelines that are communicated consistently and clearly from inception through completion.

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