

**NEW YORK STATE CITIZENS' COALITION FOR CHILDREN**

**Submission to**  
**NYS Human Services**  
**Budget Hearing**

**February 4, 2014**

**Presented by:**  
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Thank you for this opportunity to address the Human Services Budget Committee. My name is Marie Dolfi and I am a volunteer for New York State Citizens' Coalition for Children. New York State Citizens' Coalition for Children is a very small not-for-profit that provides support, information and advocacy for foster and adoptive families in New York State.

It is New York State Citizens' Coalition for Children hope that NYS will fund state wide post adoption services for adoptive families and permanency services for kinship/guardianship families in next year's budget. While most of the children who join their family by adoption do not need specialized intensive post adoption services; those children that have attachment problems, post-traumatic stress disorder, fetal alcohol spectrum disorder, and other serious mental health issues because of their life experiences **prior** to being adopted or in kinship care have unique mental health needs that are not being served by the community. The permanency and commitment of a family is not enough to take away the emotional scars of trauma, abuse and neglect leaving families in desperate need of services. Now that the New York State TANF funded post adoption programs have closed due to a lack of funding the need for services is now greater than ever.

The stories we are hearing are beyond tragic. They are stories of adopted children having long placements in residential treatment because of a lack of services in their community. Married adoptive parents living separately – one parent with the violent child and the other parent living with the other children

due to being told if all the children live together in the same home a neglect petition would be taken out resulting in the non-violent children being removed from the family due to it being unsafe home.

The research<sup>1</sup> on the need for post adoption services is substantial:

- Children are staying in foster care because they will lose services should they be adopted – not because of a lack of families.<sup>2</sup>
- Children are entering foster care **after being adopted** due to families not being able to safely maintain their children. OCFS shared for the period ending September 2012, data was available for 59% of the records (17,548 records) when foster care intake workers asked “Was the child previously adopted?”<sup>3</sup> A review of those records showed that 3.5% -609 children – were previously adopted. Separately, we have learned there are 2050 New York City foster care children who returned to foster care *after* adoption.
- Young adults are leaving foster care without families. In 2011 alone, 1,442 former NYS foster care young adults left foster care without the permanency of a family.<sup>4</sup> Post adoption services would have increased the number of these children being adopted.

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<sup>1</sup> Keeping the Promise: The Critical Need for Post-Adoption Services to Enable Children & Families to Succeed, Evan B. Donaldson Adoption Institute

<sup>2</sup> New York State’s Longest Waiting Children, Rosemary Avery

<sup>3</sup> AFCAR question

<sup>4</sup> 2011 AFCARS

- Adoptive families are four to seven times more likely to seek residential treatment for their children than non-adoptive families<sup>5</sup>. OCFS recently reported that of the 2,058 children who were in residential treatment centers on September 30, 2013, 587 of the children were previously adopted during the previous 6 month period. Data collected from NYS TANF funded post adoption programs showed that of the families that were at risk of having a child being placed in residential placement at the start of the program 73% of those families were able to maintain their child in the family home due to services provided by the TANF post adoption programs.<sup>6</sup>

The post adoption services that are most requested by families include:

1. Parent support groups: Raising children with severe mental health issues is different than raising a child without mental health issues. Support groups lead by mental health professionals trained on adoption/foster care issues can be highly effective.
2. Respite: Parents and siblings sometimes need a break from the child with severe mental health issues. These children's issues are so significant that they cannot be left with the average baby sitter or relative. A trained care child worker is needed to watch their child while parents go on an

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<sup>5</sup> "Keeping the Promise", Evan B. Donaldson Adoption Institute

<sup>6</sup> Strengthening & Preserving Adoptive Families: A Study of TANF-Funded Post Adoption Services in NYS, R. Avery, April 2004

appointment or other place that they cannot take their child. Most afterschool programs and camps will not accept these children.

3. Information & Referral: Parents need support and information on the issues they are dealing and assistance with locating resources in their community.
4. Counseling: Done by professionals that are trained in reactive attachment disorder, post-traumatic stress disorder, fetal alcohol spectrum disorder, loss of birth families, and other adoption and foster care issues.
5. Training for parents: Parents need education on mental health conditions so they can become competent resilient parents. Information on how to advocate for their child in the school and community is also needed by parents.
6. Case Management & Advocacy: Families need help with managing the services and the systems that many of these children need.
7. Training for Professionals: There are not enough counselors that are trained on the unique mental health issues of this population. Effective adoption counseling services have a different framework than traditional mental health services.

New York State Department of Social Services Regulations Standards of practice for adoption services 421.87 states –In the case of a child who is already

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<sup>7</sup> Complete regulations in addendum

placed in an adoptive home, post adoption services shall be provided including counseling, training parents on how to care for children with special needs, providing clinical and consultative services and coordinating access to community supportive services for the purpose of ensuring permanence of the placement. New York State Citizens' Coalition for Children's conversations with parents and a statewide survey indicate these services are rarely being directly provided by the counties, nor are the counties contracting with a third party to provide these services.

A common response by OCFS officials is that adoption subsidies and Medicaid are a resource for services, but subsidies and Medicaid cannot be used for services when services do not exist in the community. It is New York State Citizens' Coalition for Children's understanding that finding a therapist in New York City that takes Medicaid is virtually impossible. Families are also being told to access services through prevention. The premises of prevention is that a child's problems are due to the family's dysfunction which is incongruent with adoption practice which believes the need for services is most often needed because of the child's history prior to joining their family. NYS does not require families with children with developmental disabilities to access services through prevention; adoptive families would like to be treated with the same respect as families with children with developmental disabilities.

New York State Citizens' Coalition for Children estimates that statewide post adoption/permanency services could be provided for \$10 million annually. \$10 million is a low estimate based upon the 2012 TANF Post Adoption Services grant was \$4,961,024 and covered 27 counties. A statewide Post Adoption Program would need to cover 35 additional counties, non-TANF families, and a central hotline for support and referrals. Thus a starting point would be to double the last TANF grant. Ideally, a permanent line item with OCFS administering 5 year grants would provide time to develop and evaluate the program's effectiveness. Should the legislature decide to include a provision for OCFS to have a program evaluation as part of the RFP, additional funding would be needed.

New York State Citizens' Coalition for Children believes that the money spent on post adoption/permanency services would be offset by savings in the hundreds of millions of dollars to New York State and the counties. We believe the savings would be in:

- Decrease in the number of children in foster care –The counties pay for foster care by using a combination of their own funds and Title IV-E block grants. The counties are responsible for 100% of the cost for non-IV-E foster care children. A review of NYC's budget by Citizens' Committee for Children found that New York City has budgeted \$154 million on foster care in FY 2014.
- Less young adults leaving foster care without a permanent family -According

to various studies<sup>8</sup> across the country of individuals who aged out of foster care without a permanent family:

- 12-30 percent struggled with homelessness
- 40-63 percent did not complete high school
- 25-55 percent were unemployed; those employed had average earnings below the poverty level
- 32-40 percent were forced to rely on some form of public assistance
- 31-42 percent had been arrested
- 18-26 percent were incarcerated
- 40-60 percent of the young women were pregnant within 12-18 months of leaving foster care

A closer look at New York State and local counties' budgets would determine the cost for the services that were used by the former foster youth that aged out without a family.

- Decrease in use of residential treatment programs - The cost of residential treatment programs averages \$100,000 to \$140,000 annually per child. For an Office of Mental Health residential treatment facility the federal government pays approximately 50% of the non-educational costs, with New York State and local governments sharing the remaining non-educational costs.

The federal government has responded to the need for post adoption services by providing funding through the Fostering Connections to Success and

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<sup>8</sup> <http://www.childrensrights.org/issues-resources/foster-care/facts-about-aging-out/>



Increasing Adoptions Act of 2008. This act de-linked a child's eligibility for federal title IV-E adoption assistance to the AFDC program. The de-link is phased in over a 10 year period and as of 2013 the states are no longer paying for subsidies for children 8 years and older, and those children who had been in care for at least 60 consecutive months are eligible. Now that the federal government is picking up the subsidy, the states should be using the funds they were spending on subsidies on child welfare programs such as post adoption programs according to the Fostering Connections to Success Act. New York State Citizens' Coalition for Children has asked OCFS repeatedly over the years for the amount of dollars the state is saving by not spending funds on subsidy but has not received an answer. New York State Citizens' Coalition for Children estimates the amount to be in the millions of dollars.

With a goal of having post adoption/permanency services available to all families in need of services, Congress is currently working on HR.3205 & S.1511 Promoting Adoption and Legal Guardianship for Children in Foster Care Act of 2013 legislation that mandates that the states use 20 percent of their de-linked subsidy savings for post-adoption and post permanency services.

Additional federal funding streams for child welfare services that may be used for post adoption services<sup>9</sup>:

- Promoting Safe & Stable Families Program Title IV-B, part 2

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<sup>9</sup> Strengthening Families Connections: Creative Strategies for Financing Post Adoption Services, Casey Family Services, 2003

- Child Welfare Services Title IV-B, part 1
- Adoption Assistance, Administration, and Training Title IV-E
- Medicaid Title XIX
- Adoption Incentive Programs
- Social Services Block Grant Title XX
- Temporary Assistance to Needy Families/Emergency Assistance TANF/EA

In conclusion I would like to say adoptive families are committed to their children. Post adoption/permanency services are needed because love does not fix trauma, nor does commitment remove the emotional scars of abuse and neglect. It took the state of Tennessee to be internationally shamed by a mother returning her adopted son to Russia on a plane before the state established a post adoption program. It is our hope that New York State would not need its tragedies to be headlines before it establishes post adoption/permanency programs.

Thank you for your time and consideration.

## **ADDENDUM**

1. 2011 AFCARS New York State
2. Department of Social Services, Family & Children Services, Standards of Practice 42, Standard of Practice for Adoption Services
3. OCFS 9/18/12 letter to Junius Scott Children's Bureau on NYS's response to post adoption services
4. Perspectives on Fostering Connections Summary Brief
5. Financing Adoption & Post Adoption Services, compiled by Casey Family Services and reported in "Keeping the Promise" Evan B. Donaldson adoption Institute

# NEW YORK ADOPTION FACTS



In 2011, 2,214 children were adopted from foster care in New York. Another 6,514 children in New York foster care were waiting to be adopted.

Adoption provides children with a lifetime of emotional and legal connections to a family. Recent years have brought new attention to children's need for adoptive families, and the risks facing foster children who age out of care without a family. Despite this progress, more than 100,000 children across the country—especially older children and children of color—still wait for families. And many families who have adopted lack critical post-adoption support essential to their children's stability and well-being.

Foster care was intended to be temporary, but many New York children remain in care for years.

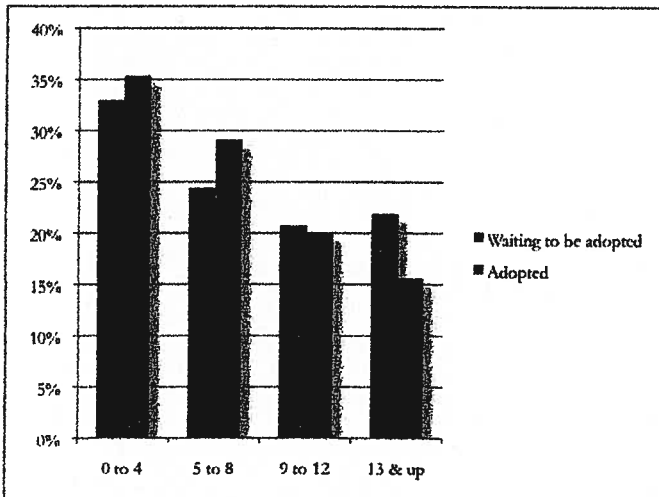
For children still waiting to be adopted in New York in 2011, the average stay in care was 4.7 years (56.3 months). On average, children who were adopted in 2011 spent 4.5 years (54.5 months) in care before the adoption was finalized.

To shorten the time children spend in care, child welfare agencies must first work to ensure that any children who can return safely home, do so. For those children who cannot, agencies must employ the best recruitment tools available to find a permanent family as quickly as possible.

Older children in New York are not as likely to be adopted as younger children.

The average age of New York's adopted children was about 7.7 years in 2011, while waiting children were, on average, roughly 8.2. For youth age 9 and older, the likelihood of being adopted drops significantly.

Age of New York Children Waiting to Be Adopted and Adopted, 2011



States must employ special strategies to ensure that older children are adopted, and that their newly formed families have support to meet the children's needs.

A higher proportion of African American and Hispanic children are waiting to be adopted than are adopted in New York.

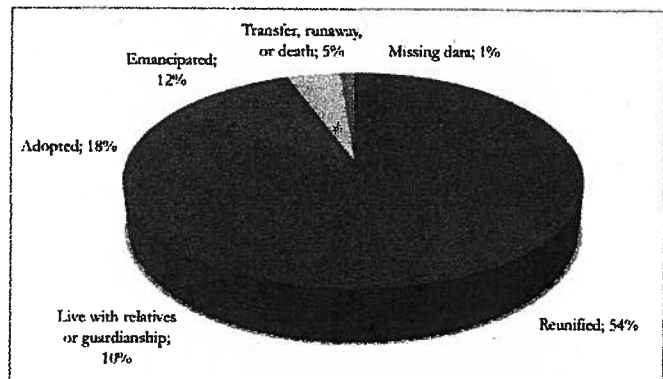
	Children Waiting	Children Adopted
Caucasian	15.1%	26.8%
African American	51.5%	44.1%
Multiple Races	3.0%	3.8%
Hispanic	21.5%	18.2%
American Indian	0.2%	0.0%
Asian/Pacific Islander	0.3%	0.3%

Agencies must address the unique racial and cultural needs of children of color in care, including seeking families who reflect the children's race and ethnicity, as required by law.

In 2011, most New York children left foster care to return home (54.4%) or live with relatives or in guardianship (10.4%). 2,214 children (17.9% of all exits) were adopted.

Children who leave care for permanent families need support to help them address the trauma of abuse and neglect and the experience of being in care.

Exit Types for New York Foster Children, 2011



Post-permanency services should be available to families who adopt, accept guardianship, or reunify with their children. These services help children heal and make families as strong as possible.

In 2011, 1,442 youth in New York aged out of foster care without a permanent, legal family.

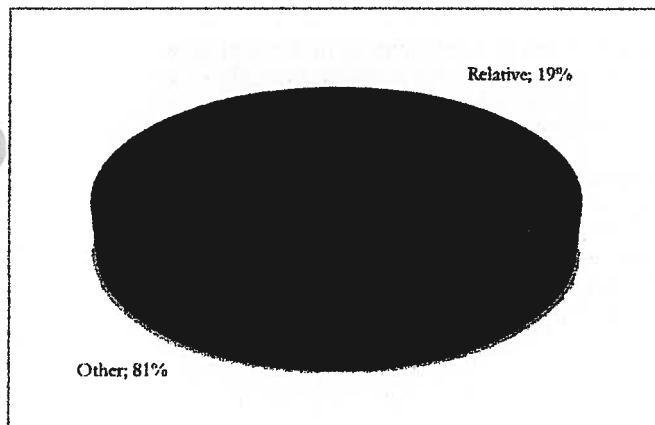
Research shows many of these youth will face obstacles such as homelessness, unemployment, early parenting, and substance abuse. In 2011, 3,185 (23.1%) New York children in care age 9 and older had case goals of long-term foster care or emancipation. Since they have no permanency plan, these youth are at very high risk of aging out of care without a family.

**The best way to support youth is to ensure they do not age out of care without a family. For those youth who do not find a family, however, states and counties must provide services that ensure a successful transition to independent living with the help and support of caring adults.**

Many children adopted from foster care in New York are adopted by relatives.

In New York, about 18.8% of children adopted from care in 2011 were adopted by their relatives.

New York Adopting Parents' Relationship to Child Prior to Adoption, 2011



**Placing children with relatives keeps them connected to their family of origin and their heritage. Relative caregivers need support to help their children heal, just as other adoptive parents do. They may also need special support to address the complications of changing family relationships.**

Many children in New York foster care are adopted transracially.

In 2011, 8.4% of the children adopted in New York were children of color adopted by white parents. About 1.5% of adoptions were white children adopted by parents of color, and 9.2% were children of color adopted by parents of color who were a different race than the child.

**Families who adopt transracially may need extra support and training to help them meet their children's cultural needs.**

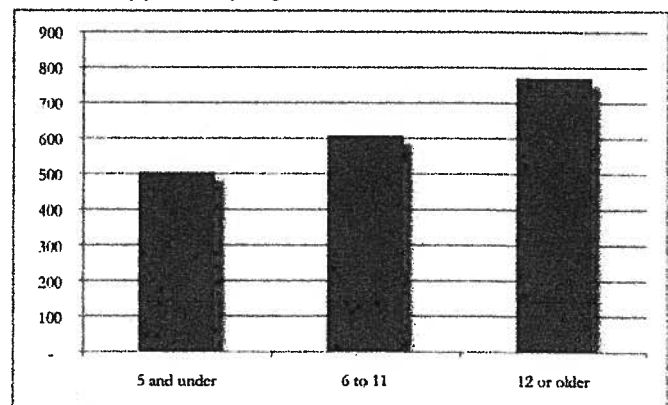
As a result of the Fostering Connections to Success and Increasing Adoptions Act of 2008, many more children will be eligible for federal adoption assistance.

About 66.3% of New York children adopted from foster care in 2011 were receiving Title IV-E federal adoption assistance. Many children who are not IV-E eligible did not qualify due to their birth parents' income. Some children who are not IV-E eligible receive no adoption assistance at all.

As a result of Fostering Connections, many more children will receive federal assistance. As of October 1, 2013, children 8 and older and children who have been in care for five years or longer—and their siblings—will no longer be denied federal adoption assistance based on their birth parents' income. Each year, younger adopted children will be phased in (6 and older in federal fiscal year 2015, 4 and older in 2016, and so on) until 2018 when federal support will be given to all adopted children who meet other eligibility criteria.

In 2011, 1623 (24.9%) of New York's waiting children had been in care five years or more. Of those, 1102 were not receiving IV-E payments. Also in 2011, about 1194 waiting children who were not receiving IV-E payments (18.3%) were 8 or older. If adopted, these children will likely receive federal adoption assistance due to Fostering Connections.

New York Waiting Children Who Are Not Receiving Federal Support—by Age, 2011



**We encourage New York to invest funds saved as a result of this provision of the Fostering Connections Act into post-adoption and other post-permanency support services.**

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
TITLE 18. DEPARTMENT OF SOCIAL SERVICES  
CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES  
SUBCHAPTER C. SOCIAL SERVICES

ARTICLE 2. FAMILY AND CHILDREN'S SERVICES

PART 421. STANDARDS OF PRACTICE FOR ADOPTION SERVICES

Current through February 15, 2010.

\* Section 421.1. \* Definitions.

For the purpose of this Part, the following definitions shall apply:

- (a) Adoptive applicant means a married couple, an adult unmarried person, an adult married person living separate and apart from his or her spouse pursuant to a legally recognizable separation agreement or a decree of separation, or an adult married person living separate and apart from his or her spouse for a period of three years or more prior to the commencement of the adoption proceeding who has applied to adopt or who has received agency approval for the placement of a child in his or her home for the purpose of adoption.
- (b) Adoption services means assisting a child to secure an adoptive home through counseling with biological parent or legal guardian concerning surrender of, or legal termination of parental rights with regard to a child; the evaluation of child's placement needs; preplacement planning; the recruitment, study and evaluation of interested prospective adoptive parents; counseling for families after placement; supervision of children in adoptive homes until legal adoption; and counseling of adoptive families after legal adoption.
- (c) Adoptive parent means a person with whom a child has been placed for adoption or who has adopted a child with agency approval.
- (d) Adoptive placement means the child has been placed into a home for the purposes of adoption and the agency and adoptive parent or the child's foster parent have signed an adoption agreement and the facts of such placement have been recorded in accordance with paragraph (e) of subdivision (5) of section 383-c or subdivision (5) of section 384 of the Social Services Law.
- (e) Authorized agency means an organization covered by section 371.10(a) and (b) of the Social Services Law.
- (f) Biological parent means a parent who has conceived or given birth to the child, or from whom the child was conceived, either in or out of wedlock.
- (g) Foster parent means any person certified or approved pursuant to section 375 of the Social Services Law, and Part 443 of this Title with whom a child, in the care, custody or guardianship of an authorized agency, is placed for temporary or long-term care.
- (h) Legal guardian means a person to whom or an agency to which the guardianship of a child has been committed by surrender in accordance with the terms of a surrender instrument or pursuant to a court order under section 383-c, 384 or 384-b of the Social Services Law. A legal guardian may also be a person appointed as a guardian of the person of a child pursuant to a duly executed will or deed as provided by section 81 of the Domestic Relations Law.
- (i) Legally free child means a person under the age of 18 years:
  - (1) whose custody and guardianship have been transferred to an authorized agency as a result of either a surrender instrument executed pursuant to section 383-c or 384 of the Social Services Law or an order of the Family Court or Surrogate's Court made pursuant to section 384-b of the Social Services Law; or
  - (2) whose care and custody have been transferred to an authorized agency pursuant to section 1055 of the Family Court Act or section 384-a of the Social Services Law and where such child's parents are both deceased, or where one parent is deceased and the other parent is not a person entitled to notice pursuant to sections 111 and 111-a of the Domestic Relations Law.

(j) Photo-listed means having placed a legally freed child's picture and description in New York State's Waiting Children books which are organized, prepared, and distributed to authorized agencies and to appropriate citizen groups by the department.

(k) Prospective adoptive parent means an individual who meets criteria as defined in section 421.16 of this Title, and who has indicated an interest in adopting a particular child, and for whom the authorized agency has begun the placement process in accordance with section 421.18 of this Title.

(l) Registered child means a child who has been included in the listing of legally freed children maintained by the Statewide Adoption Service (State Photo Listing Service) pursuant to the requirements of section 420.2 of this Title.

\* Section 421.8.\* Services to children.

Authorized agencies shall:

(a) recognize that any child who is legally free, is adoptable;

(b) register each legally freed child with the State Adoption Service, in accordance with Part 420 of this Chapter;

(c) consider each legally freed child's eligibility for adoption subsidy, in accordance with section 421.24 of this Part;

(d) keep the length of interim foster care placements of children free for adoption to a minimum, placing such children in adoptive homes as early as practicable;

(e) arrange a medical examination for each child for whom adoption is planned in order to determine the state of the child's health, significant factors that may interfere with normal development, and the implications of any medical problems. The medical report shall be filed with the child's record;

(f) provide casework services to each legally free child, obtain a current understanding of his or her needs and encourage his or her participation in planning, according to his or her age and capacity; and

(g) provide or arrange for all services necessary to ensure that siblings and/or half-siblings are placed together, unless contraindicated, in accordance with sections 421.2(e) and 421.18(d) of this Part; and

(h) provide each legally free child with adoption services, directly or through purchase of service. The following services are to be provided:

(1) In the case of a child who has not been placed in an adoptive home, evaluation of placement needs, preplacement planning and preparation with reports thereon at intervals as required by the department, and recruitment, adoption study, training and placement planning for prospective adoptive parents.

(i) Parent training is activity designed to increase parents' understanding of the dynamics of parent-child relationships, including providing such parents with the information, skills and attitudes needed to integrate an adopted child into the family by responding constructively to the patterns of behavior the child brings from previous homes and uses to test parent commitment, or to ward off closeness and emotional dependency.

(ii) These training activities may be carried out by the family's adoption worker, other agency personnel or through subcontract. This may be carried out in a group process involving and training other applicants or families with whom a child has been placed.

(2) In the case of a child who is already placed in an adoptive home, parent training, for the parents with whom the child has been placed, supervision and post-adoption services, with reports thereon as required by the department.

(i) Supervision is a process involving individual and group interviews to support the mutual adjustment of the child and family, to enable the agency to keep informed on the progress and well-being of the child in the adoptive home, and to help the family and child to obtain services that may be needed. Supervision begins on the date a child is placed in a home and concludes on the date of the adoption decree.

(ii) Post-adoption services means counseling, training parents on how to care for children with special needs, providing clinical and consultative services, and coordinating access to community supportive services for the purpose of ensuring permanence of the placement. Such services may be designed to treat problems which developed after the date of the adoption decree. Post-adoption services may extend for three years from the date of the adoption decree.

(3) In the case of a child who is not photo listed because the child is age 14 or older and refuses adoption, or the child is placed with a relative within the third degree of consanguinity of the parents of the child and does not have a goal of adoption, evaluation of placement needs, with reports thereon at intervals as required by the department.



September 18, 2012

New York State  
Office of  
Children &  
Family  
Services

[www.ocfs.state.ny.us](http://www.ocfs.state.ny.us)

Mr. Junius Scott  
Regional Program Division  
Children's Bureau/ACYF/ACF - Region II  
U.S. Department of Health and Human Services  
26 Federal Plaza - Room 4114  
New York, New York 10278

Dear Junius:

Andrew M. Cuomo  
Governor

Gladys Carrión, Esq.  
Commissioner

This letter is a follow-up to our meeting regarding the use of federal funding to provide Post Adoption services and the availability of those services throughout New York State.

The Office of Children and Family Services (OCFS) recognizes that post placement and pre-finalization adoption services are critical to maintaining the family relationships built through adoption and to deal effectively with problems and issues that develop after the adoption decree. We acknowledge that adoptive families may face unique issues and challenges that other families do not face due to the differences inherent in families created through adoption. OCFS is committed to providing post adoption services to strengthen and prevent the dissolution of adoptive placements and we encourage local districts to do the same.

**Financial Support:** As our budget and finance staff reported, through the use of Title IV-B, Subpart 2 funds, local social services districts and contract voluntary agencies provide post adoption services. In FFY 2009-10/SFY 2010-11, New York State received a Title IV-B Subpart 2 allocation of \$18,856,291. Of that amount, \$3,771,257 was provided to local social services districts for adoption services, including post adoption services. Of the \$6,417,301 in adoption services claims for that time period, \$214,944 were identified as purchased post adoption services. However, should the district provide the services directly, our direct provision claiming system does not distinguish between adoption services and post adoption services. As a result, there are likely additional claims attributed to post adoption services that cannot be specifically identified. A review of County Plans 2012-2016 indicates that pre and post adoption services are detailed in the plans.



An Equal Opportunity Employer



Additionally, in 2012, OCFS made available \$14.4 million in Temporary Assistance to Needy Families (TANF) funding for post preventive and post adoption services. Of that amount, a total of \$4.96 million has been awarded to 15 providers across the state to provide post adoption services exclusively. The start date for contracts was May 1, 2012, with a cap of \$400,000 funding for one year. It is 100% federal TANF funding with no local share requirement. The list of the 15 contracts and the services they provide can be found on the OCFS website. Although these post adoption contracts are limited to qualified families, it should be noted that since 2001, through such funding, comprehensive post adoption services "aimed at reducing the number of pre-adoption disruptions and post adoption dissolutions and re-entry into foster care have been provided to adoptive families. We would also add that prevention funding is also available to adoptive families, with a 62/38% state/local match.

***Access to Information and Services:*** In March of this year, a letter was sent to all local social services commissioners to reiterate that the provision of post adoption services remains vital to many families who have adopted children. The letter stressed OCFS' continued commitment to identifying connections to services frequently sought by adoptive families. The OCFS website link to the list of post adoption programs and services was provided. Counties were encouraged to provide a similar listing of services in their communities on the county's website to make it easier for families to locate services within their locality. Counties were further encouraged to link their websites to OCFS' website to facilitate the ease of families locating services available across New York State.

Also listed on the OCFS website is the link to "A Parent for Every Child" project funded by OCFS through a grant from the Department of Health and Human Services. On that website there is a listing of statewide post adoption services as well as resource directories for "adoptive parents and permanency resources" with a listing of agencies and description of services for upstate counties. Funding has been provided through the federal grant for the NYS Citizens' Coalition for Children (NYSCCC) to provide similar resource guides for downstate counties. OCFS also provides a link to NYCCC where adoptive families can find information on post adoption and other available services.

We would be remiss if we did not mention the provision of Adoption Assistance/Subsidy as part of our post adoption services. As of June 2012, 40,279 children with special needs adopted from foster care are receiving adoption subsidy. Of that total, 29,258 are receiving Title IV-E Adoption Assistance and are categorically eligible to receive Medicaid. A total of 11,021 are receiving state only subsidy and most are eligible for either COBRA Medicaid or State Medical Subsidy. The majority of these children will receive Adoption Assistance/Subsidy and Medicaid or Medical Subsidy until the age of 21. Unlike other states, New York does not renegotiate or lower a child's subsidy rate after the Agreement is approved. Also provided are upgrades in subsidy payments when there is a change in the child's condition as well as a state funded post

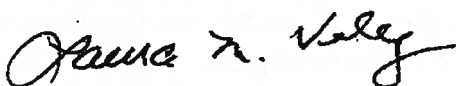
adoption subsidy when there is medical proof of a pre-existing condition following adoption finalization. Through the Interstate Compact on Adoption and Medical Assistance, state staff assists adoptive parents that receive adoption subsidy payments, to continue to receive Medicaid or Medical Subsidy on behalf of their adopted child when they relocate to another state.

OCFS and local districts provide a number of other non-TANF funded services that are available to eligible families. They are not listed as post adoption services but may be available to an adoptee and his or her family. For example, the Parents & Families tab on the OCFS internet website lists a variety of services which are available and can be utilized by any family if the services meet their needs. Under that tab, parents can click on "Find Services in my County" and there is a map where they can click on their particular county and get a list of services. Under the same tab, parents can find the link to the very popular Bridges to Health Waiver Program (B2H) which supplements and helps to better integrate cross systems Medicaid services to maintain an adopted child with severe emotional, developmental and health disabilities in his or her home and community. These services are available to the adopted child before and after adoption finalization up to the age 21, if the child remains eligible. B2H services to adopted children have increased from 13 children receiving services in 2008 to close to 1,000 adopted children receiving services at present.

As discussed at the meeting, adoptive children and their families need help from many sources and parents must know how to locate and access services across systems of care. OCFS continues to explore with federal, state and local entities ways to increase services to better support adoptive families, including additional sources of funding. The recent document published by the OCFS Bureau of Program and Community Development, entitled "Post Adoption Services – Lessons Learned and Challenges Ahead", summarizes findings from the 2009-2010 final reports from 13 TANF Post Adoption Programs. It presents a summary of the findings, recommended practices, needs and challenges, training and recommendations for needed changes on the state level. This will be one of the major documents used to not only inform our post adoption discussions but to also implement needed changes.

I hope you find this information is helpful. Please feel free to contact me if you have any questions.

Sincerely,



Laura M Velez  
Deputy Commissioner



# PERSPECTIVES ON FOSTERING CONNECTIONS:

A SERIES OF WHITE PAPERS ON THE FOSTERING CONNECTIONS TO SUCCESS  
AND INCREASING ADOPTIONS ACT OF 2008

SUMMARY BRIEF  
PREPARED BY THE FOSTERINGCONNECTIONS.ORG PROJECT  
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# ADOPTION AND THE FOSTERING CONNECTIONS ACT OF 2008

## Considerations

Adoption and foster care

**More than 104,000 children in foster care were waiting for an adoptive family at the end of federal fiscal year (FY) 2011.**

**As a result of the abuse, neglect, and trauma suffered in their lives, children adopted from care have special needs their families must meet to help them thrive. Adoptive families need support to meet these often-significant needs.**

**Fostering Connections took critical first steps to ensure states have additional resources to support adoptive families but more remains to be done.**

**Federal guidance is needed to ensure that states are reinvesting funds saved as a result of Fostering Connections into new child welfare services, including post-adoption support.**

*By Mary Boo and Joe Kroll, North American Council on Adoptable Children*

### Overview

The Fostering Connections to Success and Increasing Adoptions Act (The Act) of 2008 included three adoption-specific provisions:

- De-linking eligibility for federal adoption assistance support from the child's birth family's eligibility for welfare services
- Improving and extending the adoption incentive program
- Requiring states to inform prospective adoptive parents about the adoption tax credit

The de-linking provision means thousands of children and youth became eligible for federal (Title IV-E) adoption support. As a result, some families have support they would not otherwise have had and, in most cases, states are beginning to have new federal funds that they are required to invest in child welfare services. How well states are tracking those funds or whether they are investing them in child welfare services, however, remains to be seen. Education and increased federal oversight would ensure that states are following the law and investing in needed services, including support to families who adopt children with special needs.

### Background on adoption of children and youth from foster care

More than 104,000 children in foster care were waiting for an adoptive family at the end of federal fiscal year (FY) 2011.<sup>1</sup> The average age of the waiting children was eight years old, and their average length of time in care was close to two years.<sup>2</sup> About 35 percent had been in care for three years or more.<sup>3</sup>

In FY 2011, only 50,516 foster children were adopted—less than half of the number waiting for adoption the year before (109,456).<sup>4</sup> In FY 2011, more than 26,000 youth aged out of foster care without a permanent family.<sup>5</sup>

Many foster children waiting for adoption—and children adopted from foster care—have special physical, mental health, and developmental

<sup>1</sup> U.S. Department of Health and Human Services. (2012). *AFCARS report: Preliminary FY 2011 estimates as of July 2012 (19)*. Washington, DC..

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

needs. Studies show that these children are at heightened risk of moderate to severe health problems, learning disabilities, developmental delays, physical impairments, and mental health difficulties.<sup>6</sup>

Before Fostering Connections, tens of thousands of children were not eligible for federal Title IV-E adoption assistance; in FY 2008 states reported that just over 20 percent of adopted children who received adoption assistance received no federal support.<sup>7</sup> States surveyed reported that 40 percent of foster children are ineligible for federal IV-E support because their birth parents' income was higher than the 1996 AFDC eligibility level.<sup>8</sup> When children are not eligible for federal adoption assistance support, some children receive no subsidies at all while others receive more limited support or face difficulties when moving to a new state, and states bear an unfair financial burden in supporting these children.

### Fostering Connections provisions on adoption

The Fostering Connections to Success and Increasing Adoptions Act of 2008 included two major adoption-specific provisions:

#### De-linking eligibility for federal adoption assistance support from a child's birth family's eligibility for welfare services

By 2018, regardless of their birth parents' income, all children with special needs adopted from foster care who meet other IV-E criteria will be eligible for Title IV-E adoption assistance, which could improve their prospects for being adopted and ensure they have better support. It also means that states, and sometimes local governments, don't bear the entire cost of supporting these children and their adoptive families.

The new eligibility is being phased in over time by the child's age at adoption (adding youth 16 and older in FY 2010, 14 and older in FY 2011, 12 and older in FY 2012, 10 and older in FY 2013, and so on until 2018 when children of all ages are eligible). In addition, as of FY 2010, all children who had been in care for at least 60 consecutive months became eligible for IV-E adoption assistance. Siblings of children qualified by age or time in care who will be placed with those siblings also become IV-E eligible.

The law requires that funds saved by states as a result of expanded IV-E eligibility must be invested in Title IV-B or IV-E child welfare services, which can include post-adoption services. This provision was designed to ensure that as federal support increases, state funds previously spent on state adoption assistance programs remain in the child welfare system

#### Improving and extending the adoption incentive program

The Fostering Connections Act also extended the adoption incentive program through FY 2013, reset the baseline to FY 2007 adoption numbers, and doubled incentives for older child and special needs adoptions. States that exceed 2007 baselines for all adoptions or older child adoptions will receive \$4,000 for each adoption over the baseline, plus \$8,000 for increased

*The [adoption assistance] enables us to continue mental health treatment, pay for trips to out-of-town doctors, get respite when we need it, and obtain specialized child care. The services are what keeps us together*  
—Adoptive mother

<sup>6</sup> Bramlett, M.D., Radcl, L.F., & Blumberg, S.J. (2007). The health and well-being of adopted children. *Pediatrics*, 119, S54-S60.

<sup>7</sup> DeVooght, K., Fletcher, M., Vaughn, B., & Cooper, H. (2012). Federal, State, and Local Spending to Address Child Abuse and Neglect in SFYS 2008 and 2010.

<sup>8</sup> Ibid.

adoptions of children nine or older, and \$4,000 for added adoptions of younger children with special needs.

Under the law, states can also earn incentives for increasing their rate of adoption—the number of adoptions compared to the number of children in foster care at the end of the previous year. These incentives will be awarded only if funds are available and if a state exceeds its highest-ever adoption rate since 1998.

The incentive payments can be used for IV-B or IV-E child welfare services, including post-adoption services. The law gave states 24 months from award date—up from 12 months—to spend adoption incentive funds, enabling states to invest in longer-term efforts.

**Other provisions**

Fostering Connections also requires states to inform prospective adoptive parents about the federal adoption tax credit, which provides a credit of from \$11,000 to \$13,000 (depending on the year) to families who adopt children with special needs from foster care. Before passage of the Act, research showed that the adoption tax credit benefited few families adopting from foster care, sometimes because they did not know about the benefit.

Two other provisions affect adoption practice and policy. One enables states to receive federal reimbursement if they extend adoption assistance benefits beyond age 18 for youth adopted at 16 or older. This provision removes a barrier to the adoption of older youth in foster care. Another provision requires states to make reasonable efforts to place siblings together in adoption, guardianship, and foster care unless it was not in the children’s best interests.

*“Being adopted is having an abundant life, and more importantly knowing you are wanted.”  
—Youth adopted from foster care*

**Challenges and achievements in adoption**

**De-linking federal adoption assistance eligibility**

De-linking federal adoption assistance eligibility from birth parents’ income has already resulted in new funds coming to state coffers, and by 2018 states will have tens of millions of dollars in federal funds they didn’t have before. The federal investment should grow exponentially over the next several years since more and more children will be newly IV-E eligible each year as the eligibility age drops, while the children newly added to the IV-E program from previous years will continue to receive adoption assistance until they reach 18 (or older if the state provides benefits beyond 18).

Unfortunately, the federal government has not required states to adequately track or report on how they are spending these new federal funds or provided guidance on how the savings should be calculated. Many states may need help identifying how many children are newly eligible due to the law, and how much money was saved as a result. Surveys of states in 2008 and 2010 found only 8 to 10 states could specifically track the percentage of children ineligible for Title IV-E solely because of their birth parents’ income.<sup>9</sup> If states cannot track these figures, they are unable to determine how much new federal funding they must reinvest in child welfare services.

The guidance issued by the Department of Health and Human Services (HHS) after the Fostering Connections Act was passed simply required states to certify that they would spend

<sup>9</sup> Ibid.

savings generated from implementing the new eligibility criteria. The guidance offered states flexibility in how they calculated savings and did not require any accounting be provided to HHS.<sup>10</sup>

Congress acted to reaffirm the intent of this provision of the Fostering Connections Act by including more information in the Child and Family Services Improvement and Innovation Act (Public Law 112-34), which passed in 2011. The 2011 law required states to document how funds saved as a result of the Fostering Connections de-link provision are spent on child welfare services, including post-adoption services. Subsequent guidance from HHS restated this requirement, but still only asked states to sign an assurance that they are following the law, rather than submit specific public information on how they are calculating or spending the savings.<sup>11</sup>

Since states are not required to calculate the savings resulting from the de-link provisions or account for how the money is spent, there is no way to determine if states are spending the saved funds on child welfare services as required.

#### Adoption incentives

The changes in the adoption incentive program also resulted in significant funds coming to most states. In FY 2006, states earned a total of \$7.3 million in adoption incentive bonuses; in FY 2007, they earned just \$11 million. With the updated baseline amount and increased incentive payments, states' adoption incentive earnings jumped to \$35.3 million in FY 2008, \$43.9 million in FY 2009, \$40 million in FY 2010. In FY 2011, states received \$31.7 million, only 87 percent of what they earned due to appropriation shortfalls. In FY 2006, only 19 states received bonuses. In FY 2007, it was just 21. After Fostering Connections, all but six states and the District of Columbia have received a bonus in at least one year.<sup>12</sup>

Since adoption incentive funds must be spent on child welfare services, states have millions of dollars to spend on child welfare that they would not otherwise have had. Surveys of state adoption managers found that states were spending the funds in a variety of ways—including to supplement shortfalls in adoption assistance programs, for new programs to recruit adoptive families, to offset budget cuts in other child welfare programs, and to fund post-adoption services.

More changes are needed to maintain and build on these gains. The program is set to expire again after FY 2013 and as states' foster care populations decline, adoption numbers are likely to decline again. If states can't continue to exceed their FY 2007 baseline number of adoptions, they will soon receive no adoption incentives. In addition, at least some states are using the funds to make up for other child welfare budget cuts rather than enhancing services to children and families.

#### Other provisions

After passage of the Fostering Connections Act, states definitely improved efforts to notify prospective adopters about the adoption tax credit. However, many families still don't know about the benefit or do not understand how it might benefit them. As of November 2012,

<sup>10</sup> U.S. Department of Health and Human Services. (2010). Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008. ACYF-CB-PI-10-11. Washington, DC.

<sup>11</sup> U.S. Department of Health and Human Services. (2011). Guidance on the Child and Family Services Improvement and Innovation Act (Public Law 112-34). ACYF-CB-PI-11-09. Washington, DC.

<sup>12</sup> U.S. Department of Health and Human Services. (2012). Adoption Incentives Earning History by State: FY 1998–FY 2011. Washington, DC.

Congress had not extended the adoption tax credit for 2013 and beyond, so there may soon be no benefit about which to notify prospective adopters. If Congress does not take action, the adoption credit will benefit only a very small number of families. Even if the credit is extended, if Congress does not make it refundable as it was in 2010 and 2011, fewer foster-adoptive families will benefit since families who adopt from foster care have lower incomes than other adoptive families.<sup>13</sup>

So far, 17 states and the District of Columbia plans approved by the Administration for Children and Families (ACF) to extended foster care beyond age 18; all also chose to extend adoption assistance benefits for youth adopted on or after their 16th birthday. Four additional states have submitted plans to ACF. Most of these states had already provided some support for adopted youth after age 18 (typically for youth with physical or mental disabilities), but have now extended support for youth adopted at an older age. Before Fostering Connections, however, Texas provided no adoption assistance after adopted youth turned 18. Beginning October 1, 2010, the state extended benefits for youth adopted between their 16th and 18th birthdays as long as the youth participate in qualified education or work programs or are incapable of being in such programs.

### **Policy considerations: what's next for adoption from foster care?**

The federal government has a tremendous opportunity—and responsibility—to help states further encourage and support the adoption of children and youth from foster care. To ensure the goals of the Fostering Connections to Success and Increasing Adoptions Act are met, it is essential that:

- The federal government asks states to report in their IV-B or IV-E plans how they are calculating funds gained from de-linking of adoption assistance, what each year's savings are, and how those funds are invested in efforts to improve outcomes for children and families, including post-adoption services.
- State and federal governments examine whether they are investing enough in post-adoption services to ensure that adoptive families raising children who have special needs have the services and supports to thrive and remain together.
- States take advantage of the opportunity to extend adoption assistance benefits to age 21, which should both encourage adoption of older youth and ensure that youth and their families have adequate support.

### **Conclusion**

The Fostering Connections Act's major adoption provisions were designed to encourage adoptions from foster care, increase or improve support to adoptive and other families, and ensure states had additional funding for child welfare services, including post-adoption support. Unfortunately, as states have faced significant budget troubles in recent years, it is not clear if they have invested sufficiently in necessary child welfare services and few have enhanced post-adoption services. The federal government should continue to encourage states to seek permanence for every child and youth in foster care, while also working to make sure families have the support they need.

<sup>13</sup> Vandivere, S., Malm, K., & Radel, L. (2009). *Adoption USA: A Chartbook Based on the 2007 National Survey of Adoptive Parents*. Washington, D.C.: The U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation.



Appendix II

Casey Family Services/The Casey Center for Effective Child Welfare Practice  
FINANCING ADOPTION AND POST-ADOPTION SERVICES

Developed by: Elizabeth L. Steinfeld, Financing Specialist  
FEDERAL FUNDING SOURCES

ADOPTION AND POST-ADOPTION SERVICES	IV-B-1	IV-B-2	IV - E Main,	IV-E Adm'n	IV-E Train'g	XIX	XX	Adop. Incentive	TANF/EA	Chafee I/LETV	CAPT/ CBCAP
<b>ADMINISTRATION, CASE MANAGEMENT &amp; SERVICES/TREATMENT</b>											
Adoption Search	•	•		•			•				
Adoption Assistance Payment	•	•	•				•				
Adoption Resource Centers	•	•		•		•	•				•
Case Management	•	•		•		•	•				•
Case Plan/Review	•	•		•		•	•				•
Child/Family Advocacy	•	•		•		•	•			•	•
Crisis Intervention	•	•				•	•			•	•
Day Treatment	•	•				•	•				
Information & Referral to Adoptive Family	•	•		•		•	•				
Educational Advocacy	•	•				•	•				•
Eligibility Determination - IV-E & XIX				•		•					
Family Therapy	•	•				•	•				
Family Group Decision-Making/Team Meetings	•	•		•		•	•				•
Flexible Funding for Families		•									
Group Therapy	•	•				•	•				
Independent Living Services	•	•				•	•			•	
Individual Therapy	•	•				•	•				
Intensive In-Home Supervision	•	•				•	•				•

