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2018 MCAA Legislative Update

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Hennepin County

Content

Federal:
 Family First Prevention Services Act (FFPSA - passed February 2018)

Minnesota:
 Foster care sibling bill of rights

Things on the horizon:
 AAFPA
 DHS Policy bill from 2017
 626.556 recodification

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BAR/2

Federal: FFPSA

Source documents

- ACYF-CB-IM-18-02 -- Overview of Family First, April 12, 2018
- ACYF-CB-PI-18-06 -- IV-B and Chafee Amendments, May 31, 2018
- 83 Fed. Reg. 29122 -- Public Comments on Clearinghouse and Review, June 22, 2018
- ACYF-CB-PI-18-07 -- Plan Changes & Related Provisions, Delays to Requirements; July 9, 2018
- 83 Fed. Reg. 37495 -- Public Comments on Proposed Model Family Foster Home Licensing Standards, August 1, 2018
- DHS Bulletin 18-68-14 Minnesota Proof of Foster Care

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FFPSA

Budget and technical bill with broad policy implications – remember IV-E dollars are uncapped

Present:

- IV-E funding had been for foster care (and administrative and training reimbursement)
- No limit on funds as long as requirements met
- Lots of administrative requirements
- Definition of foster care: same as in *Chapters 260B* and *260C* which included CCI
- No prevention and no reunification funding in IV-E

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FFPSA

Budget and technical bill with broad policy implications

Future:

- Creates IV-E funding for prevention services
- Limits funding for foster care by changing definition of foster care
- Lots of administrative and programmatic requirements (more than in the past)
- Expands availability of reunification funds

Delay:

- Funding for prevention and the limits related to foster care claims can be delayed until October 1, 2021

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BAR(2) You may want to clarify somewhere that states have until Oct. 1, 2021 to implement the prevention services and limits on congregate care, which both have to be implemented at the same time in order for the state to receive IV-E reimbursement for the prevention services.

Baum, Autumn R (DHS), 9/18/2018

BAR 11

FFPSA

Some prevention services will be reimbursable

- Three types:
 - Mental health prevention and treatment services
 - Substance abuse prevention and treatment services
 - In-home parent skill-based programs
- For populations: children who are candidates for foster care, their parents or relative caregivers, and pregnant and parenting youth in foster care

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FFPSA

Practice requirements for prevention:

1. Prevention plan for child
2. Trauma-informed approach
3. Services must be evidence-based
4. Individual child outcome assessment and annual reporting
5. Evaluation strategy for the evidence-based service

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FFPSA

More practice requirements for prevention

- Book, manual, writing with components set out
- No risk of harm from practice as documented in research
- Overall, evidence must establish practice is beneficial
- Must be promising, supported, or well-supported (50% of state services must be well-supported)

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BAR(1 for populations: add pregnant and parenting youth in foster care

Baum, Autumn R (DHS), 9/18/2018

IV-E *prevention* funding → plan requirements

- Must have case plan in place prior to service delivery that
 - Identifies the prevention strategy
 - Lists the services to be provided
- Must provide case management, that is the agency must monitor and oversee safety of the child receiving prevention services that are evidence based

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I-VE *prevention* funding → EBS requirements

- Must be trauma informed and evidence based
 - Promising
 - Supported; or
 - Well-supported

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FFPSA → foster care and CCI

- Reimbursement only for foster care with some exceptions
- No reimbursement for CCI with some exceptions
- Changed definition of foster care and limits on Title IV-E reimbursement
 - limits number of foster children in the home to 6, with some exceptions;
 - Modifies what is a CCI that is reimbursable
- Modification of CCI in definition of foster care is very significant change (most current CCI will NOT be reimbursable)

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BAR(4 This information is duplicative.

Baum, Autumn R (DHS), 9/18/2018

FFPSA → exceptions

Six exceptions to reimbursement *only* for foster care (or when the feds will reimburse for CCI or "other" placement), placement is:

1. in CCI 14 days or less per placement episode
2. in qualified residential treatment program (QRTP)
3. in specialized pre-natal, post natal or parenting CCI for youth
4. in specialized CCI for sex trafficked youth
5. in supervised living setting for youth over 18
6. with a parent in licensed residential family-based treatment for substance abuse (not foster care, not a CCI, but reimbursement available)

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FFPSA → what is foster care?

- 24 hour substitute care for a child placed away from parent or other caretaker
- Home is licensed
- Individual is licensed
 - Capable of exercising the "reasonable and prudent parent standard"

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FFPSA → what is foster care?

- Not more than 6 foster children in the home *except*, at the option of the state:
 - Siblings
 - Minor parent and child
 - To permit a child with an established relationship with the family to remain
 - Special training or skills of the foster parent to provide care to a child with a severe disability

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What is a QRTP

- Qualified residential treatment program *(or when congregate care is okay)*
- Trauma-informed treatment model
 - For children with serious emotional or behavioral disorders or disturbances
 - Involves family members to the extent appropriate and in the child's best interest
 - Discharge planning and family-based aftercare support for ≥ 6 months after discharge
 - Nursing staff and other licensed clinical staff on-site during business hours and available 24/7

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QRTP – other requirements for reimbursement

- Child must be assessed by an independent assessor within 30 days of placement
- Child placed in QRTP must have family and permanency team
- Court review and approval must occur within 60 days
- Agency must document continued appropriateness of placement at review and permanency hearings

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Federal reunification funding

- Counties can
- Claim while child is in foster care without time limits
 - Claim for up to 15 months after child has returned home from foster care

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FFPSA → Proof of foster care

- Agency responsible for placement must provide a youth, ages 18-21, aging out of foster care with official documentation necessary to prove that the youth was previously in foster care
- Must be done before a youth ages out of care
- See *DHS Bulletin 18-68-14*

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2018 Minnesota Legislative Changes

Foster Care Sibling Bill of Rights

- New section: Minn. Stat. 260C.008
- Emphasizes and supports importance of sibling relationships

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Sibling rights → child in foster care with a sibling has these rights:

- Be placed with each other when in the best interests of each sibling, to sustain family relationships
- Be placed in close geographical proximity, if not placed together
- Have frequent contact with siblings in foster care and, whenever possible, with siblings not in foster care
- Annually receive telephone number, address, and e-mail address for siblings in foster care
- Receive updated photographs of siblings regularly (apparently more often than annually?)

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Sibling rights → child in foster care with a sibling has these rights:

- Participate in regular face-to-face visits; prohibition against withholding visits as behavioral consequence; outline visitation plan in service plan
- Be actively involved in siblings' lives
- Be promptly informed about changes in placements or circumstances of siblings
- Be involved in permanency planning for siblings, if appropriate

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Sibling rights → child in foster care with a sibling has these rights:

- Be informed of the expectations/possibilities of continued contact after adoption or TPLPC
- Adult siblings have the right to be considered as foster care providers, adoptive parents,, and relative custodians
- Agency must provide a copy of these rights to:
 - child with siblings at the time the child enters FC
 - adult siblings of the child, if known,
 - foster care provider
- See DHS Bulletin

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Sibling rights → about visitation:

- Cannot withheld as behavioral consequence
- May only be restricted when contrary to the safety or well-being of any sibling
- Outline visitation plan and responsibilities in each sibling's service plan
- "Normalcy requirements" no permission from caseworkers for visits or sleepovers
 - Foster parents should communicate with caseworkers
 - Judge should be updated at every hearing

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What's on the horizon?

- African American Family Preservation Act
- DHS child welfare policy bill from last session
- Minn. Stat. 626.556 recodification

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African American Family Preservation Act

- Modeled, in part, after ICWA
- Proposed to protect the best interests of African American child and promote the stability and security of African American families by establishing minimum standards for removal

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African American Family Preservation Act

- Duty to prevent placement
- Active efforts required
- Requirements prior to placement

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African American Family Preservation Act

- Placement with noncustodial or non adjudicated parent
- Placement with relative at parent's request
- No TPR based solely on parent's failure to complete case plan
- Other limitations on grounds to TPR

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African American Preservation Act

- Lengthens time to file appeal of TPR
- Sets requirements for re-establishment of parental rights
- Creates and requires notice to African American Child Well-being Department
- Creates African American Child Welfare Oversight Council

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Questions/Discussion

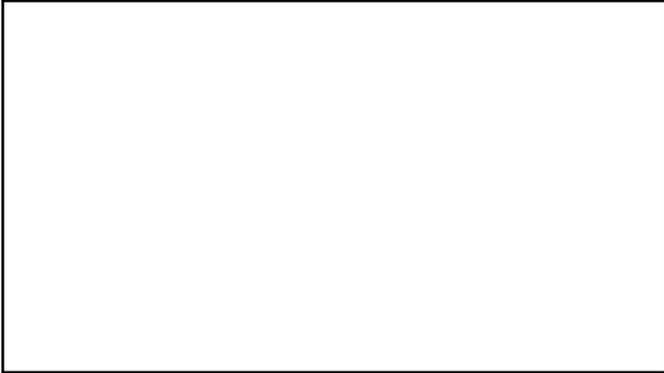
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**UPDATE ON CHANGES TO RULES OF
JUVENILE PROTECTION PROCEDURE**

Mary Lynch, Asst. Hennepin County Atty.
MCAA CHIPS Conference
September 2018



- A draft of the rules and committee report is now circulating.
- A final committee meeting is scheduled for October.
- Supreme Court public comment period may then follow.



- Review and update rules related to ICWA following the 2016 BIA Regulations and 2016 BIA Guidelines changes.
- Review and simplify the rules in general.



- A deliberate choice was made to cite to statutes rather than incorporate language from statutes.
- There is a separate section for ICWA rules.
- A general rules section and sections that follow the flow of a case.
 - Some rules were shifted from what is now course of case into the new general rules
- A pretty thorough re-ordering of the rules.



- ICWA section will consolidate rules regarding this specialized area of practice.
 - Will be important to remember that ICWA must be considered in all proceedings.
- Some changes to court reports (pre-hearing reports).
 - Reports during guardianship clarified as confidential
 - Timelines would change to five days.
- Subpoena rules would change.
 - Attorneys could issue subpoenas as officers of the court.



- Emergency protective care is labelled as its own type of proceeding.
- Current Rule 42 (timelines rule) is broken up and placed mostly within other sections.



The informal comment period ends Friday, September 21st.
