

**Katrina
Hotrum-
Lopez**

Aging and Long-Term
Services Department.



**Brian
Blalock**

Children, Youth, & Families
Department

New Mexico Health Cabinet Secretaries.

Working Together for New Mexicans

**Dr. David
Scrase, MD**

Human Services
Department.



**Kathy
Kunkel**

Department of Health

Legislative Health and Human Services - October 22, 2019

Prevention, Intervention and Foster Care Reform

Families First Prevention Services Act

- Great Concept, Deeply Flawed Law
- Limited Immediate Benefit for New Mexico, Possible Detriment
- Limited "prevention" services available
 - 9 in Clearinghouse but 6 are Medicaid billable
 - Transition funding makes sense if we have general fund to cover gap
- Intervention not prevention
- Candidate is pre-existing term that is narrowly defined
- Most current prevention services are Medicaid billable
- Limits on congregate care are not child-centered



Focus of FFPSA

Family First encourages states to explore ways to reform the entire continuum of our child welfare system:

- **Prevention:** Preventing children from ever coming to the attention of the child welfare system – preventing abuse and neglect
- **Intervention:** Allowing expanded interventions to stem a family crisis so that children can remain safely at home
- **Family Placements:** Restrict the number of children planed in congregate care/group homes to ensure that all children in foster care are raised in families

Prevention vs Intervention

Prevention

- The term “prevention” refers to programs and services designed to prevent abuse, neglect and exploitation from occurring in the first place

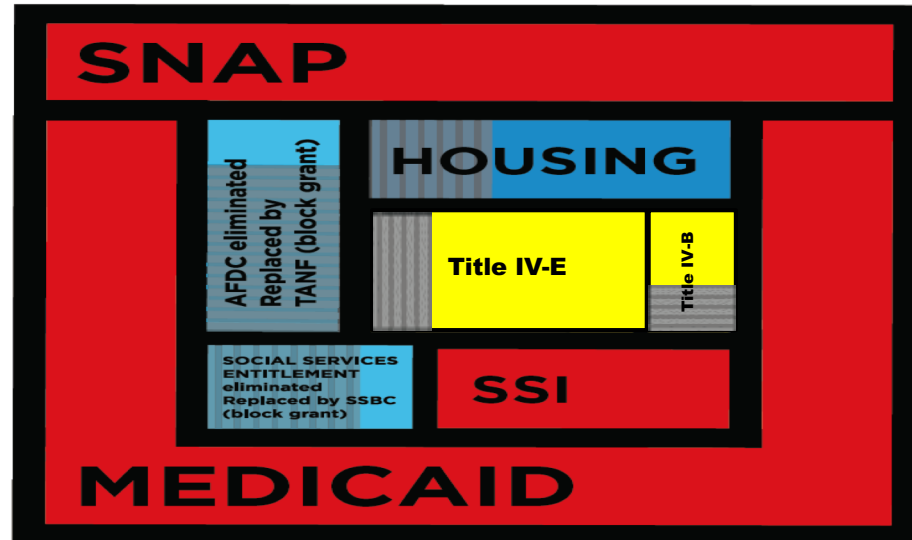


Intervention

- “Prevention” has become a catch-all term, often used to describe **interventions** that respond after the occurrence of maltreatment has been confirmed
- Much of the “prevention” in the context of Family First is actually interventions designed to prevent *foster care entry*, not prevention of *maltreatment*

Consider where child welfare sits within the array of safety net programs aimed at prevention

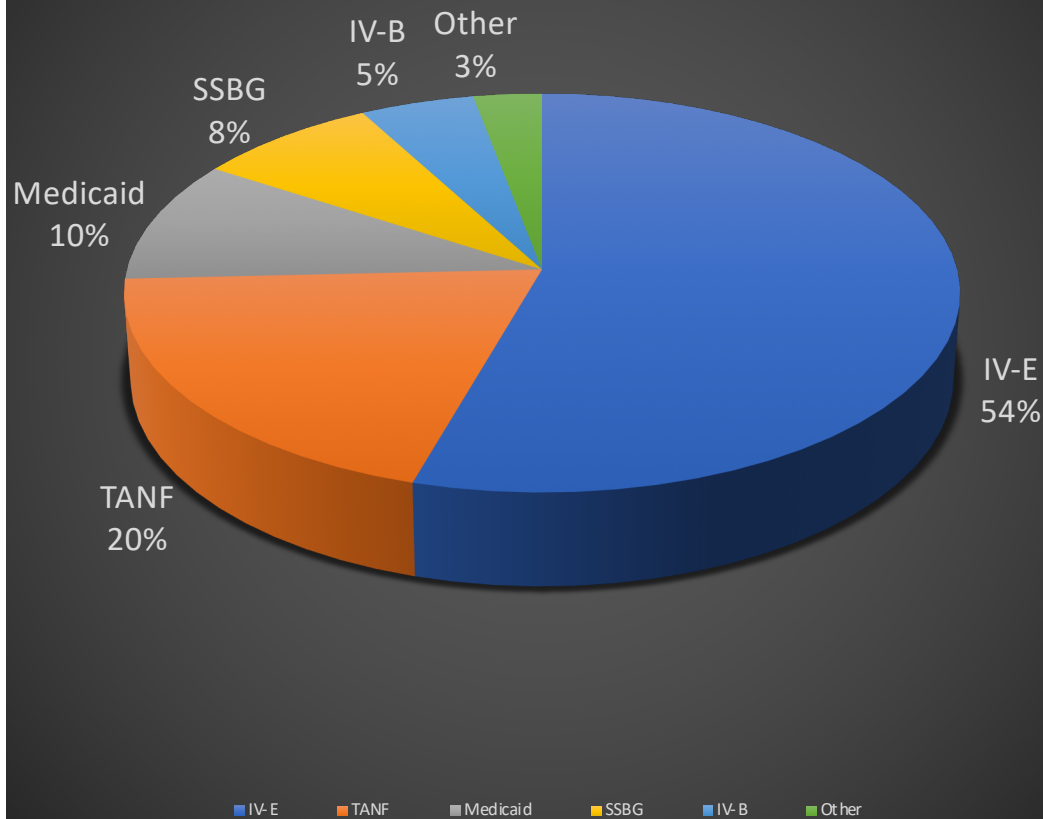
TODAY



A **TATTERED** SAFETY NET

 under threat  defunded

National Breakdown of Federal Child Welfare Funding



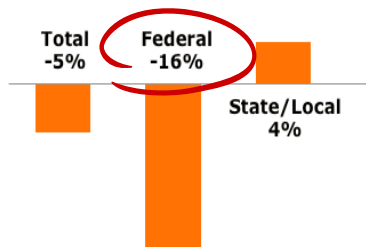
Federal Child Welfare Funding: A Patchwork of Programs

- Title IV-E serves children in out-of-home care (foster care, group care, shelter care, kinship/guardianship, etc) as well assistance for children adopted out of care.
- Considerable flexible funding comes from TANF, SSBG, Medicaid, and Title IV-B. These funds can be used for a broad range of services including prevention, family preservation, and substance abuse and mental health treatment.
- Through home visiting programs (not pictured), the federal government also provides hundreds of millions of dollars in additional funding to support at-risk pregnant and parenting mothers and their families.

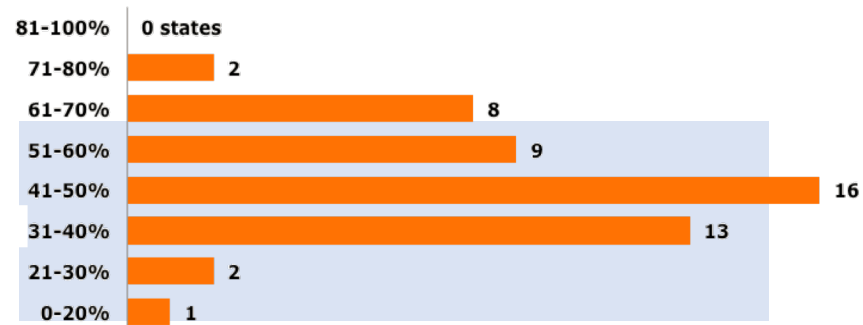
Source: Child Trends national child welfare survey (October, 2016)

Most states can only use Title IV-E for less than half of children in foster care

Change between SFY2004 to SFY2014



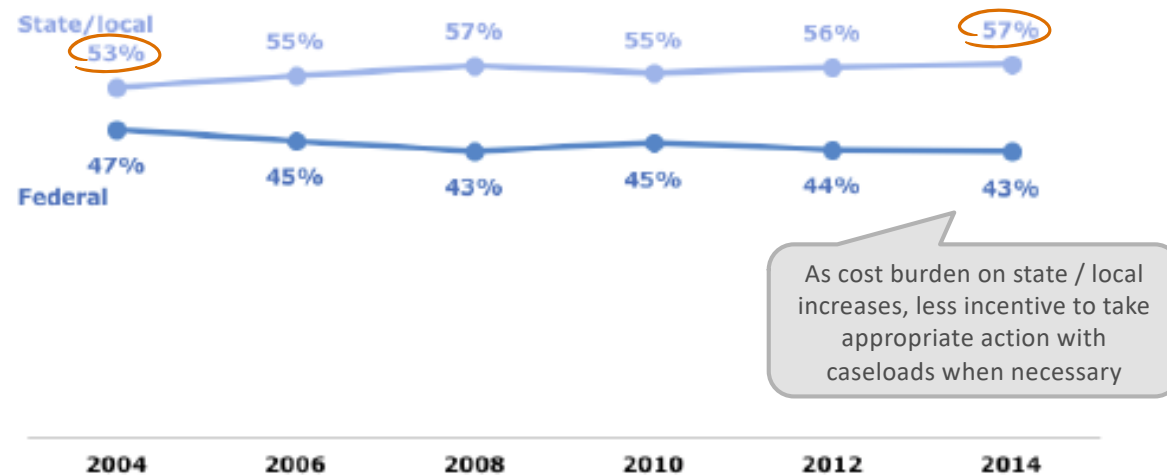
SFY 2014 state Title IV-E foster care coverage rates, by range



Source: Child Welfare Financing SFY 2014: A survey of federal, state, and local expenditures, available at <http://www.childtrends.org/wp-content/uploads/2016/04/2014-Child-Welfare-Financing-SFY-2014.pdf>

This has resulted in increasing financial burden on state and local governments

Federal vs. State / Local spending share on child welfare, SFY2004 to SFY2014 (30 states with comparable data)



Source: Child Welfare Financing SFY 2014: A survey of federal, state, and local expenditures, available at <http://www.childtrends.org/wp-content/uploads/2016/08/53ChildWelfareFinancingSFY2014.pdf>

Family First Starts a Worthwhile Conversation that is Constrained by Federal Budget Disinvestment

• Family First attempts to accomplish these goals in a **budget neutral manner** (i.e. this is *not* a new infusion of resources to the child welfare system):

- Family First redirects federal savings currently used to support children in congregate care (\$641 million) and delays additional federal funds for the Adoption Assistance program for another six years (\$505 million) to finance the newly authorized prevention services

Congressional Budget Office findings:

- Enacting this legislation would, on net, reduce direct spending by \$66 million over the 2017-2026 period.
- Beginning in 2020 about 30 percent of the spending on prevention services provided by states that exceed the MOE would be eligible for federal reimbursement. By 2026, that amount would increase to 95 percent as more evidence-based practices are identified and states become more adept at using those practices
- estimates that about 70 percent of the children residing in group settings other than RTFs in 2020 would simply become ineligible for any reimbursement under title IV-E.

Prevention Under Family First

Optional Prevention Services

Opens Title IV-E for specified services to be provided at state option:

- **Mental health and substance abuse prevention** and treatment services provided by a qualified clinician
- **In-home parent skill-based programs** that include parenting skills training, parent education and individual and family counseling
- Prevention services can be given for **up to 12 months**
- **PROBLEM** – few services + payer of last resort + limited to candidates

Who is Eligible to receive prevention services?

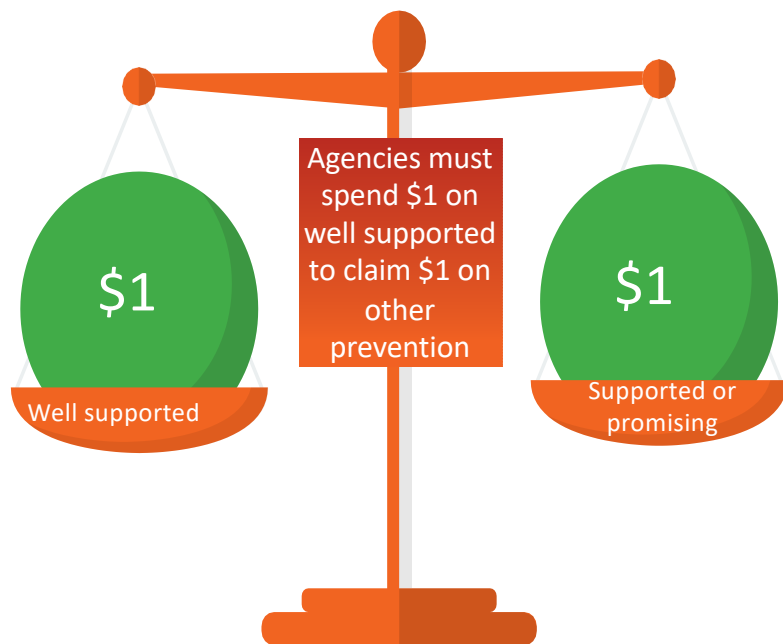
- **Who is eligible to receive new optional prevention services:**
 - (1) A child who is a “candidate” for foster care; - or -
 - (2) A parent or kin caregiver of the child who is a candidate for foster care is eligible regardless whether or not they meet AFDC income eligibility requirements required for Title IV-E reimbursement – or –
 - (3) Youth in foster care who are pregnant, parenting

Definition of “Candidate”

For purposes of this title, “candidate for foster care” means the following:

- A child who is identified in a prevention plan as being at **imminent risk** of entering foster care, but who can remain safely in the child’s home or in a kinship placement as long as services available under the new title that are necessary to prevent the child’s entry into foster care are provided
- Includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement

Evidenced Based Programs



- Only prevention services that meet one of the three “evidence-based” (*promising, supported, and well-supported*) federal standards will be eligible for reimbursement.
- States are required to spend at least 50% of the total amount claimed for federal reimbursement for prevention services on “well- supported” programs.
- There are **9 programs** included in the Clearinghouse. **6** are well supported. **3** are not included in a Medicaid program.

Evidence Based Programs and Tribes

- Absent a direct IV-E agreement with the federal government, cultural ceremonies and tribal healings do not meet the “supported” or “well supported” practice requirements and are therefore not eligible for claiming.
- Coalition of New Mexico, California, Minnesota, and Oregon, which collectively have government to government partnerships with 152 tribal nations.

Implications for Child Welfare Systems

- In the initial years of implementation, Family First will only enable child welfare systems to draw down federal funds for a limited set of programs that have met rigorous evaluation criteria.
- States must work to identify additional programs for systemic review and inclusion in the Clearinghouse and engage partners in getting additional programs evaluated and reviewed

Pregnant & Parenting Youth: Opportunity for Primary Prevention



- Can serve **any** youth in care who is pregnant (expectant) or parenting (no candidacy requirement)
- Must be included in the youth's case plan
- Must list the services or programs to be provided to or on behalf of the child to ensure the youth is prepared (in the case of a pregnant youth) or able (in the case of a parenting youth) to be a parent
- Must describe the foster care prevention strategy for any child born to the youth
- Must comply with other requirements that the Health and Human Services Agency Secretary may establish

Implications for Child Welfare Systems

New federal funds are only available once the child meets the definition of candidate.

Prevention services can be targeted towards pregnant and parenting foster youth without the candidacy limitation.

- Is there any limitation on which PPT youth we could serve with prevention services? i.e. Does this include expecting fathers? Are there custody requirements?

Where can the child be living while preventative services are provided?

Where children can be living:

- In the home of the parent(s)
- In the home of kin caregiver until child can be safely reunified
- In the home of kin caregiver who child will live with *permanently*
- In a licensed residential treatment facility for substance abuse if
 - Recommendation for placement is specified in the child's case plan before the placement
 - The treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling
 - The substance abuse treatment, parenting skills training, parent education and individual and family counseling is provided under an organizational structure and treatment framework that is trauma-informed

Considerations When Children Cannot Remain Safely at Home with a Parent

Services available through FFPSA are largely directed at the parent

- Mental Health Counseling
- Substance Abuse Treatment
- Parenting Skills Training

Children in foster care with a relative receive:

- Foster care payments, including adoption assistance and guardianship assistance
- Reunification services
- Case management
- Representation and advocacy by an attorney who is charged with representing the best interest of the child
- Categorical Medicaid eligibility
- Educational supports and rights

FFPSA Creates Two Paths for Youth Living with Kin

	Prevention Path with Diversion to Kinship Caregiver	Placement Path: Enabling Kin to Meet Licensing Standards
Funding for Caregiver?	Limited funding available to support kin caregiver – in most states, TANF is available	Full foster care funding – in CA this includes access to specialized care, clothing allowance, infant supplements, etc
Who receives services?	Prevention services targeted primarily at the bio parent /home of removal	Reunification services offered to the parent while child receives legal representation and case management services
Duration of services?	Prevention services offered limited to 12 months	No limitation reunification services while child is in foster care + 15 months of post-reunification services
Permanency options and funding for permanency?	No requirement that the state make a formal placement with the relative if the child is not able to be reunified with the parent – FFPSA allows the prevention strategy to be the permanent home of the relative without any additional services or funding	Child is either reunified or can remain with relative through adoption, guardianship, or as an Fit and Willing Relative – all options offer continued funding for kin families (AAP, KinGAP, or continued foster care funding)
Supports for TAY?	No eligibility to receive extended foster care, independent living services, or Education and Training Vouchers	Eligible to receive extended foster care (if in care at age 18) independent living skill services (if in care at age 14) or Education and Training Vouchers (if either in care at 16 or adopted/guardianship at 14 or older)
Education rights to promote school stability?	No right to school of origin placements or funding, immediate enrollment, partial credits, etc.	Child has the right to attend their school of origin, the ability to utilize partial credit and immediate enrollment laws – these rights attach to foster care

	Voluntary Placement Agreement - allows children to be placed in foster care with kin prior to court ordered removal	Prevention Plan - allows children to be moved to relatives' home outside of foster care
Definition	<p>“voluntary placement agreement’ means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.”</p>	<p>Prevention plan must: (i) identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver; (ii) list the services or programs to be provided to ensure the success of that prevention strategy; and (iii) comply with other requirements as the Secretary establishes</p>
Who consents?	<p>Agreement between parent/guardian and child welfare agency</p>	<p>FFPSA is silent on whether Prevention Plan is voluntary</p>
Care, custody and control	<p>Child’s placement into a VPA and care, custody and control transfers to child welfare agency</p>	<p>FFPSA is silent on whether the care, custody and control transfers to the state agency</p>
Funding	<p>Children placed in a VPA are eligible for foster care maintenance payments</p>	<p>No funding for children placed with a relative through a prevention plan</p>
Time limits	<p>Limited to 180 days unless there is a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) that such placement is in the best interests of the child</p>	<p>Prevention plan can be the permanent home of the kin caregiver</p>

Implications for Child Welfare Systems

- Need to be mindful in using prevention plans for children who cannot remain safely at home with a parent to address:
 - Due process for parent and child
 - Ensuring access to the benefits/services that child may need both short and long term if they are outside of the home
- Due process questions to address
 - Who is ensuring that reasonable efforts were made to avoid the removal?
 - Who is making the decision that the permanent home of the kinship caregiver is in the best interest of the child?
 - How is it assured that the child is kept safe from the parent when care, custody and control is not transferred to the child welfare agency?
 - How is the legal permanency of the child accounted for?

Other
Prevention
Services
Allowed:

Licensed
Residential
Treatment
Facility

- States can pay for children **to be placed with a parent** in a licensed residential treatment facility for substance abuse if
 - Recommendation for placement is specified in the child's case plan before the placement
 - The treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling
 - The substance abuse treatment, parenting skills training, parent education and individual and family counseling is provided under an organizational structure and treatment framework that is trauma-informed
- Can implement this provision separate from the other prevention services and prior to implementing the new restrictions on group homes/congregate care
- NO requirement that 50% of funds be spent on a well-supported program

Title IV-E Payer of Last Resort



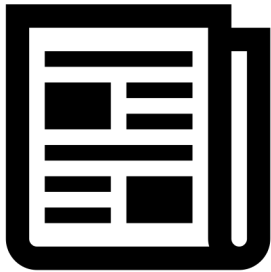
If a public or private program providers (such as private health insurance or Medicaid) would pay for a service allowable under the title IV-E prevention program, those providers have the responsibility to pay for these services before the title IV-E agency would be required to pay



For example, if a parent with Medicaid coverage is receiving mental health services that would be covered by Medicaid, and that are also allowable under the title IV-E prevention program, Medicaid must pay for the service before the title IV-E portion (if any) is paid

Additional Requirements for Claiming Federal Funding for Prevention Services

Case-Level Outcome Reporting



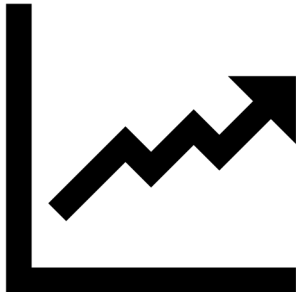
For each child receiving services the state must collect and report:

- Specific services/programs provided and total expenditures for each service/program
- Duration of services/programs provided

Also, for children identified as candidates:

- Child's placement status at beginning and end of 1-year period of service/program eligibility or receipt
- Whether child entered foster care within 2 years of being determined a candidate

Maintenance of Effort for States



States opting in **must** maintain their level of prevention expenditures for FFY 2014

- Defined in statute, includes TANF, IV-B, SSBG, and other state programs outside of the IV-E program, including waiver spending
- Also includes local agency spending
- Includes spending that is matched by the federal government as well as unmatched state/local spending
- Prohibits “double dipping” of federal matching funds

5-Year Plan Required

- Must submit a 5-year plan to begin claiming Title IV-E for prevention services
 - Can submit at any time (there is no deadline because Title IV-E for prevention services is optional to the state)
 - Can amend 5-year plan at any time
 - Not required to provide services in all counties and geographic locations in the state, nor is the state required to provide the same type of prevention services in the elected jurisdictions
- Must include
 - Service description including the evidence based standard of each service
 - Evaluation strategy (can be waived if it's a well-supported practice and state meets continuous quality improvement requirements)
 - Plan for monitoring child safety
 - Plan for consultation and coordination with other agencies
 - Child welfare workforce training



Five Needed Enhancements to FFPSA

- In order to ensure that states can take meaningfully and proactively implement FFPSA, states should request that Congress and/or ACF do the following:
 1. Explicitly clarify the definition of candidates for foster care for prevention services and how it can be distinguished or claimed separately from candidates for foster care for admin IV-E claiming
 2. Eliminate or delay the requirement that 50% of funding be spent on well-supported programs
 3. Expand eligibility for prevention services to all expectant and parenting youth, not just those in foster care
 4. Allow states to utilize VPAs for children placed in the home of a relative while also accessing IV-E prevention services to help children reunify with their parents
 5. Allow states to blend funding for programs that are only partially reimbursed through Medicaid to allow states to claim IV-E prevention dollars for those portions of a service that are not Medicaid reimbursable – OR – allow states that do not bill Medicaid for a service (even if technically possible) to claim IV-E prevention for that service

Restrictions on Use of Congregate Care

Overview of Congregate Care Changes

With respect to congregate care, FFPSA primarily does the following:

- Changes the list of valid placement types for federal payment “beginning with the third week for which foster care maintenance payments are made on behalf of a child.”
- Creates a new placement type called a Qualified Residential Treatment Program (QRTP)
- Defines who QRTPs may serve and the types of services that they must offer to children and youth in care
- Places numerous requirements on QRTPs to be eligible for federal reimbursement, including nurse/clinical staffing, trauma informed models of care, post-discharge planning and support, accreditation, etc.
- Sets forth requirements on when and how children are to be assessed for placement in QRTPs, and who may do it

Placement Types Eligible for IV-E Funding

- FFPSA cuts off federal IV-E funding after 2 weeks for children who are placed in congregate care programs, with four exceptions:
 - “Qualified residential treatment programs” (QRTPs)
 - Specialized settings for pregnant or parenting youth
 - Transitional housing programs for youth 18 and older
 - Programs providing support services to CSEC youth
- Limits the number of children that can be served in a “foster family home” to 6, unless the home:
 - Allows parenting youth in foster care to remain with their children
 - Allows siblings to live together
 - Allows a child with a meaningful relationship with the family to remain with the family
 - Allows a family with specialized skills to care for a child with a severe disability

	QRTP (federal law)
Eligible youth	“Children with serious emotional or behavioral disorders or disturbances”
Treatment/ staffing requirement	Licensed or registered nursing staff and other licensed clinical staff who are available 24 hours/7 days a week
Timeline for assessment	Assessment by a “qualified individual” must be completed within 30 days after placement is made, or federal funding will be cut off

	QRTP (federal law)
Who does the assessment?	“Qualified Individual” = trained professional or licensed clinician who is not an employee of the state agency and who is not connected to or affiliated with any placement setting in which children are placed by the state
Court Oversight	<p>Within 60 days of a QRTP placement, juvenile court must:</p> <ul style="list-style-type: none"> • Consider assessment by the qualified individual; • Determine whether the needs of the child can be met through placement in a family home or, if not, whether placement of the child in a QRTP provides the most effective and appropriate level of care in the least restrictive environment; and • Approve or disapprove the placement
Post-Discharge Support	QRTP must provide discharge planning and family-based aftercare support for at least 6 months post-discharge

Consider Investments to Fund Alternative Placements

California's Continuum of Care Reform (CCR)

- \$130 million in investments just for foster parent recruitment and retention in 3 years
- Total investments of **over \$800 million state general fund in last three years** to revise approval system, rate system, child and family teams, equalize supports for kin, and foster parent recruitment and retention

Family First

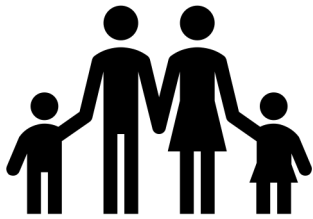
- \$8 million, one-time investment to be distributed across 50 states to recruit and retain foster parents
- No efforts to develop specialized foster homes as an alternative placement for high-needs youth

Family First Services Prevention Act

Additional Provisions

Kinship Navigator Programs

Allows states to receive 50% federal matching funds for expenditures on Kinship Navigator Programs



- Such programs exist in law and have been funded by federal Family Connection Grants
- Would also need to meet requirements of a “promising, supported or well-supported practice,” as defined
- Would be available without regard to IV-E eligibility of the child whose caregiver received the services
- **Currently there are none approved in the Clearinghouse.**

Family Reunification Services Timeframes

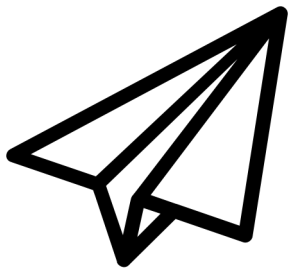
Amends timeline for provision of family reunification services under Title IV-B

- Allows for indefinite provision of services while a child is in foster care
- Allows for up to 15 months of post-reunification services to families after a child returns home



Relative Home Licensing Standards Reviews

- HHS Secretary released model home licensing standards in February 2019
- By 3/31/19, each State was required to submit a Title IV-E state plan amendment providing specific detail about:
 - Whether the agency foster family home licensing standards are consistent with the final model licensing standards and if not the reason for the deviation
 - Whether the state agency waives non-safety licensing standards for relative foster families and, if so, how caseworkers are trained to use the waiver authority and whether the agency has developed a process or provided tools to assist caseworkers in waiving these non-safety standards



Statewide Plan to Prevent Fatalities

Requires states to amend their state plans to:

- Describe steps state is taking to **compile complete and accurate information on child deaths due to abuse or neglect**, including gathering information from agencies such as the vital statistics department, child death review teams, law enforcement, and medical examiners/coroners
- Describe steps state is taking to **develop and implement a comprehensive, statewide plan to prevent child abuse and neglect fatalities** that involves and engages relevant public and private agency partners including those in public health, law enforcement and the courts

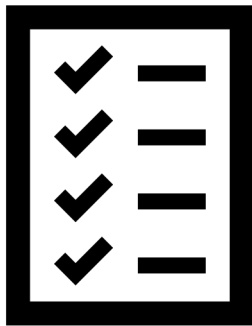


Family First Services Prevention Act

Timelines

Effective Dates

- Most of FFPSA Chapter I took effect 10/1/18
- Some provisions took effect immediately:
 - Establishment of technical assistance office related to new optional prevention services
 - State review of licensing standards
 - Technical and conforming changes to name and contents of Part E of Title IV-E, adding “prevention”



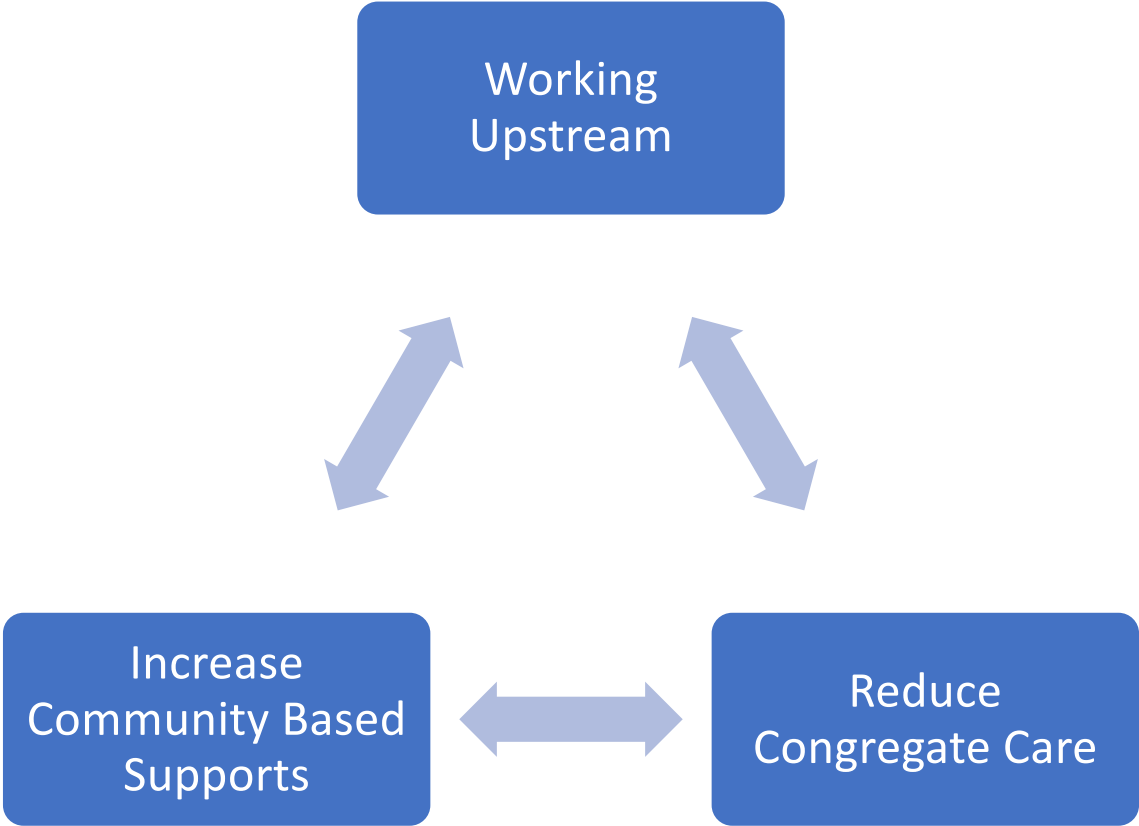
Two Year Delay

- States can delay the payment limitation and related requirements for up to 2 years.
 - Latest states can implement is October 1, 2021
- If a state chooses to delay, the state's ability to draw down Title IV-E for preventive services under Chapter I is delayed for the same period.

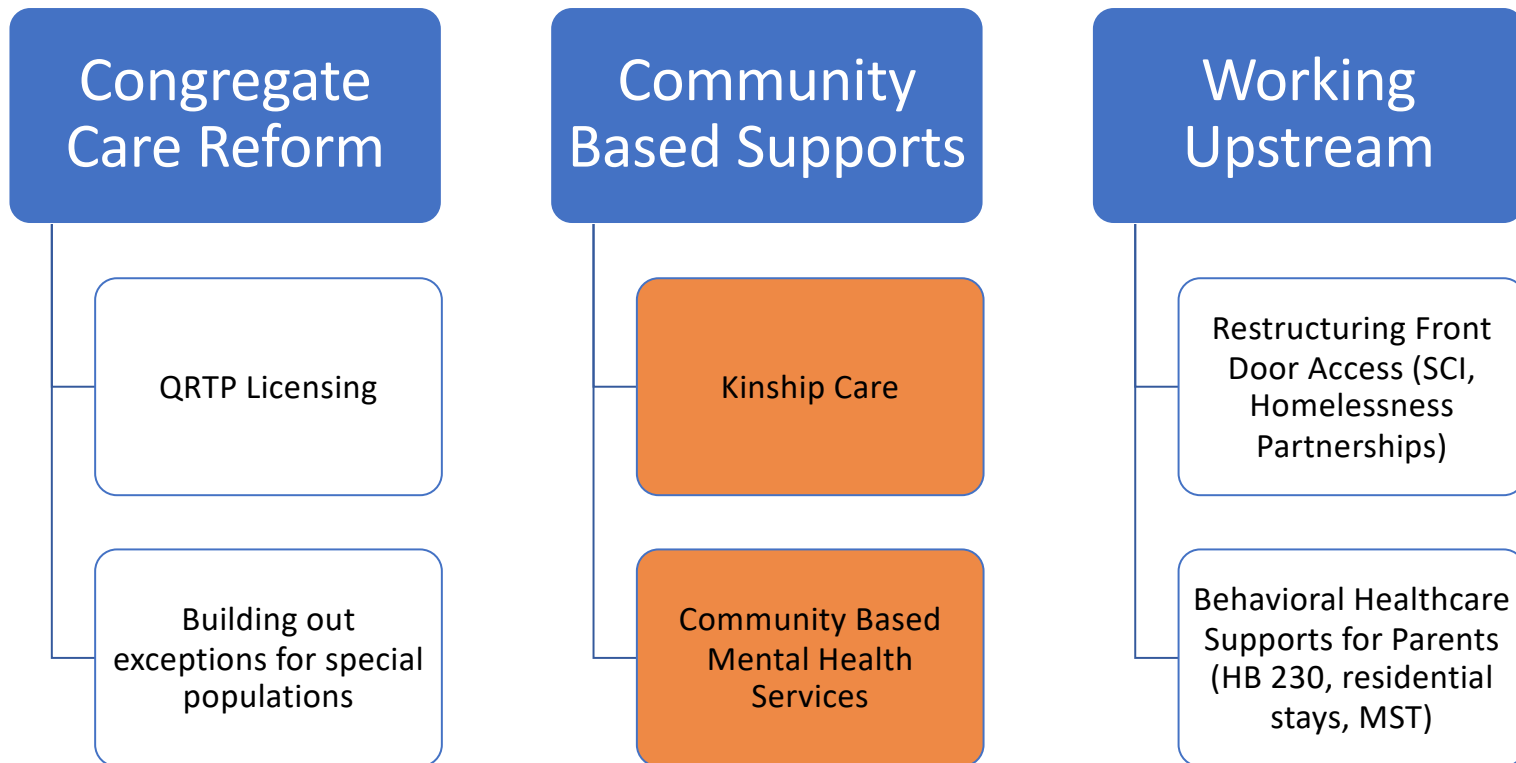
So, How Do We **DO** Prevention
(And what are we preventing?)



Implementing Reform for New Mexico



Prevention Work Streams



Strategic Plan Foundation

More Appropriate Placements

Reduce Congregate Care

Increase Kinship Care

Increase Community Based Mental Health Services

Special Protocols for Vulnerable Populations

Prevention

Institutionalization

Homelessness

Trauma

Optimization

Data

Accountability

Funding

Staffing

Vacancy Rates

Increased training/support

Workforce Development