COLORADO DEPARTMENT OF HUMAN SERVICES 1575 SHERMAN ST., DENVER, COLORADO 80203-1714	NUMBER: CW-09-29-I
AGENCY LETTER	CROSS REFERENCE NUMBER:
DIVISION OR OFFICE: CW	DATE: July 28, 2009
PROGRAM AREA: Child Welfare-CW	CHILD WELFARE DIVISION DIRECTOR
TITLE: Overview of Festering Connections to Success and	
TITLE: Overview of Fostering Connections to Success and Achieving Adoptions Act of 2008	DEPUTY EXECUTIVE DIRECTOR
	George Kennedy
TYPE: I-Information	

Intended Audience:

County directors, child welfare administrators, supervisors, caseworkers, certification/resource caseworkers, Chafee staff, and IV-E staff

Purposes:

- To provide information about the Fostering Connections to Success and Improving Adoptions Act of 2008 (Public Law 110-351), and
- To provide information regarding impacts to county departments of human/social services for implementation of the law.

Background:

Public Law 110-351, Fostering Connections to Success and Achieving Adoptions Act of 2008 was signed into law on October 7, 2008. The law is contained within the Social Security Act and impacts Title IV-B (child welfare services) and Title IV-E (foster care and adoption funding). Most sections of the law became effective in October 2008, however any exceptions will be discussed below.

The law promotes child welfare practices that will connect children and youth who are at risk of out-of-home placement with relatives as a preventive strategy; and for children and youth who are in out-of-home placement the strategies are intended to reconnect them with relatives to achieve permanency and/or for permanent connections. The information below focuses on areas in the federal law regarding kinship guardianship, foster care, and adoption that impact the delivery of child welfare services.

Information:

Connecting and Supporting Relative Caregivers

Relative Guardianship Assistance Program

The Colorado General Assembly passed Senate Bill 09-245, which authorizes a Relative Guardianship Assistance Program. Funding was appropriated for necessary Trails enhancements to authorize and document the services, and to allow for payments. The guardian must be a relative. It is anticipated the enhancements will be completed by early 2010. An Agency Letter will be issued explaining these enhancements at that time.

Rules are being proposed for presentation before the State Board of Human Services in October 2009 and, if passed, the program is anticipated to be effective in early 2010.

The federal law allows Relative Guardianship Assistance Program payments to be made on behalf of a child or youth:

- Who is IV-E eligible,
- The county department sufficiently demonstrates that reunification and adoption are not appropriate permanency goals,
- The relative was the foster parent of the child/youth at least six consecutive months,
- The child/youth demonstrates a strong attachment to the prospective relative guardian, and
- The relative guardian has a strong commitment to caring permanently for the child.
- Youth age fourteen (14) and older must be consulted regarding the guardianship arrangements.
- In addition, if appropriate, siblings who are not IV-E eligible may be included in the same Kinship Guardianship Assistance Agreement at the time of the original guardianship or at a later date. The payments are IV-E claimable for all of the siblings.

Required documentation in the Family Services Plan (FSP)

The county department must document the efforts made towards achieving other options for permanency and the reasons that the permanency goal is kinship guardianship, including, but not limited to the following:

- The steps made to determine that return home or adoption are not appropriate permanency goals, and
- If siblings are separated, the reason(s) for the separation must be addressed.
- The reasons that permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests.
- IV-E eligibility of child/youth, and
- Efforts made to discuss adoption with the relative foster parent as a more permanent option, and the reasons why the relative was unwilling to do so.
- Efforts to discuss guardianship assistance arrangement with the child's parents, or the reasons why that was not done.

Chafee Eligibility

Upon rule revision and enhancements to the state automated system, youth qualifying for the Guardianship Assistance Program, age sixteen (16) to twenty-one (21), will be eligible for Chafee Foster Care Independence Program (CFCIP) and Education and Training Vouchers (ETV).

Family Connection Grants

The Administration for Children and Families (ACF) appropriated \$15 million for grants in the following areas in order for states to test, evaluate, and establish promising practices that can be replicated and will improve outcomes for children/youth to support and preserve important connections and permanency:

• <u>Kinship Navigator Program</u>: The purpose is to assist kinship caregivers to gather, locate, and use programs and services to meet the needs of the children/youth that they are raising, as well as their own needs, and to promote effective partnerships between public and private agencies to assure that kinship families are served.

- <u>Intensive Family Finding</u>: The purpose is to research, identify, and use search technology to locate family members for children/youth who are at risk of out-of-home placement, in order to identify possible caregivers to assure safety and prevent out-of-home care; or, when children/youth are already in out-of-home care, to explore ways to find permanent relative placements more quickly.
- <u>Family Engagement Through Decision-Making Models</u>: The purpose is to establish protocols for decision-making meetings such as a team decisionmaking meeting (TDM), a family unity meeting (FUM), a family group decisionmaking meeting (FCDM), and/or family group conferencing (FGC), etc. These are opportunities to engage kin and other adult family members to actively participate in decision-making for relative children/youth in the child welfare system, and to actively develop plans to keep children/youth safe and their well being secure. In addition, as appropriate, these highly participatory meetings are used to address issues regarding domestic violence and to facilitate children/youth who have been exposed to domestic violence to receive services and to reconnect with the abused parent when appropriate.
- <u>Residential Family Treatment Programs</u>: The purpose is to provide comprehensive treatment programs that enable children and their parents to live in a safe environment for not less than six (6) months, which provides substance abuse treatment services, children's early intervention services, nursery and preschool services, and other services necessary to support families.

Early Identification and Notification of All Adult Grandparents and Other Relatives Another section in Senate Bill 09-245 was passed to meet this federal requirement. The Governor signed the bill on June 4, 2009. Emergency rules will be presented to the State Board of Human Services to become effective August 7, 2009 in order to be in compliance with the federal directive and to avoid sanctions. The requirements include, that:

- Within 30 days of a child's/youth's <u>removal</u>, the county department must have exercised due diligence to <u>identify and provide the following notice</u> to all adult grandparents and other adult relatives of the child/youth, including those suggested by the parents regarding the following:
 - The child/youth has been or is being removed from the parents' custody,
 - The options allowed through law to participate in the care and placement of the child, including options that may be lost if they do not respond to notices,
 - Provide the requirements to become a foster parent and the services and supports that are available to the children placed in such a home, and
 - If making kinship guardianship assistance payments is available, how relatives may enter into such agreement. The emergency rules will not include this requirement to inform relatives about the Kinship Guardianship Assistance Program until the program is available.

Waivers of kinship foster parent certification requirements on a case-by-case basis for non-safety standards

The state has allowed a process to appeal non-safety standards for kinship family foster care homes since 2002. Appeals to waive childcare rules that are too stringently applied based on individual circumstances, are reviewed monthly by the Division of Child Care Appeal Panel. An appeal form is attached. The panel reviews

the appeals on the last Monday of each month. The Division of Child Care must receive appeals by the last day of the preceding month that the appeal will be heard (an appeal that is received on or before April 30, will be heard on the last Monday in May).

Within two years, the State will be required to report data about the number of children/youth in kinship family foster care homes and in non-certified relative homes, and the number of waivers of non-safety standards. An assessment must be made available to the federal government concerning the impact of the waivers on the safety, permanency, and well-being of children and youth, the reasons a relative home may not be able to be certified even with waivers of non-safety certification standards, and recommendations for administrative or legislative actions that may increase the percentage of certified relative homes that are certified while ensuring the safety of the children and improving the permanence and well-being.

<u>Comparison and disclosure of information in the federal parent locator</u> Child care and foster care caseworkers will be able to obtain limited information regarding the parents in a case from the Federal Parent Locator Service. The Division of Child Support Enforcement is working with the federal government to provide this information and will send updates when the service becomes available. The effective date for these federal regulations is 12/20/10.

Foster care

Extension of benefits/services

Effective October 1, 2010, Public Law 110-351 allows states the option to extend benefits or services for youth in foster care and certain youth in an adoptive home or a guardianship after age 18. The applicable youth are 18 year olds in foster care, youth who were adopted after age 16, and youth in a kinship guardianship assistance agreement (through P.L. 100-351 requirements) that occurred after age 16. The youth must be completing secondary education or a program leading to an equivalent credential, enrolled in post-secondary or vocational program, participating in a program that will promote or remove barriers to employment, etc. There are no current plans to extend these benefits in Colorado.

Transition plan

Public Law 110-351 amends the case review system to create a new requirement that during the 90-day period prior to the youth's emancipation, the caseworker must develop a personalized transition plan as directed by the youth. Specifically, during the 90-day period immediately prior to the date on which the child will attain 18 years of age (or such greater age as the State may elect), a caseworker and, as appropriate, other representatives of the youth must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the youth to include specific options on; housing, health insurance, education, local opportunities for mentors, continuing support services, work force supports and employment services (and is as detailed as the youth may elect).

Plans are in place to develop rules, an Agency Letter, and a Trails Modification in the FSP Part 4D Independent Living Plan (ILP) to be in compliance with this new requirement.

Short-term training

Previously the primary categories of trainees that were eligible to receive IV-E funded training were child welfare staff, foster, and adoptive parents. P.L. 110-351 expanded the eligible categories of staff/individuals to include the following categories: relative guardians, state-licensed/approved child welfare agencies providing services to children receiving Title IV-E assistance, child abuse and neglect court personnel, attorneys who represent the agency, child, or parents, and Court Appointed Special Advocates (CASA).

Educational Success and Stability

The educational plan for a child or youth in out-of-home care should take into account the appropriateness of the current educational setting and proximity of the school. This is not new and was put into statute, including House Bill 08-1019, "Concerning the Provision of Educational Services for Children in Out-of-Home Placements" (see agency letter CW-09-02-I, dated January 5, 2009). County departments must coordinate with local schools, school districts, Boards of Cooperative Education Services (BOCES), etc., so that the child/youth remains in the same school, especially if reasonable travel is arranged for the child/youth to go to that school. The law allows for county departments to claim IV-E travel for eligible children/youth.

According to P.L. 110-351, if the current school is not appropriate, there must be "immediate" enrollment into a school. The Colorado Department of Education has referred this to the Attorney General's Office to determine the impact on current statutes.

The federal law also requires compulsory school attendance of all children/youth who are in foster care, in an adoption assistance agreement, or in a kinship guardianship assistance agreement in one of the following education options:

- An elementary or secondary institution as determined in state statute,
- Home schooling (in Colorado this would only apply to kinship caregivers in certain circumstances) or children in adoption assistance.
- Independent study as allowed by statute and administered by the school district, or
- The child or youth is incapable of attending school full-time due to medical conditions, which is documented and regularly updated in the case plan. This option would be rare.

Reasonable travel

Section 475(4)(A) of the Social Security Act defines the term: "Foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and **reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.**

Coordination of a plan of oversight with the Medicaid agency

The Division of Child Welfare Services (DCWS) and Health Care Policy and Financing (HCPF) are engaged in a cooperative partnership to develop a plan for the ongoing oversight and coordination of health care services for children and youth in out-of-home care and those receiving in-home services. The committee, comprised of stakeholders from DCWS and HCPF, will work on physical, dental, and mental health/behavioral health issues for children and youth served by our systems. In addition to P.L. 110-351, Section 205, the committee will work on Senate Bill 07-130 (Medical Home), and the Federal Medicaid Program (EPSDT). Expansion of Section 205's plan to include children and youth receiving in-home services as well as foster children addresses the requirements of the Child and Family Services Review (CFSR).

The plan to be developed is to include strategies to identify and respond to the health care needs, including physical health, dental health, and mental health needs, of foster children and children receiving in-home services. The outline to be developed is to include the following:

- The schedule for initial and follow-up physical, dental and mental/behavioral health screens;
- Monitoring and treatment of physical, dental and mental/behavioral health needs identified in the screens;
- Updating and appropriate sharing of medical information, including physical, dental, and mental/behavioral health, for children and youth:
 - Updating the Health Passport time frame to update it,
 - Health Passport Information –needed/mandatory information, and
 - HIPAA guidelines for sharing privileged information with others;
- Steps to ensure continuity of physical, dental, and mental/behavioral health care services, which may include establishment of a medical home for every child in care and those receiving in-home services;
- Oversight of psychotropic medicines:
 - Protocol of maintaining medication logs,
 - Monthly sharing of medication logs with caseworker,
 - Caseworker consultation with physician/other trained professional as to dosage and medication usage, etc.; and,
- Determining when and how often County Departments of Human/Social Services consult with and involve physicians and other appropriate medical or non-medical professionals in assessing the physical, dental, and mental/behavioral health and well-being of children and youth in foster care and those receiving in-home services, and in determining appropriate treatment for them.

Sibling placement:

Reasonable efforts must be made to place siblings in the same foster, adoptive, or kinship guardianship home unless it is contrary to the safety and well being to any of the siblings. When siblings are not placed together, frequent visitation or other ongoing activities must occur. Sibling placement and visitation is addressed in Sections 7.301.24, B and 7.304.64, C (12 CCR 2509-4).

Improvement of Incentives for Adoption

The Adoption Incentive Program was reauthorized until 2013 and provides the following changes:

- 2007 becomes the base year for adoption of children and youth ages nine and older and those where special needs are determined.
- The financial incentives are increased to \$8,000 for the adoption of children and youth nine and older.

- The financial incentives are increased to \$4,000 for the adoption of children and youth with special needs.
- Adoption assistance is de-linked from AFDC eligibility incrementally, beginning with the oldest youth and youth who have been in care the longest and their siblings. All children with special needs, regardless of income or age, will be eligible for an adoption subsidy by 2018.
- Public and private adoption agencies are required to inform all adoptive parents of children with special needs that the parents could be eligible for adoption tax credits.
- States are allowed to extend federally funded adoption assistance to age twentyone (21) for Title IV-E eligible young adults adopted after the age of sixteen (16) and enrolled in school, employed, engaged in an activity promoting or removing barriers to employment, or who are unable to participate in employment or education due to a documented medical condition.

Effective Date:

Upon receipt

Supersedes:

NA

Contacts:

For questions about the:

Reasonable travel for education: Larry Armstrong (303) 866-4587

90-day transition planning: Bob Coulson (303) 866-4706 or bob.coulson@state.co.us

Short-term training: Art Atwell (303) 866-7172 or art.atwell@state.co.us

Federal Parent Locator: Jeanette Savoy (303) 866-5352 or jeanette.savoy@state.co.us

Chafee Foster Care Independence Program (CFCIP): Shirley Dodd (303) 866-4539 or shirley.dodd@state.co.us

Kinship guardianship, foster care, sibling placement, and education: Mary Griffin (303) 866-3546 or <u>mary.griffin@state.co.us</u>

Coordination of a plan of oversight with the Medicaid agency: Kerry Swenson (303) 866-4550 or <u>kerry.swenson@state.co.us</u>

Adoption: Constance Vigil (303) 866-3209 or constance.vigil@state.co.us

Attachment:

County/CPA/FFH Appeal Form