



TEXAS
Department of Family
and Protective Services

Opportunities to Increase Claiming IV-E Funds through Foster Care Rate Modernization

As Required by

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87th Legislature, Regular Session, 2021 (Article II Special
Provisions Relating to All Health and Human Services
Agencies, Section 26)**

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Introduction

The 2020-21 General Appropriations Act, House Bill 1, 86th Legislature, Regular Session, 2019 (Article II, Special Provisions Relating to All Health and Human Services Agencies, Section 32), required HHSC to evaluate the methodology for establishing foster care rates to determine whether an alternative methodology would maximize, among other things, the use of federal funds. HHSC contracted with the Public Consulting Group (PCG), which produced the report, "Texas Health and Human Services Commission Foster Care Rate Methodology Study" in December of 2020. The PCG report included specific recommendations for maximizing Title IV-E reimbursements.¹

Additionally, in the 87th legislative session, Article II, Special Provision 26 of Senate Bill 1 required DFPS to review opportunities to increase the Title IV-E eligibility rate, increase kinship licensing, and develop a method to claim costs associated with the child.

This report provides a summary of opportunities to increase claiming of IV-E funds as a part of the Rate Modernization effort.

Background

The Federal Foster Care Program² is authorized by Title IV-E of the Social Security Act and is an annually appropriated program with specific eligibility requirements and fixed allowable uses of funds. As the state's Title IV-E agency, DFPS is awarded an open-ended entitlement grant from the Children's Bureau based on an approved Title IV-E state plan to operate and administer the (foster care) program. Funds are available for monthly maintenance payments for daily care and supervision of eligible children; administrative costs to manage the program; training of staff and foster care providers; recruitment of foster parents and costs related to operation of a state-wide data collection system.

¹ [Foster Care Rate Methodology Report \(texas.gov\)](https://www.texas.gov)

² <https://www.acf.hhs.gov/archive/cb/grant-funding/title-iv-e-foster-care>

In fiscal year (FY) 2020-2021 Texas received an estimated \$414M dollars in Title IV-E Foster Care Assistance federal funding. Title IV-E is an important source of funding for the child welfare system and is reliant on the child's eligibility as well as the eligibility of the child's placement type in foster care.

Since the end of FY 2021, the eligibility rate (ratio of children who are Title IV-E eligible divided by the total population of children in out-of-home care) has decreased from approximately 46 percent to the most recent 42 percent. Reasons for the decline are largely attributed to the fact that the income test to determine Title IV-E eligibility is based on 1996 Aid to Families with Dependent Children (AFDC) program standards.

With the passage of the Family First Prevention Services Act (FFPSA³) certain foster care placement settings are no longer eligible for Title IV-E funding. The declining child eligibility rate coupled with limitations and changes/limitations to the eligibility of certain congregate care settings because of FFPSA has impacted Title IV-E federal funding draw down in Texas.

Based on the recommendations of PCG in the February 2021, HHSC "Foster Care Rate Methodology Report" and consistent with direction provided by the Texas Legislature in Special Provision 26, DFPS reviewed opportunities to increase claiming of IV-E funds through work on the Foster Care Rate Modernization project.

Public Consulting Group's Recommendations

The following recommendations made by PCG serve as the basis for this report:

1. Review Opportunities to increase the Title IV-E eligibility rate.
2. Increase kinship licensing.
3. Develop Title IV-E Administrative Claiming strategies for GRO/RTC placements.
4. Develop a method to claim costs associated with child-specific contracts.

³ <https://www.congress.gov/bill/115th-congress/house-bill/1892/text?q=%7B%22search%22%3A%5B%22hr1892%22%5D%7D&r=1>

1. Review Opportunities to Increase the Title IV-E Eligibility Rate

In order to claim Title IV-E foster care maintenance payments on behalf of a child, DFPS must ensure that the child meets eligibility criteria for the program. This criterion includes the child meeting AFDC eligibility requirements that were in effect on July 16, 1996, and the child must have been removed from the home and be placed in foster care⁴.

The state has undertaken past studies and evaluations with the aim of improving processes for determining Title IV-E child eligibility. DFPS has centralized staff located in the regions whose primary job is determining eligibility and who are dedicated to working with caseworkers to ensure proper determination.

While the state's eligible population of children in paid care has not experienced significant decline, targeted efforts to place children with their kin/relatives has impacted the percentage of children in eligible placements. Unverified kinship care is not considered an allowable IV-E (foster care maintenance) setting by the federal government. Even though the state cannot draw down IV-E funds for unverified kinship placements, the state remains committed to always placing children in safe and appropriate kinship care.

The best opportunity to impact IV-E claiming in Texas is to expand the allowable foster care service array. FFPSA does not change DFPS' ability to place children in certain settings, rather it limits the placement types eligible for consideration of Title IV-E funding.

Since October 2021, Texas has been unable to claim Title IV-E foster care maintenance payments for IV-E eligible children in congregate care settings beyond the first two weeks of placement⁵. After the two-week period, the state uses general revenue funds to support the cost of care in the congregate care placement for these children⁶.

⁴ <https://www.acf.hhs.gov/cb/fact-sheet/title-iv-e-foster-care-eligibility-reviews-fact-sheet>

⁵ Funding limitations of FFPSA apply once a child moved to a new placement after September 29, 2021. Texas is able to claim IV-E for eligible children who were already living in a non-eligible congregate care placement before September 29, 2021, and who have not had a change in placement since that time.

⁶ The state is able to continue to claim Title IV-E administrative costs on behalf of the child while in that placement.

Opportunities to Increase Title IV-E Claiming Under Foster Care Rate Modernization

Since June 2021, DFPS has worked in collaboration with HHSC on the design of an enhanced foster care service array that includes clearly defined program models and alternative reimbursement methodology consistent with the packages.

In January 2022 DFPS released a report that describes the final service packages⁷. The service packages include nine specialty options for children in foster family home settings, which include:

1. Basic Foster Family Care,
2. Short-Term Assessment & Stabilization Services,
3. Complex Medical Needs,
4. Treatment Foster Family Care,
5. Intellectual Developmental Disability & Autism Services,
6. Sexual Aggression & Sex Offender Services,
7. Mental & Behavioral Health Services,
8. Human Trafficking Services, and
9. Substance Use Disorder Services.

Having a more robust foster family continuum will allow for more children to be served in a community/family-like setting. Each of these nine placement options are eligible for Title IV-E maintenance payments, dependent on the child's individual eligibility.

Additionally, Rate Modernization includes eight service packages that by design will allow the state the opportunity to claim Title IV-E maintenance payments in a congregate care setting (beyond the first two weeks of placement). These include:

1. GRO Tier I - Human Trafficking Services
2. GRO Tier I - Pregnant & Parenting Youth Services
3. GRO Tier II - Services for children with Severe Aggression and Defiance (QRTP eligible)
4. GRO Tier II - Complex Medical Needs (QRTP eligible)
5. GRO Tier II - Complex Mental Health Needs (QRTP eligible)
6. GRO Tier II - Severe Sexual Aggression (QRTP eligible)
7. GRO Tier II - Human Trafficking (QRTP eligible)
8. GRO Tier II - Substance Use Disorder (QRTP eligible)

⁷ https://www.dfps.texas.gov/About_DFPS/Reports_and_Presentations/CPS/documents/2021/2021-12-31_Foster_Care_Rate_Modernization_Report_Final_Service_Descriptions.pdf

2. Increase Kinship Licensing

Nationally, youth who age out of foster care do not fare as well in areas of employment, housing, and mental and physical health when compared to their peers who were not a part of the foster care system. The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 was enacted to better promote permanency for children and youth with an emphasis on adoption, relative care, and improving services for youth aging out of care.

The 81st (2009) Texas Legislature enacted the federal mandatory requirements of the Fostering Connections Act, and additionally incorporated the Permanency Care Assistance (PCA) Program into statute. PCA provides a cash benefit and Medicaid for the child to the caregiver after the child has left the state conservatorship. This benefit is limited to kinship caregivers that become verified as foster parents through a licensed CPA. Verified kinship foster homes are considered allowable for Title IV-E funding.

The PCA program impacts children and youth in the foster care system, that are living in a verified kinship placement, and are not eligible candidates for adoption. Prior to the 81st Legislature enacting the PCA program, relative caregivers did not have an option for support beyond the time they received Permanent Managing Conservatorship of the child.

Over the last 10+ years, Texas has benefited in the number of children who have exited care because of the PCA program. From FY 2012 through FY 2021, approximately 7,609 children's CPS cases were closed with their relative caregiver being granted Permanent Managing Conservatorship (PMC) with PCA benefits.

In order to offer more children and youth the opportunity to exit care in this manner, DFPS has developed a plan for improving the PCA program. Strategies include targeted efforts to increase the number of families and decrease the time it takes for kinship caregivers to become verified as foster parents under a licensed CPA. To receive PCA benefits post PMC, the relative caregiver must be a verified foster home and have had the child in the verified home for at least 6 months per federal statutory requirements.

Engaging and helping relatives to expedite foster home verification earlier in the case will not only offer the additional financial support and benefits inherent in being connected with a licensed CPA but should also reduce the average length of time it takes for children to exit care to PMC with PCA benefits.

Increasing Kinship Licensing Under Foster Care Rate Modernization

DFPS is committed to increasing opportunities for kinship caregivers to become verified. Verified settings allow for the state to claim Title IV-E funds. To support this, Texas stakeholder engagement has been invaluable to informing the design of the program models and resulting rate methodology inherent in the Foster Care Rate Modernization effort. DFPS has hosted focus groups, work sessions, and in collaboration with the Texas Institute for Child & Family Well-being collected information through a provider survey.

This work helped identify costs and barriers incurred by CPA's that work with kinship caregivers to become verified as foster parents. As such, DFPS designed and included an "add-on" to the daily foster care rate that would help offset the CPA's additional costs incurred through verifying and supporting kinship caregivers.

It is anticipated that this "Kinship Add-On" would incentivize more CPAs to work with kinship caregivers, allowing for more children to achieve permanency through adoption or PCA. Dependent on the child's eligibility, DFPS would also be able to claim Title IV-E foster care maintenance for these verified placements. Unverified kinship homes do not qualify as a Title IV-E eligible placement.

3. Develop Title IV-E Administrative Claiming Strategies for GRO/RTC Placements

DFPS currently claims Title IV-E administrative costs on behalf of the eligible child while they are in GRO/RTC placements. In their 2021 report, PCG recommended DFPS explore opportunities to claim Title IV-E administrative costs rendered by residential programs, such as case management, family engagement and transition planning, and aftercare activities.

Maximizing Title IV-E Administrative Claiming for GRO/RTC Placements Under Foster Care Rate Modernization

Title IV-E provides opportunities for funding administrative functions such as case management, family engagement and transition planning, and aftercare services.

All the GRO Tier I and Tier II program models include case management, family engagement, and transition planning. Additionally, nine of the 11 GRO Tier I settings and all of the GRO Tier II settings require that the provider offer aftercare services as a child transition to permanency or a less restrictive placement. HHSC, in collaboration with DFPS, have determined Title IV-E administrative allowable expenses under the improved rate methodology to ensure the state is maximizing federal claim.

4. Develop a Method to Claim Costs Associated with Child Specific Contracts

DFPS enters into child specific contracts (CSC) for one of three reasons: 1) a court orders a child into a placement that does not have a standard contract with DFPS; 2) the child's needs far exceed what is covered through these established foster care rate structure; and 3) the individual needs of the child are unique to the extent that no appropriate resource available to care for the child.

In FY 2022, DFPS spent approximately \$62 million⁸ on child specific contracts. These contracts are funded with only general revenue.

Methods to Claim for Child Specific Contracts Under Foster Care Rate Modernization

In the summer of 2021, DFPS analyzed historical placement data including trends related to the use of CSCs. This analysis helped to identify the common characteristics represented in the child population served under CSCs, as well as the most purchased services for this population of children.

Using this information, DFPS worked with stakeholders to design a service array and continuum that once fully implemented could serve approximately 75 percent of the population being served through CSCs. Transitioning children from these high-cost, general revenue funded contracts and settings into the newly defined foster care continuum will allow the state better opportunities to maximize and draw Title IV-E funding.

⁸ As of January 10, 2023.

Conclusion

Pursuant to the 2022-2023 General Appropriations Act, Senate Bill 1, 87th Legislature, Regular Session, 2021 (Article II, Special Provisions Relating to All Health and Human Services Agencies, Section (c)(13-15)), DFPS has:

- Reviewed opportunities to increase the Title IV-E eligibility rate.
- Established a plan to increase kinship licensing.
- Included enhanced Title IV-E administrative claiming strategies for General Residential Operations (GRO) and Residential Treatment Center (RTC) placements as a part of Foster Care Rate Modernization.
- Identified methods to claim costs associated with (the) child (as a part of child specific contracts and exceptional care).

DFPS will continue efforts to maximize Title IV-E federal funding as the state transitions to Community-based care and through implementation of the Foster Care Rate Modernization effort.