



Special Committee on Foster Care Oversight

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Title IV-E Funding

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Testimony of:

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Chair Concannon, Vice Chair Baumgardner, and Members of the Committee:

Thank you for the opportunity to present testimony on Title IV-E funding and its use in Kansas.

Under Title IV-E of the Social Security Act, states are entitled to claim partial federal reimbursement for the cost of providing foster care, adoption assistance, and kinship guardianship assistance to children who meet certain federal eligibility criteria. This funding stream is commonly known as Title IV-E. Title IV-E was originally intended to assist children who would have been eligible to receive federal financial assistance if they had remained in their own home (the former Aid to Families with Dependent Children Program). The Title IV-E program is administered by the Children's Bureau within the US Department of Health and Human Services.

Title IV-E is an entitlement program. This means that funding is only available for eligible individual children and the federal government will only provide reimbursements for expenses for children who meet IV-E eligibility requirements. DCF reports on the number of IV-E eligible children in care and requests reimbursements for eligible expenses on a quarterly basis.

Through Title IV-E, the federal government will provide reimbursement for the following types of expenses:

- **Foster Care Maintenance**

Maintenance is the costs associated with maintaining a child in an out-of-home placement. These costs include room/board and supervision for a child's placement in a foster home, child care institution, or group home.

- **Administrative Services**

Administrative services include staff and overhead costs associated with working with the child, family, and care provider.

- **Training**

Training costs are the costs of training people who work with the child, including training for social workers, foster parent, and administrators.

- **Candidates for Care**

Candidates for care are children who are receiving in-home services and are determined to be at imminent risk of removal from the home. Title IV-E provides reimbursement of some administrative activities for these children. Federal Family First Prevention Services Act funding is provided in IV-E dollars but is separate and has different requirements than the regular IV-E program.

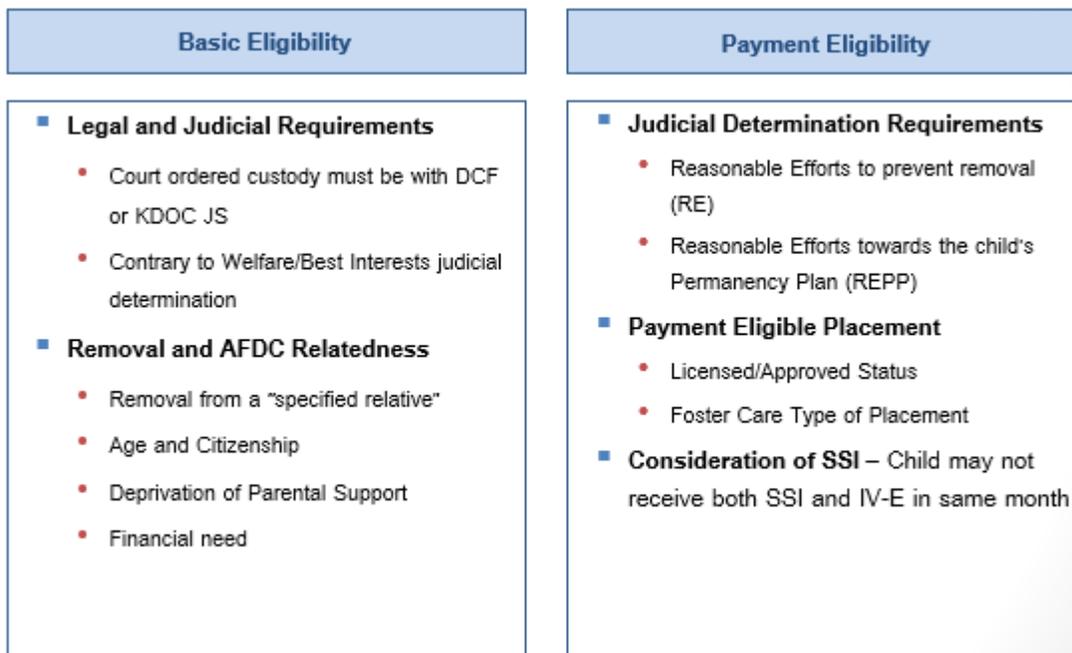
There are two types of eligibility for IV-E funding: Basic Eligibility and Payment Eligibility, each with different requirements. In general, Basic Eligibility is determined at the time of removal and stays the same. Payment Eligibility requirements are based on factors regarding the child's current situation. This means that a child's Payment Eligibility can turn "on" and "off".

To have Basic Eligibility a child must meet the Legal and Judicial Requirements of the program. This means that the child's removal and placement in out-of-home care must be authorized by court order and the child must be in DCF or KDOC JS custody. The court must also make certain determinations regarding the actions and efforts of DCF, KDOC JS, or grantees, including a determination that it would've been contrary to the child's best interest to remain in their home. Additionally, to have Basic Eligibility a child's household of origin must meet financial requirements that would've made them eligible for federal financial assistance had they remained at home.

To be Payment Eligible, the child's placement must meet IV-E requirements. This means the placement must be in a foster care setting licensed by DCF according to IV-E standards. In order to be IV-E Payment Eligible the court must also determine that the state made reasonable efforts to prevent removal and create a permanency plan. These requirements are intended to encourage removal only when absolutely necessary and ensure that a safe and permanent placement is achieved for the child.

Basic Eligibility qualifies the state to obtain IV-E reimbursement for administrative and training costs associated with the child. Payment Eligibility qualifies the state to obtain IV-E reimbursements for maintenance costs associated with the child. A child must first be determined IV-E Basic Eligible to be determined IV-E Payment Eligible. Initial Basic Eligibility is based on information obtained when the child first enters out-of-home care and the custody of the Secretary. If a child is determined not to be eligible for Basic Eligibility when they enter care, the child is ineligible for the duration of their custody episode. Eligibility is determined by DCF staff based on the facts of the case when the child enters custody.

Chart 1: IV-E Basic and Payment Eligibility



The federal government does not reimburse 100% of IV-E eligible expenses. Reimbursement rates depends on the ratio of IV-E eligible children to non-IV-E eligible children in the Secretary’s custody. This ratio is commonly referred to as the IV-E penetration rate. Administrative costs are reimbursed at 50% of the state’s IV-E penetration rate. Training costs are reimbursed at 75% of the state’s IV-E penetration rate. This would mean that if 50% of the children in foster care were IV-E eligible, 25% of the state’s administrative costs would be reimbursed (50% x 50%). Likewise, if 50% of children in care are IV-E eligible, 37.5% of training costs would be reimbursed (50% x 75%). Maintenance costs are reimbursed at the state’s FMAP rate, currently at 59.68% for Kansas for FY 2021. Were 50% of all youth in care IV-E eligible this would make 29.84% of maintenance costs reimbursable.

In recent years Kansas’ IV-E penetration rate has fallen.

Table 1: IV-E penetration rate as of 12/31 of specified year

2016	28%
2017	27.9%
2018	27%
2019	19.2%
2020 (as of 6/31)	18.08%

This drop can be partially attributed to DCF’s priority of placing children with relatives when they cannot be safely kept in the home (IV-E reimbursement can only be claimed

on youth in foster care settings). I would also note that the income levels for financial assistance eligibility for IV-E were established in 1996 and have not been updated since. Given the current IV-E penetration rate, DCF can request and receive IV-E reimbursement for 9% of total administrative costs, ~10.8% of total maintenance costs, and 13.5% of total training costs. IV-E reimbursement for foster care made up \$27million (7.8%) of DCF's foster care spending in FY 2020.

Kansas used to administer a IV-E program to assist students in completing degrees, both Bachelor and Master, in social work through a Social Work Education Consortium. To be eligible for this program students had to be attending school full time, within four semesters or less of graduating, approved by their university, and interviewed by DCF (then SRS). SRS employees that participated in the program had their tuition and benefits covered and received a portion of their salary while participating. Non-SRS employees that participated were provided a monthly stipend to help them pay the cost of attending school. In order to participate students had to agree to work in child welfare with SRS for twice the amount of time they were supported by the program in school. Failure to meet this employment obligation necessitated repayment of the funds to SRS. The program was funded by SRS through the IV-E reimbursement for training costs. SRS would provide the IV-E and the universities would provide the state match. In 2006 this program was discontinued. Audit concerns were raised as the IV-E ratio fell and universities were responsible for providing higher and higher matching funds. Additionally, issues arose with students refusing or not being able to repay SRS after failing to complete the program.

While DCF has shifted to providing other supports for the child welfare workforce, such as paid practicums, other states continue to administer similar IV-E degree programs. Colorado, Oklahoma, and Missouri all administer programs that provide funding to assist students complete their degrees in exchange for a commitment to work for the agency for a specified period of time. Like Kansas, Nebraska does not administer such a program at this time. A full inventory of IV-E social work degree programs from across the country is available [here](https://uh.edu/socialwork/academics/cwep/title-iv-e/Stipends-Paybacks/stipendpaybackmatrix2019-updated-09-09-19.pdf)¹. The vast majority of these programs, like the Social Work Consortium, use IV-E to pay for the student's tuition and other expenses and are contingent on an agreement that the student will work for the state child welfare agency upon completion of their degree. To identify whether this option would be feasible in Kansas, DCF would need to engage in further discussions with the Schools of Social Work in the state through their Consortium. Questions to explore would include whether match is available through any of the universities, eligibility requirements, specialized curricula, and payback/service requirements.

¹ <https://uh.edu/socialwork/academics/cwep/title-iv-e/Stipends-Paybacks/stipendpaybackmatrix2019-updated-09-09-19.pdf>

A new Title IV-E option available to states is the use of IV-E funds to provide legal representation to families involved in the child welfare system. As you heard from the National Association of Counsel for Children at this committee's first meeting back in August, in January 2019 the Children's Bureau updated policy to allow child welfare agencies to claim IV-E reimbursement for legal representation for children in foster care, children who are candidates for foster care, and their parents. States are now able to request IV-E reimbursement for legal representation at the administrative rate of 50% of the penetration rate. Given the state's current IV-E penetration rate, that means approximately 9% of legal representation costs could be reimbursed.

Kansas has not yet begun to pursue a program or initiative to claim IV-E reimbursement for legal representation, but DCF is open to having those discussions. According to the National Association of Counsel for Children, 11 states have a IV-E legal representation collaboration underway.² There are a variety of different types of programs that could be pursued to invest in high quality legal representation for families involved in child welfare.

One way the funds could be used would be to pay for additional hours for attorneys representing children and their families in CINC cases. This type of program could provide counties with the resources to hire additional attorneys or pay for overtime for attorneys already on their payroll. This would allow for more reasonable caseloads and give attorneys the opportunity to spend more time on each case. Collaboration with OJA and county governments would likely be needed to implement such a program.

Another option would be to use IV-E to provide training or establish benchmark training standards for attorneys that work on CINC cases. These expenses would be reimbursable at the IV-E training reimbursement rate of 75% of the IV-E penetration rate.

Like Iowa is doing with their IV-E pilot program, Kansas could elect to use IV-E funds to provide legal counsel to families earlier in their interactions with the child welfare system. Much like how providing prevention services through the Family First Prevention Services Act can prevent the need for foster care, providing legal services to families before a CINC petition is filed increases the chances the child will not need to be removed from the home. This could be especially applicable to Family In Need of Assessment cases where the issue that led to a report isn't abuse/neglect, but poverty

² Including Alaska, Colorado, Iowa, Louisiana, Maryland, Michigan, Montana, Nevada, New Mexico, Washington, and Wyoming

or some other underlying situation. A pilot program in Detroit using this approach successfully kept all 110 children served out of the foster care system.³

One of the advantages of this new use of Title IV-E is that it gives states the flexibility to implement a legal representation program that will best fit their unique needs. Which style of program is best for Kansas is yet to be determined. It is likely that more work is required before we as a state can identify which type of program would viably meet the needs of Kansas children and families. DCF is happy to participate in or facilitate this work alongside our stakeholders. We look forward to moving this conversation forward.

Thank you for the opportunity to address this important issue. I am happy to answer any questions at the appropriate time.

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http://kslegislature.org/li/b2019_20/committees/ctte_spc_2020_foster_care_1/documents/testimony/20200826_18.pdf