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Laura Howard, Secretary

Laura Kelly, Governor

Chair Howerton and members of the House Child Welfare and Foster Care Committee,

Thank you for the opportunity provide an informational hearing on Executive Order 25-01, which directs the Kansas Department for Children and Families (DCF) to preserve federal cash benefits for eligible youth in care.

History:

Some children in foster care are entitled to receive federal cash support benefits, such as supplemental security income (SSI) disability, Social Security Administration (SSA) survivor benefits, and the Department of Veterans Affairs (VA) benefits.

Through long standing practice, most states, including Kansas, apply for benefits on behalf of eligible children, then use those funds to reimburse themselves for the cost of providing essential food, clothing, and shelter. A CMS report from 2020 reported that up to 42 child welfare agencies utilize the federal cash benefits for the cost of care. In 2021, NPR found that 36 states still engaged in this practice.

While the Social Security Administration mandates that any leftover federal benefits not spent on a child's current needs and maintenance must be saved for their future use, in practice, SSA payments are rarely conserved. In August 2023, the Social Security Administration sent a letter to all states to encourage, but not mandate, halting this practice.

As of Dec. 31, 2024, there are a total of 950 Kansas children receiving federal benefits in the custody of the Secretary. There are 393 children who receive SSA (survivor) benefits, 488 who receive SSI (disability) benefits, and 68 children who receive both. There is 1 child who receives VA benefits.

In total, DCF receives $9 million in federal benefits, which accounts for 3% of the total foster care budget.

While states like Maryland have enacted legislation that reforms parts of this practice, in June 2023, Arizona became the first state to pass legislation that comprehensively reforms this practice by prohibiting the use of federal social security, disability, and veteran survivor benefits for services they are already required to provide and placing the child's needs at the center of the policy. Several other states have also changed their laws or taken administrative action – including Oregon, Massachusetts, and New Mexico.

Kansas is the first state enact comprehensive reform via Executive Order.

Executive Order 25-01

After months of stakeholder and legislative engagements, Governor Kelly signed Executive Order 25-01 on Jan. 10, 2025. The Executive Order directs DCF to begin halting the practice of utilizing a child's federal benefits to reimburse themselves for the cost of care. It mandates that by July 1, 2025, DCF will halt the practice in its entirety and every eligible child in care will have their federal cash benefit funds preserved in an appropriate account to be used for any future or unmet need. In addition, the child and/or adult caregiver will also be notified of these accounts.

Attached is a copy of Executive Order 25-01.

Parts of the Executive Order formalize existing practice such as:

- All youth that enter the custody of the Secretary will continue to be screened for eligibility.
- DCF will continue to apply and serve as representative payee on behalf of the child.
- The agency will continue to establish and maintain Personal Needs Accounts (PNAs) for youth in care.

- DCF already provides financial literacy training for youth aged 14 and up.

The new tasks of the Executive Order include:

- DCF will no longer use the federal cash benefits to reimburse themselves for the cost of providing care.
- While DCF will apply and serve as initial representative payee, it will work to identify another adult to become representative payee.
- DCF will notify children and their guardians that an application has been filed on their behalf and will be kept informed at every stage of the process.
- If DCF is representative payee, it will preserve funds in the appropriate place. Examples include PNAs and ABLE accounts.
- The agency will convene a group of relevant stakeholders to develop additional educational materials tailored to the needs of children receiving federal benefits.

Implementation

In order to properly execute the intent of the Executive Order, DCF and the Governor's office engaged in multiple stakeholder engagements over the course of four months ahead of the signing.

Stakeholders such as the Center for Rights of Abused Children, Children's Alliance of Kansas, and Kansas Appleseed were engaged in these conversations. Advocates in this space shared their feedback on the ways that DCF can implement this change correctly.

DCF and the Governor's office also met with officials from the Arizona Department for Child Safety on best practices. These include gradual implementation, cautions on potential pitfalls, and for DCF to serve as initial representative payee for the child in order to access and preserve the funds immediately.

Advocates agree that ABLE (Achieving a Better Life Experience) accounts are the most appropriate place for conserved funds, specifically for those receiving SSI disability benefits. Funds in ABLE accounts are exempt from social security income determinations. Out of the 950 total children, 556 will need ABLE accounts.

Because the Kansas State Treasurer's Office (STO) administers ABLE accounts for the state of Kansas, the Governor's Office and DCF staff also met with STO officials to inform and prepare their team for this upcoming change.

Safeguards

Uses of Personal Needs Accounts and ABLE Accounts

Youth will be able to access these funds to provide items for the youth not covered under the Foster Care Case Management Provider Contracts, which can be taken with children or youth from placement to home or to a new placement. Examples of personal items may include: room furnishings, holiday presents for family members, or technology items such as laptops, tablets, or cellular phones.

If a child's funds are in their Personal Needs Accounts (PNA), and DCF is serving as the representative payee, the adult caregiver for the child or the child or youth themselves, through the Case Management Provider (CMP) will contact DCF Eligibility specialists to ensure funds are available and that the purchase is an allowable use of PNA funds. CMPs will then assist the child, youth, or adult caregiver in purchasing the item and submit receipts to DCF Eligibility Specialists for reimbursement from the child or youth's PNA to the CMP.

If a child's funds are in an ABLE account, the funds may be accessed through the same process for payment of Qualified Disability Expenses (QDEs). QDEs may include expenses related to education, food, housing, transportation, employment training and support, assistive technology, personal support services, medical, prevention and wellness expenses, financial management, legal fees, or other expenses. ABLE account definitions of QDEs allow for flexibility in use by the child or youth while in the Custody of the Secretary but also after permanency has been achieved.

Representative Payee

Becoming a representative payee for an SSI/SSA recipient is a serious responsibility. Because of this, it involves an extensive application process with the Social Security Administration. Any adult that is interested in taking this responsibility must apply to the SSA, provide documents for identity verification, then participate in a face-to-face interview at a local SSA office. Then, the SSA performs a criminal background check to ensure that the adult individual can be entrusted with a child's benefits.

Some, but not all, representative payees are required to submit yearly reports showing how funds were utilized. All representative payees are responsible for keeping records of how the payments are spent or saved and making the records available for review if requested by SSA. While DCF, CMPs, Courts, Guardians ad Litem, and others may make recommendations regarding appropriate individuals to serve as representative payee only SSA can approve someone to serve as a representative payee for federal benefits.