

This final report includes the recommendations to address barriers to Title IV-E participation and reimbursement and the Title IV-E Waiver Application Implementation Plan and Timeline

LB820 Final Legislative Report

Division of Children and Family
Services

Department of Health & Human Services



N E B R A S K A

Background

LB 820 required the Department to appoint a IV-E Demonstration Committee. The committee's responsibilities included reviewing, reporting and providing recommendations regarding application for a Title IV-E Waiver Demonstration Project. There was no consultant hired for this effort. The committee was to review the current Title IV-E participation and penetration rates, review strategies and solutions for raising Nebraska's participation rate and reimbursement for Title IV-E in child placement, case management, replacement, training, adoption, court findings, and proceedings and recommend specific actions for addressing barriers to participation and reimbursement. The committee was also to create an implementation plan and time line for making application for a Title IV-E waiver. The implementation plan presented in this final report supports and aligns with the goals of the statewide strategic plan requirement in LB 821.

The following committee was appointed by Thomas D. Pristow, Children and Family Services Director. The committee members are representative of the department and child welfare stakeholder entities as identified in the bill.

Committee Members			
Name	Committee Role	Title / Organization	Committee Representation
Sara Goscha	Committee Chair	Special Projects Administrator, DHHS Division of Children and Family Services	DHHS Representative
Kevin R. Nelson	Committee Member	Internal Auditor, DHHS Operations Division	DHHS Representative
Sarah Forrest	Committee Member	Policy Coordinator, Voices for Children	Advocacy Organization Dealing with Legal and Policy Issues
Candy Goergen-Kennedy	Committee Member	Executive Director, Nebraska Federation of Families for Children's Mental Health	Advocacy Organization with the Singular Focus Issues Impacting Children
Jerry Davis	Committee Member	Vice President National Advocacy and Public Policy, Boys Town	Child Welfare Agency Providing and Array of Services
Jim Blue	Committee Member	President, CEDARS	Child Welfare Agency Providing and Array of Services
Bill Reay	Committee Member	President and CEO, OMNI Behavioral Health	One Entity which is a Lead Contractor
Gene Klein	Committee Co-Chair	Project Harmony Director, Child Advocacy Center	Commission Member
Corey Steel	Ex-Officio	Assistant Deputy Administrator, Office of Probation Administration	Ex-Officio
Sheri Dawson	Ex-Officio	Deputy Director, DHHS Division of Behavioral Health	Ex-Officio
The Honorable Judge Inbody	Ex-Officio	Chief Judge of the Court of Appeals, 5 th Judicial District	Ex-Officio
Vicky Weisz	Ex-Officio	Director, Nebraska Court Improvement Project	Ex-Officio

The committee convened on June 21, 2012 and met monthly through November 2012. There were two sub-committees established to address the committee's legislative requirements: The IV-E Penetration Rate sub-committee and the IV-E Waiver Implementation Plan sub-committee. The Nebraska Public Meeting Calendar was used for meeting notices. The committee's meeting agendas, minutes and information can be viewed at: <http://dhhs.ne.gov/Pages/childrenscommission.aspx>. The reports submitted to the legislature can be viewed on-line at: <http://www.nebraskalegislature.gov/agencies/view.php>

Recommended Actions for Addressing Barriers to Title IV- E Participation and Reimbursement

Recommendations for Increasing IV-E Penetration Rate

The most significant factor limiting Nebraska's IV-E penetration rate is the family income of the home from which the child is removed (typically, the biological family). This eligibility rate is tied to Nebraska's 1996 AFDC eligibility standard, the rates that states must use to determine current IV-E eligibility. Nebraska's rate is low with only four states lower than Nebraska. To illustrate, in this region: NE- cutoff is \$364/month for family of 3; IA-\$849; KS-\$429; MO-\$846.

An analysis of current cases indicates that around 60% of Nebraska's children in out of home care are ineligible for IV-E due to family income. Consequently, Nebraska's IV-E penetration could not be expected to substantially exceed 40%. The state's current penetration rate is approximately 30%.

An analysis of cases where children were financially eligible, but the cases were ineligible for IV-E for other reasons, indicated that two areas of improvement were likely to yield significant improvements in the overall penetration rate. One involves required judicial findings that affect the child's eligibility. The second involves the licensing of kinship homes. See Appendix A.

Increase required judicial findings and their identification by reviewers

In order for children to be IV-E eligible, specific court findings have to be made that clearly demonstrate proper judicial oversight of children and youth's removals from their homes. Common reasons for a child's case to be ineligible for IV-E funding include: judge error in proper documentation of findings, reviewer error (e.g. overly narrow interpretation of requirement; failure to review all pertinent orders), and delinquency system issues (e.g. removals to detention that do not always involve judicial oversight).

Recommendations:

1. Administrative Office of the Court (AOC)/Judicial Branch Education should continue to provide ongoing training to judges, clerks, bailiffs regarding judicial findings that are required for IV-E eligibility.
2. AOC/JUSTICE (Court's data management system) should make modifications to DOCKET court orders consistent with required judicial findings.
3. Nebraska Department of Health and Human Services (NDHHS) should continue to conduct monthly internal reviews of all court orders for income eligible children that have been determined to be ineligible because of missing judicial findings.
 - a. NDHHS should provide all noncompliant court orders of income eligible children to the Court Improvement Project/AOC on a monthly basis.
 - b. Court Improvement Project/AOC should distribute noncompliant court orders to judges and provide training and technical assistance as needed.
4. A workgroup should be formed, including representatives of NDHHS, AOC, Probation, and the Legislature's Judiciary Committee to study and make recommendations to the Children's Commission regarding systemic barriers to IV-E necessary judicial findings in delinquency cases.

Increase the Number of Licensed Kinship Homes in Nebraska

In order for states to receive IV-E reimbursement for services, children must reside in licensed foster homes. In 2010, 1,153 Nebraska children in foster care lived in homes with kin (relatives or others with emotionally significant relationships).¹ Only 6% of relative foster homes were licensed in 2010, however, one of the lowest

¹ 2010 AFCARS data as provided by *Kids Count Data Center* (datacenter.kidscount.org).

rates in the country.² A July 2, 2012 report found that 52.7% of children ineligible for IV-E were ineligible due to their placement.³

While living with kin is beneficial to children, the low rate of licensed kin negatively impacts Nebraska's ability to claim IV-E funds. With more emphasis nationally and locally on notifying relatives and placing children with their kin, Nebraska needs to increase its number of licensed kinship homes. The committee recommends the following steps:

1. DHHS should issue new foster home regulations as soon as possible that allow families to meet requirements for children's safety, health, and well-being in a variety of ways. For example, instead of square footage requirements regulations could require families to provide adequate space for children. These new, more flexible regulations must apply to both kin and non-kin foster homes, as IV-E regulations do not permit different requirements for kin and non-kin homes.
2. DHHS should use its authority to issue waivers to relative homes for non-safety requirements for licensure on a case-by-case basis, as allowed by federal law. DHHS should issue new regulations that establish this practice.
3. DHHS should use a portion of its IV-E administrative dollars to create a fund that can help kinship homes meet safety requirements for licensure. For example, the lack of an egress window or new fire alarms could be installed, even if a family could not afford it, so the family could be fully licensed.
4. DHHS and its partner agencies should make active efforts to provide information and support to kinship families regarding licensure.
5. DHHS should conduct a survey of or focus groups with unlicensed relative homes to help identify systemic barriers to licensure, which can then be addressed.
6. Ongoing monitoring and review of the number of unlicensed kinship homes and their barriers to licensure should be established.

Title IV-E Waiver Application Implementation Plan and Timeline

Goal: The goal selected for the Nebraska Waiver Demonstration Project is to prevent child abuse and neglect and the re-entry of infants, children, and youth into foster care. The waiver project will focus on safely reducing the number of children in foster care while ensuring the physical and mental health of children in foster care is being met. Refer to Appendix B for the Waiver Demonstration Project Implementation Plan and Timeline.

Child Welfare Program Improvement Policies: The two child welfare program improvement policies planned for implementation are:

1. Addressing Health and Mental Health Needs of Children in Foster Care
2. Establishment of Specific Programs to Prevent Foster Care Entry or Provide Permanency

Capacity Assessment: The Department of Health and Human Services (DHHS) has the ability and capacity to effectively use the authority to conduct a waiver project and is committed to creating and sustaining lasting change within the Child Welfare System. This is evidenced through the numerous efforts that have been undertaken thus far to create and improve a system that will safely reduce the number of children in foster care.

² Report to Congress on States' Use of Waivers of Non-Safety Licensing Standards for Relative Foster Family Homes, Children's Bureau, Administration on Children, Youth and Families. Administration for Children and Families, U.S. Department of Health and Human Services, 2011.

³ Data provided NE DHHS. Data were controlled for youth who were ineligible for income, deprivations and citizenship requirements, but the other reasons for ineligibility could be duplicated. See Appendix A.

The Division of Children and Family Services (CFS) has undergone organizational changes that shifted some operational accountability creating a foundation that allows for a more streamlined environment. This change included the creation of a Special Projects Administrator position that will be dedicated to developing the waiver application along with collaboration of the IV-E Implementation Plan Committee.

Differential Response is anticipated to be a part of the proposed demonstration project for the Title IV-E waiver. Early this summer, the division expanded collaboration with Casey Family Programs, and requested their assistance with learning more about how a Differential Response model could benefit Nebraska's children and families. Differential Response encompasses a best practice model enabling families to see our role as a support that connects them to the community resources they need in order to resolve issues that are putting their children at risk and to strengthen what is already working. A Differential Response will always assess safety and risk but in an approach that is different from our traditional forensic investigations. A Differential Response is a way to support families in a caring and helpful way. With Casey's assistance, we invited key stakeholders along with protection and safety staff to come together as a team to both learn more about Differential Response and to advise the division about how Differential Response could best be implemented in Nebraska. It is the department's intent to implement Differential Response beginning in the summer of 2013. Potentially impacting the implementation of a Differential Response System is that currently Nebraska has no legislation to support this type of system. The Title IV-E waiver will allow monies to be shifted for the differential response system; however, an investment at the beginning of implementation will be necessary to develop the service array needed to implement this type of system.

DHHS has improved data and the ability of being able to use that data to inform decisions regarding children and families to be served by the waiver. This capability will help DHHS identify the target population and how to maintain a control group in determining whether the demonstration project is effective in improving the well-being of children and families.

A team has been assembled including both internal cross divisional partners and external stakeholders to discuss implementation and how this waiver could look in the State of Nebraska. Since the waiver needs to be cost neutral, meaning that DHHS cannot be reimbursed for more title IV-E funds for children served by the waiver than without the waiver, DHHS has taken steps to increase the percentage of children receiving IV-E dollars. It is important that the capped allotment be a benefit to the state to produce a shifting of dollars to prevent re-entry of children and families into the system and abuse and neglect.

Potential Impact

As stated above, Nebraska intends to include the implementation of a Differential Response Model in the waiver application. Currently there is no legislation or additional funding to support a Differential Response System in Nebraska, which could potentially affect the awarding of the Title IV-E waiver to Nebraska in 2013.

Nebraska received a disallowance letter for IV-E funds paid through the lead agencies for 2010. Nebraska is currently working with Federal staff in Washington, DC to continue with the efforts to submit a waiver application. At this time, the department is working to recoup at least part of the disallowance. Director Pristow has also stated that any disallowance would not have an impact on the services that are provided to children and families.

Appendix A

Youth Who are Passing the IV-E Income, Deprivation and Citizenship Requirements and are Failing IV-E Eligibility for Another Reason Source: Non-IV-E Report July 2, 2012							
Current Placement	(All)						
	Column Labels						
Values	Central	Eastern	Northern	Southeast	Western	Grand Total	
Count of Youth	120	468	89	249	92	1018	
Contrary to the Welfare	22.5%	8.8%	32.6%	12.9%	14.1%	13.9%	
Reasonable Efforts	31.7%	10.3%	27.0%	18.5%	22.8%	17.4%	
No Permanency Hearing	11.7%	29.7%	9.0%	8.4%	3.3%	18.2%	
Age	0.8%	2.4%	0.0%	1.6%	1.1%	1.7%	
Placement Facility	50.8%	48.7%	43.8%	57.4%	70.7%	52.7%	
School Attendance	0.8%	0.6%	0.0%	0.0%	0.0%	0.4%	
SSI	6.7%	11.1%	13.5%	12.4%	15.2%	11.5%	
Youth may fail for more than one reason. Because of this duplication, the percent will not add up to 100%.							
Placement Facility Failures include youth placed in the YRTC and Detention.							

Appendix B

IV-E Demonstration Project Implementation Plan and Timeline

