



INCREASING ACCESS TO HEALTH CARE

Children in foster care are at a higher risk for physical and mental health issues, stemming either from the maltreatment that led to their placement, or from preexisting health conditions and long-term service needs. Before they even walk through the door, many children who come into contact with the child welfare system have been exposed to several facets of trauma, including domestic violence, physical and emotional abuse, parental mental health problems and substance abuse, neglect, and poverty. Infants and toddlers, being in extremely formative years, if exposed to such trauma, may be at particular risk of developing hard-to-overcome emotional difficulties and developmental delays. Once placed in out-of-home care, separation from familial ties and the continued instability that often ensues only exacerbate the child's initial vulnerability.

Numerous studies have documented that children in foster care have medical, developmental, and mental health issues that far surpass those of other children, even those living in poverty.

MEDICAID

Child welfare agencies are responsible for meeting the health and mental health needs of all children in state custody. Virtually all children in foster care are eligible for and obtain health care services for both acute and long-term conditions through Medicaid. To receive federal matching funds, state Medicaid programs must provide beneficiaries with certain mandatory services. A mandatory service that is particularly important for children in foster care is Medicaid's comprehensive Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit. EPSDT requires states to periodically screen and ascertain physical and mental defects in children and provide any corresponding necessary treatment that will correct or ameliorate any defects or chronic conditions.

Studies have repeatedly shown, and the Government Accountability Office (GAO) reported in 2001, that not all children are receiving the EPSDT services to which they are entitled by federal law. Access problems exist for several reasons, including a low provider participation in Medicaid, especially

among mental health providers and dentists. Many parents are simply unaware of their children's right to EPSDT.

Beyond mandatory services, states may cover and receive Medicaid matching funds for approved, optional services. Two optional services that have proven to be extremely beneficial to children in care are rehabilitative services and targeted case management (TCM). Medicaid Rehabilitative Services work to reduce physical and mental disabilities that many children in care experience as a result of abuse, neglect, or similar trauma, and restore them to optimal functioning level. Rehab services provide strong support for therapeutic foster care (TFC) programs. Maintaining a full continuum of care is important so that each child can receive the most appropriate intervention for his or her particular situation. TFC is an integral part of that continuum, as it provides clinically and cost-effective individualized treatment within a family setting for children and adolescents experiencing serious mental illness, emotional or behavioral disorders, or other disabilities. Taking into account the vulnerability and complex needs of children in foster care, including health needs, at least 38 states employ the Medicaid TCM option to ensure children in foster care receive a comprehensive approach and greater coordination of care.

In 2007, the Bush Administration issued a proposed regulation dealing with rehabilitative services and an interim final regulation dealing with TCM services. These regulations were issued alongside several other similarly restrictive Medicaid regulations that, in the aggregate, would devastate our nation's health care safety net. The rehab and TCM rules established ambiguous "intrinsic to" or "integral to" tests that appear to wholly shift costs to already struggling state child welfare and foster care systems. The 110th Congress included a moratorium on six Medicaid regulations, including rehab and TCM, in the Supplemental Appropriations Act of 2008, which was signed into law on June 30, 2008 (P.L. 110-252). The rehab and TCM rules are therefore delayed until April 1, 2009.

Several other longstanding access issues need to be addressed regarding Medicaid. Low provider payment rates, heavy administrative burdens, and other factors have led to a chronic shortage of health care providers willing to

accept Medicaid patients. For foster families and other caregivers, this has diminished access and choice, particularly in geographic areas where transportation is difficult, such as rural America. The limited pool of providers that do accept Medicaid patients may lack experience in treating the unique physical and mental health problems that children in out-of-home care experience. They may also face serious obstacles in obtaining comprehensive, accurate medical histories for children who have endured multiple placement changes and corresponding discontinuity in coverage and care.

Although Medicaid should be available for youth in foster care until age 18, many youth transitioning out of the system—facing an array of difficulties, and often having little or no support from their families, friends, or communities—are left without health insurance. States can extend Medicaid to youth formerly in care beyond age 18, but significant gaps remain.

RECOMMENDATIONS

Short-Term Actions:

- ★ The new Administration should protect the Medicaid targeted case management (TCM) and rehabilitative services options by rescinding regulations issued by the Bush Administration on these streams of care.
- ★ Congress and the new Administration should include in a stimulus package a temporary increase in the Federal Medicaid Assistance Percentage (FMAP) to aid with the ailing economy.

Long-Term Actions:

- ★ Congress and the new Administration should extend Medicaid coverage to all youth formerly in foster care until at least age 21.
- ★ Congress and the new Administration must preserve the federal guarantee of Medicaid as an entitlement program for low-income children, youth, and families. They should oppose efforts that attempt to restrict eligibility and reduce access and/or benefits for beneficiaries. To improve the program, both the legislative and executive branches must work to increase the number of qualified providers accepting Medicaid and ensure that these providers are properly trained to handle the unique physical and mental health needs of children in foster care.
- ★ Congress and the new Administration should ensure the availability of and accessibility to comprehensive preventive health care services guaranteed in federal law through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.
- ★ Congress should conduct oversight of efforts to implement Medicaid provisions of the Deficit Reduction Act (DRA) to ensure that they do not negatively impact vulnerable children and families.
- ★ Congress should conduct proper oversight of the Medicaid program to combat fraud and abuse. At the same time, Medicaid funds must remain available for

legitimate TCM and rehabilitative services for children involved with the child welfare and foster care systems.

- ★ The new Administration should use the new requirements under the Fostering Connections Act to encourage collaboration between the state child welfare and Medicaid systems so that the physical and mental health needs of children in their care are properly addressed.
- ★ The new Administration and Congress should establish therapeutic foster care (TFC) as a Medicaid-reimbursable service.

MENTAL HEALTH

Despite the dismal fact that anywhere between 50% and 80% of children in foster care experience moderate to severe mental health and behavioral problems, findings from the federal Child and Family Service Reviews (CFSRs) reveal that the mental health needs of these vulnerable children often are not met. Most states have committed to better address the mental health needs of children and families in their child welfare systems by including appropriate action steps in their Program Improvement Plans (PIPs).

Thoroughly screening children involved with the child welfare and foster care systems to identify their mental health needs, and providing appropriate treatment, is essential. There is growing concern about the use of psychotropic medications with children, partly because very few of these medications have been approved by the Food and Drug Administration for treating mental health disorders in children. Studies have shown that children involved with the child welfare system are three to four times more likely than are other Medicaid recipients to receive psychotropic medications. Although some extreme situations certainly warrant the use of psychotropic medications with children, their prescription and administration must be monitored closely.

The Children's Mental Health Services Program funds comprehensive, community-based systems of care for children with serious emotional disturbance (SED) in the nation's child welfare, juvenile justice, and special education programs. The Community Mental Health Services Performance Partnership Block Grant is the principal federal program supporting community-based mental health services for children and adults. For SED children, these funds support services such as case management, emergency interventions, residential care, and 24-hour hotlines to stabilize children in crisis, as well as coordinate care for individuals with schizophrenia or manic depression who need extensive support.

The Mental Health Programs of Regional and National Significance promotes the implementation of effective, evidence-based practices for adults and SED children. Recent areas of importance include services for children and adolescents with post-traumatic stress, coordination of cross-system mental health activities and services, and prevention of youth violence and suicide.

In the 110th Congress, historic mental health and addiction parity legislation was enacted that will help erase longstanding discrimination between physical and mental health



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conditions. Such policy will greatly help all Americans with mental health and substance use problems, particularly vulnerable, lower-income families and those involved with the child welfare system who experience a disproportionate rate of such struggles.

Legislation was also introduced in the 110th Congress that would ease the transition to adulthood for individuals ages 18–26 with serious mental illness (Healthy Transition Act, S. 3195/H.R. 6375). This legislation would provide grants for states to develop coordination plans to better help this vulnerable population. It specifically urges states to target disproportionately affected populations, such as those involved with the child protection system.

RECOMMENDATIONS

Short-Term Actions:

- ★ The new Administration should use the new health planning requirements for state child welfare agencies enacted through the Fostering Connections Act to ensure the provision of early and more routine mental health screenings for children entering foster care.
- ★ The new Administration should use the new health planning requirements enacted as part of the Fostering Connections Act to assist states and local agencies in assuring better coordination of mental health needs and services between various child- and adolescent-serving systems, particularly for young adults with serious mental illness who are aging out of foster care and often lose their Medicaid coverage.
- ★ The new Administration should use the new health planning requirements enacted as part of the Fostering Connections Act to assist states and local agencies to ensure proper oversight of prescription and administration of psychotropic medication to children in care. This could be done by requiring states to report the percentage of children in out-of-home care who are receiving psychotropic drugs and how many medications they are receiving.

Long-Term Actions:

- ★ Congress and the new Administration should extend Medicaid coverage to all youth formerly in foster care until at least age 21.
- ★ Congress and the new Administration should increase funding for the Children's Mental Health Services Program, the Community Mental Health Services Performance Partnership Block Grant, Mental Health Programs of Regional and National Significance, and

key programs that target the social and emotional development of infants and toddlers at heightened risk for mental health problems.

- ★ Congress and the new Administration must ensure availability and accessibility to comprehensive preventive health care services, including physical and mental health screenings and interventions, for children in foster care who are guaranteed the services under federal law through the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program for children younger than 21 receiving Medicaid. Particular attention should be paid to infants in foster care, ensuring that they receive a comprehensive mental health evaluation and follow-up services.
- ★ Congress should enact legislation to address acute shortages of qualified child and adolescent mental health professionals. Changes would provide more funding to properly train child and adolescent mental health professionals dealing with children and youth involved in the child welfare and foster care systems regarding this population's special needs.

CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)

Although Medicaid coverage is available to almost all children in foster care, the Children's Health Insurance Program (CHIP) has successfully broadened health coverage for low-income children and families, including at-risk families and children transitioning out of foster care. With the program set to expire in 2007, the 110th Congress passed two compromise bills (H.R. 976 and H.R. 3963) that would have reauthorized and strengthened CHIP, but President Bush vetoed both measures. As a result of this gridlock, CHIP was extended through March 31, 2009, with sufficient funding to maintain current enrollment and avoid shortfalls (P.L. 110-173).

On February 4, 2009, the 111th Congress passed and President Obama signed into law a four-and-a-half-year reauthorization of CHIP that will maintain coverage for over 7 million children and expand coverage to 4.1 million children who would otherwise be uninsured.

The reauthorization makes several improvements to the program, including: guaranteed dental benefits and mental health parity; a state option to implement express lane eligibility; \$100 million in grants for outreach and enrollment; and establishment of a child health quality initiative. Another large accomplishment advocated for by CWLA and many other organizations is that the law



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eliminates the five-year waiting period for legal immigrant children and pregnant women to enroll in Medicaid or CHIP.

Also in early February 2009, President Obama sent a memo requesting that the August 17, 2007 and May 7, 2008 letters restricting flexibility sent to state health officials be withdrawn. Recognizing states are very differently situated—in terms of costs of living, for example—the federal government has long afforded states flexibility to uniquely tailor certain aspects of their CHIP programs, including the ability to set income eligibility limits, as long as the Centers for Medicare and Medicaid Services specifically approves. The Bush Administration's August 17, 2007 controversial directive, however, would have made it next to impossible for state CHIP programs that are already covering or desire to cover children in families who earn over 250% of the federal poverty level to do so.

RECOMMENDATIONS

Long-Term Actions:

- ★ Monitor the implementation of CHIP reauthorization, as signed into law on February 4, 2009. Ensure that new and adjusted policies reach their goal of providing nearly 11 million children with accessible, quality health coverage.

SUBSTANCE ABUSE

Children's exposure to parental alcohol and other drug (AOD) use—whether through prenatal exposure or environmental observation—undoubtedly puts them at risk. Substance abuse is estimated to be a factor in one- to two-thirds of cases of children with substantiated reports of abuse and neglect, and in two-thirds of cases of children in foster care. Children from families with substance abuse problems tend to come to the attention of child welfare agencies younger than other children, are more likely than other children to be placed in out-of-home care, and are likely to remain there longer.

If not treated properly, parental substance abuse is troublesome; in addition to being a root cause of child abuse and neglect, often it is cyclical and intergenerational in nature. Studies have shown that children who grow up in homes plagued by AOD use and abuse very often choose risky behavior and develop their own AOD problems.

To ensure safety and permanence for these children, and appropriate alcohol and drug treatment for their families, increased treatment and other services must be directed to their special needs. This will require increased resources and new partnerships between child welfare and AOD agen-

cies, other service providers, courts, community leaders, and family members. In past Congresses, legislation has been introduced to provide grants to state child welfare and alcohol and drug agencies to address the effects of alcohol and drug abuse on children and families who come to the attention of the child welfare system.

In recent years, Congress has provided some limited nationally competitive grants with the goal of funding treatment programs. Enacted as part of the Deficit Reduction Act (DRA) in 2006, one model of program potentially served by these grants is a family-based treatment program. These grants, allocated through the Title IV-B PSSF program, were limited to \$40 million in the first year, decreasing to \$20 million in the fifth. They were also weighted toward the use of methamphetamines, which could limit their access in certain parts of the country.

Recently, Congress included in the Fostering Connections Act a limited amount of funds that may also be used for such initiatives. Although important, these national grants fall short of the vast need. Nationally, there is a shortage in all types of publicly funded substance abuse treatment opportunities for those in need, especially for women. All states report long waiting lists for services.

RECOMMENDATIONS

Long-Term Actions:

- ★ Congress and the new Administration should provide expanded federal resources to increase substance abuse treatment capacity within the child welfare system and stimulate effective partnerships between child welfare and substance abuse agencies.
- ★ Congress and the new Administration should provide more funding for comprehensive family-based treatment through legislation that would provide specific grants to state child welfare and substance abuse agencies or expand the current substance abuse grants provided through Title IV-B Promoting Safe and Stable Families program to target family-based treatment programs for all forms of substance abuse.
- ★ Congress and the new Administration should increase funding for the Substance Abuse Prevention and Treatment Block Grant.