The Family-Based Foster Care Services Act: HR.835/S.429

Legislation to Improve Foster Care Services For Thousands of Foster Children with Special Behavioral Needs

The ***Family-Based Foster Care Services Act*** is bipartisan, bicameral legislation introduced in the 114th Congress on February 10th, 2015. The legislation would clarify in Medicaid policy a definition of therapeutic foster care that is consistent and could be applied through all the states.

The Senate bill S 429 is sponsored by Senator Tammy Baldwin, Senator Rob Portman, Senator Debbie Stabenow, Senator Bob Casey and Senator Sherrod Brown.

The House bill HR 835 is sponsored Congresswoman Rosa DeLauro, Congressman Tom Cole, Congresswoman Karen Bass, and Congressman George Butterfield.

The current challenge is that there is not a standard definition within the law of therapeutic (or treatment) foster care under Medicaid and as a result some interpretations and some applications across the 50 states can be different. The lack of a clear understanding of Medicaid policy can and has discouraged some state policy makers from implementing this important practice.

The Importance of Medicaid to Children in Foster Care

In 2013, 402,000 children were in foster care at the end of the federal fiscal year[1]. Over the course of a year approximately 641,000[2] children and youth will spend at least some time in care. Medicaid is a vital part of the safety net for the children and youth in the child welfare system. Under federal statute children receiving Title IV-E[3] foster care and adoption assistance are categorically eligible for Medicaid. Additionally, all states currently extend Medicaid benefits to non-IV-E eligible children in foster care.

Children in foster care are at higher risk for physical and mental health issues, stemming from the abuse or neglect or other forms of maltreatment that led to their placement. These conditions may then be compounded by the trauma that results from being removed from home and family and their placement in a new setting. In addition some children when, they enter foster care, may also have preexisting health conditions and unmet long-term health care needs.

As a result of all of these experiences, children in foster care account for a disproportionately higher share of Medicaid expenditures when compared to other children in the Medicaid program. For example, although children in foster care represent only 3.7% of the nondisabled children enrolled in Medicaid, they account for 12.3% of total expenditures and 25 to 41%of Medicaid mental health expenditures.[4]

In California, for example, Medicaid-eligible children in foster care accounted for 53% of all psychological visits, 47% of psychiatry visits, 43% of the public hospital inpatient hospitalizations, and 27% of all psychiatric inpatient hospitalizations among the program's entire child population. A Pennsylvania study found that Medicaid mental health-related expenditures for children in foster care are nearly 12 times greater than costs for non-foster children.[5] Clearly many children in foster care have underlying needs that many non-foster children covered by Medicaid may not require.

Children covered by Medicaid are eligible for basic health care needs and services and Medicaid is a major source of coverage for special services. These include rehabilitative services, targeted case management, and in-patient psychiatric services. Federal law and regulations require states to provide Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services to Medicaid eligible children under the age of 21 with states required to provide comprehensive services and medically necessary services needed to correct and ameliorate health conditions, based on certain federal guidelines.

For children in therapeutic foster care there are a number of important services needed before a child or young person can leave foster care. Most youth at this level of care need multiple, intensive clinical services. The most important reimbursement stream for these clinical services is Medicaid.

Importance of Therapeutic Foster Care

Therapeutic Foster Care or *TFC* is a distinct and powerful intervention that provides children with a combination of the best elements of traditional foster care and residential treatment centers. In Therapeutic Foster Care, the positive aspects of the nurturing and therapeutic family environment are combined with active and structured treatment. Therapeutic Foster Programs provide, in a clinically effective and cost-effective way, individualized and intensive treatment for children and adolescents who might otherwise be placed in institutional settings.

Privately licensed and contracted agencies and TFC caregivers play a critical role in helping children access necessary services and supports. Children are referred to Therapeutic Foster Care programs to address their serious levels of emotional, behavioral and medical problems. Therapeutic Foster Care is active and structured, and occurs in a specialized foster family home.

Therapeutic Foster Care and traditional foster care are two distinct program models intended to serve different populations. The primary reason for placement in traditional foster care is the need for care and protection. The role of the foster parent is that of caregiver and nurturer.

Therapeutic Foster Care is a clinically effective and cost-effective alternative to residential treatment facilities for youth with serious mental health or behavioral health conditions that combines the treatment technologies typically associated with more restrictive settings with the nurturing and individualized family environment. TFC is evidence informed and trauma-informed. TFC foster parents are essential members of the clinical team and provide daily behavioral health interventions according to each child's individualized treatment plan.

While most often recognized as an alternative to residential care for foster youth, treatment foster care services can also be provided to some youth at risk of removal from their biological families, thus avoiding entry into the foster care system. It is also an important tool to assist children and youth placed through subsidized guardianships with relative (kinship) care.

TFC provides critical services to approximately 40,000 foster children across the country out of the total 400,000 children in care.[6] The model works to keep vulnerable youth in treatment in the community. In addition, it provides needed clinical therapy options to youth in lieu of overmedication.

As mentioned above, despite the clear benefits of TFC, current law does not provide for a standard definition of TFC under Medicaid. Though TFC services are provided across the country—and are reimbursed through Medicaid and other child welfare funding streams—the lack of a federal standard definition impairs TFC quality and access to services.

Under the bill's definition, a qualified Therapeutic Foster Care program: Is licensed by a state and accredited by the appropriate organizations; Provides structured daily activities and support services; and Offers bio-families, foster care parents, and kinship families specialized training and consultation, while preserving each state's authority to establish its own medical necessity criteria for eligibility. The Family-based Foster Care Services Act of 2015 corrects this problem by establishing a federal definition of TFC and a baseline quality standard for providers.

Conclusion

To successfully move children from foster care, to help find the needed homes for the more than 100,000 children in care waiting to be adopted, and to reduce the more than 23,000 youth in foster care who leave simply because they "age-out" of eligibility, we need a continuum of important services to make to provide children and youth in foster care with the care they deserve. One of the most important services, therapeutic foster care, can be enhanced through Medicaid if we take the needed actions to clarify currents services.

The Family-based Foster Care Services Act of 2015 is the legislative vehicle to make these improvements and help children in foster care.

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SOURCES

[1] U.S. Department of Health and Human Services, Administration for Children and Families (ACF), *The AFCARS Report, Number 21,* (2014).
[2] U.S. Department of Health and Human Services, Administration for Children and Families (ACF), *Trends in Foster Care and Adoption: FFY 2002 – FFY 2013,* (2014).
[3] Title IV-E of the Social Security Act provides partial federal reimbursement for foster care maintenance payments, adoption assistance and related administrative costs if a child meets the eligibility requirements.
[4] Rubin, D., Alessandrini, E.A., Feudtner, C., Mandell, D.S., Localio, A.R., & Hadley, T. (2004). .
[5] K. Allen. *Medicaid Managed Care for Children in Child Welfare.* Center for Health Care Strategies, Inc, Issue Brief, April 2008. Available at: http://www.chcs.org/usr_doc/CW_MC_Brief.pdf