



Office of Children and Family Services

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LEGISLATIVE ALERT: FAMILY FIRST PREVENTION SERVICES ACT

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We are hearing that Congress is again considering the Family First Prevention Services Act (Family First) and that a version of Family First will likely be included in a package of bills related to health care legislation that will be introduced and voted upon sometime between now and early January 2018. Although no text of this anticipated legislative proposal has been made available by Congress to New York State as of this writing, our understanding is that it would be similar to past versions of Family First with some minor and technical revisions.

We write this letter to express our appreciation for your past advocacy efforts and to highlight New York's suggested amendments that are intended to address our major concerns about the unfunded practice mandates and potential loss of federal support for foster children that the legislation would impose in particular upon foster children placed in non-foster home settings. None of the amendments requested by New York State are expected to be included in the anticipated, new version of Family First legislation.

Background - Family First contains major provisions that would significantly reduce the likelihood of receiving federal Title IV-E funding for many foster children placed in residential programs (congregate care placements) and imposes unfunded practice mandates. Among other provisions, Family First limits federal reimbursement to certain categories of congregate care, one being the newly created Qualified Residential Treatment Program (QRTP). The legislation establishes stringent QRTP requirements, including that all foster children placed in a QRTP must have assessments by a non-affiliated, independent "qualified individual" assessor who is a trained professional or clinician 30-days following placement. The placement must also be assessed by the court within 60 days after placement. Failure to complete a timely 30-day assessment would result in the loss of Title IV-E funding for maintenance costs of the child for the duration of the placement. Title IV-E funding would also be lost should the court not approve the placement in the QRTP

Suggested Amendments - To address these negative aspects of Family First, we suggest the following:

1. Authorize a child specific exception to the 30-day assessment requirement for children placed in a QRTP. We recommend exempting children from the 30-day assessment requirement who have had a recent clinical or medical assessment or probation report authorizing placement in other than a foster home, as well as such youth as sex trafficking victims and youth with other needs where placement in a foster home would be dangerous for the youth or others. Exempting certain children from the 30-day assessment requirement would avoid unnecessary reassessments, potential for conflicting opinions, and possible trauma to the child.

2. Extend the time period of assessment to 60 days. We recommend extending the time period of assessment on the need for a QRTP placement from 30 days to 60 days. Such extension would eliminate the need for assessment for short-term placements, enable more thorough assessments, address issues with securing the required assessor, and enhance identification and participation by family and other interested persons.
3. Eliminate the requirement of a court assessment within 60 days of a QRTP placement and instead allow the issue of appropriateness of continued placement in the congregate setting be part of the periodic permanency hearing. While we support the involvement of the courts, we are concerned about the strict 60-day timeframe that would be outside the control of child welfare agencies and submit that this requirement is an unnecessary imposition that adds additional costs and resources on New York's already busy family courts. The 60-day court assessment is further redundant of the requirement for an assessment by a qualified individual, which could potentially lead to conflicting opinions and possible trauma to the child being subjected to multiple assessments. For these and other reasons, we recommend amending the legislation to allow states flexibility on how periodic reviews of QRTP placements should be conducted, such as allowing the appropriateness of the placement to be part of the periodic permanency hearing.

We urge you to reach out to your Congressional representatives, Senator Schumer and Senator Gillibrand to correct these provisions that impose unfunded mandates and create additional, onerous requirements on New York's existing, robust standards of care and oversight for congregate care settings.

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