



Summary of the Family Stability and Kinship Care Act (S. 1964, H.R. 3781)

October 2015

Senator Ron Wyden (D-OR), Ranking Member of the Senate Finance Committee, and Representative Lloyd Doggett (D-TX), Ranking Member of the Subcommittee on Human Resources of the House Ways and Means Committee, introduced the Family Stability and Kinship Care Act (S. 1964, H.R. 3781), which provides for important new investments in a range of prevention and family services to help keep children safely with family and out of foster care. The bill extends Title IV-E funding for time-limited services for children identified as candidates for foster care or who are in foster care, as well as the caregivers for whom services would benefit the children, without regard to the Title IV-E income eligibility requirement. The bill also increases funding for the Promoting Safe and Stable Families Program (Part 2 of Title IV-B) for community-based prevention and intervention services. The Family Stability and Kinship Care Act represents an important step forward in federal child welfare finance reform to improve outcomes for children who come to the attention of the child welfare system.

Federal Title IV-E Funds Extended for Time-limited Family Services

(Section 4: Time-limited Family Services under Part E of the Title IV of the Social Security Act)

The bill expands federal reimbursement under Title IV-E for “time-limited family services” for up to 12 months.

Who’s eligible, for what services, and what are the obligations on state child welfare agencies?

- **Eligibility for Services:** To qualify for time-limited family services for the 12-month period the child must either be 1) a “candidate for foster care” (meaning the child is identified in a case plan as being a child at imminent risk of entering or re-entering foster care, but who can remain safely in the child’s current home or in a kinship placement if provided the necessary services; this includes a child whose adoption or guardianship is at risk of disruption or dissolution that would result in a foster care placement), 2) a child in foster care, or 3) a child in foster care who is a pregnant or parenting foster youth. Parents or potential or designated kin caregivers of a child when their service needs are directly related to the safety, permanence or well-being of the child or to the child’s ability not to enter or re-enter foster care.
- **Duration of Services.** The 12-month clock starts running on the date a child is identified in a case plan as a candidate for foster care, the date the child is considered to have entered foster care and the date on which a child is identified in a case plan as a pregnant or parenting foster youth in need of time limited family services. The services may continue for the full 12-month period even if the child is no longer a candidate for foster care or is no longer in foster care.
- **“De-linking” Services from the Title IV-E Income Eligibility Requirement:** Children and families are eligible for the time-limited family services regardless of whether they meet the AFDC income eligibility requirements. Similarly, those children in foster care who are eligible do not have to be eligible for Title IV-E.
- **Services and Supports:** The time-limited family services that may be provided include:

- Parenting and family skills training and parent education, including parent advocates, peer to-peer mentoring, and support groups for parents, primary caregivers, and potential kinship caregivers.
- Individual, group, and family counseling, mentoring, and therapy, including intensive family preservation or reunification programs and trauma-informed care.
- Services or assistance to address barriers to family preservation and reunification, including mental health needs, domestic violence, substance abuse, and inadequate housing.
- Crisis assistance or services to stabilize families in times of crisis or facilitate kinship placement, such as transportation, clothing, household goods, assistance with housing and utility payments, child care, respite care, and assistance connecting families with other community-based services.

The specific time-limited family services to be provided must be included in the child's case plan before they can be paid for with Title IV-E. Exceptions can be made for emergency or other exigent circumstances. However, in such circumstance, the services need to be included in the case plan as soon as practicable after provision of the service.

- **Promising and Evidence-based Programs, Assistance, or Services:** The state may only provide time-limited family services that are promising programs, services or assistance and through evidence-informed or culturally specific or other adaptations of programs. By October 1, 2018, at least 25 percent of a state's total expenditures for time-limited family services need to be for evidenced-based programs, assistance or services that have demonstrated any of the following outcomes as determined by the Secretary of Health and Human Services (the Secretary) and based on rigorous evaluation: 1) reducing the likelihood or duration of foster care placement; 2) decreasing the use of congregate care settings; or 3) increasing the use of kinship care arrangements. By October 1, 2017, the Secretary must issue, with updates as necessary, guidance to states that specifies the level of evidence required for a program, service, or form of assistance to meet this requirement, including a pre-approved list of programs, services and forms of assistance that meet these requirements.
- **Time-Limited Family Services Plan:** To be eligible for the new funding, states must include in each of their 5-year state child welfare plans, a component that details how they will effectively oversee and operate their time-limited family services. It must include: 1) How the state will use the funds and ensure they supplement and not supplant other state and local funds; 2) How the state expects the services to improve outcomes for children and families, the specific outcomes it will achieve and how the outcomes will be monitored; 3) How the state will monitor and oversee the safety of children who receive time-limited family services through periodic risk assessments and periodic re-examinations of the service plan for a child; 4) Information on the specific evidence-based programs and promising practice models the state plans to implement to provide time-limited family services including a description of each program or model, how it will implement them, how they were selected and the target population for each; 5) Description of collaboration between public child welfare agencies and the Medicaid agency and other child and family services agencies to foster a continuum of care and services for the children and families; 6) Description of how the state shall assess children and families to determine eligibility for time-limited family services; 7) Description of training and support for caseworkers handling prevention cases, including how caseload size and type will be determined, managed and overseen; and 8) Description of training and support for parents or potential or designated kin caregivers of a child eligible for time-limited family services.
- **Training:** Expands the training requirements to include training on how to provide such support and services under the time-limited family services.

What federal funds will be available?

- **Payments:** Beginning after September 30, 2015, payments for time-limited family services will be made based on the Federal Medical Assistance Percentage (FMAP) rate with accommodation for states where there is a cooperative agreement with Indian tribes, tribal organizations or tribal consortium. A 50 percent match is provided for the proper and efficient administration of the state plan for the provision of time-limited family services, including the infrastructure needed to implement the services for children and others who are eligible for them. A 50 percent match is also provided for expenditures for training of staff with the respect to the provision of time-limited family services, including determination of eligibility, identification and provision of appropriate services and overseeing and evaluating the ongoing appropriateness of the service.
- **Payer of Last Resort:** Payment for time-limited services must not duplicate other federal funding sources for these services and can only be made if funding under other federal sources cannot reasonably be expected to be available within a reasonable time given the needs of the child and the child's family during the child's 12 month eligibility period.
- **Clarification about Use of Medicaid Dollars:** Nothing in the bill shall be construed to limit the responsibility of the Medicaid agency to administer and provide care and services for children with respect to whom services are provided under the state plan.
- **Maintenance of Effort:** The governor of a state must certify that payments for time-limited family services are used to supplement – not supplant, the level of state and local funds expended for children welfare for FY 2015. In addition, a state shall furnish reports to the Secretary as required that demonstrate the state's compliance with the governor's certification.

After giving states some lead time, the bill creates a structure to reward states that use their time-limited family services to improve child outcomes and are investing in cost-effective programs and services.

- **Outcome Assessment and Reporting:** States will need to submit to the Department of Health and Human Services (HHS) for each child receiving time-limited family services (or on a child's behalf if family members received the services) data on: 1) the specific services provided and total expenditures for each service; 2) the child's placement status at the beginning and end of the 12-month period; and 3) the child's placement status 1 year after the end of the 12-month period. If services are provided to (or on behalf of) two or more siblings then the total expenditure amount may be allocated to one sibling or divided among such siblings so long as such siblings are all included in the calculation of the pre-child spending measured required above.
- **National Performance Measures:** Beginning with FY 2021, and annually thereafter, the Secretary shall establish the following national performance measures:
 - Percent of candidates for whom or on whose behalf time-limited family services were provided who do not subsequently enter a foster care placement (other than a kinship placement) during such period and through the end of the succeeding 12-month period.
 - Percent of children for whom or on whose behalf time-limited family services were provided who were initially in a foster care placement who are returned to, or are placed with a biological or adoption parent or in a kinship placement or guardianship at the end of the period and who remain in each such placement through the end of the succeeding 12 month period.

- Per-child spending on time-limited family services. The total amount of expenditures for providing time-limited family services for, or on behalf of, each child during the 12-month period.

The Secretary shall establish and update national performance measures based on the median state values for the three most recent years of the outcome assessment and reporting information (mentioned above) collected by the states. (HHS will take into account state differences in price levels for services using the most recent regional price disparities by the Bureau of Economic Analysis or other similar data.) The Secretary shall annually make available to the public each state's performance with respect to the national performance measures. The Secretary will also establish performance measures for each Indian tribe, tribal organization or tribal consortium that provides time-limited services that are consistent with the national performance measures for states but that also take into consideration factors unique to the tribes.

- **Adjustments to the Federal Matching Rate:** In order to hold states and tribes accountable for allocating services in ways that maximize safety and permanency for children, the bill creates fiscal incentives, beginning in FY2022, for states that perform better than the national performance measures by increasing the state's federal matching rate for the time-limited family services and penalizes states that perform worse by reducing the state's federal matching rate for the time-limited family services. (It is important to keep in mind that the match rate being discussed is new funding not previously available to states prior to implementation of these new provisions.)
 - **Criteria for Increases in the Federal Matching Rate:** Beginning in FY2022, the federal match for expenditures for time-limited family services for a state will increase by a certain number of percentage points (not to exceed 10 percentage points) as determined by the Secretary if: 1) the state's percentage of children who remained with, are returned home, or are placed with a parent, caretaker relative or kinship guardian is *greater than* the national average determined for the preceding fiscal year; and 2) the state's per-child spending on time-limited family services is *less than* the national average amount for the preceding fiscal year.
 - **Criteria for Decreases in the Federal Matching Rate:** Beginning in FY2022, the federal match for expenditures for time-limited family services for a state will be reduced by a certain number of percentage points (not to exceed 10 percentage points) as determined by the Secretary if: 1) the state's percentage of children who remained with, are returned home, or are placed with a parent, caretaker relative or kinship guardian is *less than* the national average and 2) the state's per-child spending on time-limited family services is *more than* the national average amount.
 - **Federal Matching Rate will Remain Unchanged if Neither Criteria is Met.** A state won't receive an increase or decrease in the federal matching rate for the time-limited family services if the state doesn't fulfill both of conditions listed above.

What technical assistance and evaluation will be provided?

- **Technical Assistance:** HHS will provide technical assistance and information on best practices in regard to implementing the time-limited family services.
- **Data Collection and Evaluations:** HHS will collect data and conduct research and evaluations to assess the impact time-limited family services have on reducing the prevalence and length of foster care placements and how it is improving safety and permanency outcomes for children who are receiving these services.
- **Reports to Congress:** HHS will report periodically to the House Committee on Ways and Means and the Senate Finance Committee on the provision of the time-limited family services and other activities being carried out. These reports will be made available for the public.

- **Appropriations:** For FY2016, and each year thereafter, \$2.5 million in guaranteed funding will be appropriated to carry out the activities around technical assistance, data collection, evaluation and reports to Congress.

Federal Title IV-B, Promoting Safe and Stable Families Funds Expanded for Prevention, Early Intervention and Post-Permanency Services

(Section 5: Ensuring Funding Under Part B of Title IV of the Social Security Act for Prevention and Post-permanency Support)

Important changes are made to Title IV-B, Part 2 (Promoting Safe and Stable Families, or “PSSF”) that further strengthen prevention, early intervention services and post-permanency.

- **Eliminates Time-limit for Family Reunification Services:** To prevent confusion with the new time-limited family services, eliminates the time-limit on reunification services under PSSF.
- **Creates Mandatory Funding for PSSF:** Beginning FY2016, \$1 billion in guaranteed funding will be appropriated for PSSF, and moves discretionary money from Title IV-B, Part 2 to mandatory funding. It also eliminates the current spending requirement in PSSF, which says that “significant portions of such expenditures for each such program” and instead says “with at least 25 percent of the expenditures made for adoption promotion and support services”. Increased funding is also provided for evaluation, research training and technical assistance (from \$6 million to \$10 million), the State Court Improvement Program (from \$30 million to \$33 million) and for other state court assessments and improvements (from \$9 million to \$12 million.).
- **Research, Technical Assistance, and Guidance on Promising Program Models and Evidence-based Programs:** Funding for evaluation, research, training and technical assistance is increased to \$10 million (up from \$6 million, as noted above) and an additional \$4 million is added for research and technical assistance on promising programs and identifying additional evidence-based prevention and intervention programs and post-permanency programs.
- **Extends Funding for Family Connection Grants:** Reauthorizes \$15 million for FY2016 for Family Connection Grants and amends its uses to include funding for other programs with evidence to support their effectiveness in preventing foster care placement and/or supporting family stability post-permanency.

Effective Date

The amendments would go into effect October 1, 2015, with delays permitted if state legislation is needed to meet the additional requirements or if an Indian tribe, tribal organization or tribal consortium requires time to comply with certain requirements.