

ENCOURAGING CHILD WELFARE INNOVATION THROUGH IV-E WAIVERS

Abstract

The IV-E child welfare waivers program is an important but underutilized provision of the Social Security Act. Authorized by Congress in 1994, the program gives states greater spending flexibility while maintaining the basic child protection entitlement and ensuring that federal dollars are invested in innovations that are scientifically proven to work. This paper reviews the role of waiver demonstrations in advancing child welfare reform and explains the use of cost neutrality formulas to reward states for successful innovations and limit federal investment risk for failed experiments. It describes the limitations of the current waiver structure and how they could be addressed. The paper concludes with a set of policy options to amend the existing waiver program to encourage innovation, rigorous evaluation of hypothesized solutions, and widespread dissemination of proven practices to hold public child welfare systems accountable for achieving the outcomes valued by families, children, and society at large.

Introduction

Statistics showing that our nation's child welfare systems doubled permanent placements over 1995-97 baselines offer a powerful lesson in what government can accomplish when it aligns incentives with desired outcomes (adoption bonuses), encourages innovation (child welfare waivers), and manages by results (child and family services reviews).¹ Fewer children are languishing in long-term foster care. More children are being adopted or placed with permanent guardians. And for the first time in years, public foster care caseloads are shrinking.

Despite these improvements, high-profile tragedies and the inability of federal reviewers to find a single state in compliance with national standards are sobering reminders that public child welfare systems still have a long way to go to ensure the safety, well-being and age-appropriate development of our nation's 523,000 foster children.

Achieving excellence in public child welfare calls for the development of results-oriented systems of management and accountability that can guide service decisions and budgetary investments in light of incoming information on progress in the attainment of child and family outcomes. Federal Child and Family Services Reviews (CFSR) and state-specific efforts, such as California's CFSR process mandated under AB636, are necessary steps for orienting administrators, judges, and professionals to the child welfare outcomes valued by families, children, and society at large. While success in these endeavors requires removing federal categorical funding restrictions on states' investing in promising solutions, equally important are the widespread and systematic encouragement of practice-enhancing innovations and cataloguing of proven demonstrations from which administrators and practitioners struggling to improve performance can identify solutions to help them achieve desired results.



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Some progress has been made in identifying promising practices and evidence-based innovations, such as multi-systemic therapy in preventing more restrictive placements² and subsidized guardianship in promoting family permanence.³ But solving our nation's foster care crises requires much more than a *few* example of proven programs. Helping child welfare systems address pressing problems demands a veritable explosion of innovations, rigorous verification of hypothesized solutions, and systematic dissemination of proven practices that can inform service delivery and administration.

To promote widespread experimentation, evaluation, and dissemination, it will be necessary to tackle what *Fostering Results* calls “the single greatest stranglehold on child welfare innovation”—a federal financing system that favors interminable foster care over other services and options that can provide children with safe, permanent families. What originally was a well-intentioned attempt to remove AFDC financial disincentives to rescuing children from unsuitable homes and placing them temporarily in foster care has swollen into a colossally inflexible, \$8.0 billion IV-E bureaucracy that stifles reform, strait-jackets innovation, and discourages spending on options other than long-term foster care.

Frustration with the current funding structure has built up so quickly over the years that powerful legislators and respected, blue-ribbon Commissions are now advocating the replacement of some or all of the IV-E entitlement with a simple, flexible funding scheme that is capped much like a block grant. For example, the Bush Administration proposes a voluntary, flexible funding option that offers states a fixed five-year allotment of federal dollars, based on some negotiated projection methodology, to spend any way they see fit to achieve national child welfare standards. The Pew Commission on Children in Foster Care has recommended a hybrid funding arrangement that preserves the subsidy entitlement for foster homes and child caring institutions but consolidates spending on child placement activities, training, and administration with Title IV-B dollars into a capped, indexed grant. Legislation referred to the House Ways and Means Committee (H.R. 4586) goes one step farther and caps the IV-E subsidy entitlement into a block grant along with the remaining IV-E and IV-B federal dollars earmarked for child welfare services, training, data collection, and administration.

The proposed trade-off of flexible, capped funding for inflexible, open-ended entitlements is seductive. It is important, however, to consider exactly what is being traded.

The Allure of Block Grants

Although proposals to consolidate multiple, categorical federal funding streams into flexible, broad-scale grants first surfaced in the aftermath of World II, it was the 1994 Republican Contract with America that popularized the concept of the block grant as the panacea to the ills associated with excessively fragmented and administratively complex, categorical entitlement programs. The Contract with America proposed to cut through bureaucratic red tape and curtail runaway expenditure growth by returning program decision-making to the states and imposing a federal budget constraint on local spending.

While block grants are often portrayed as aligned with conservative principles and entitlements with liberal ones, the distinction is much too facile. For example, most conservative proposals favor the retention of entitlement funding for adoption assistance and other proven programs that lessen governmental intrusion into the lives of families and strengthen family autonomy. The non-partisan Pew Commission recommended folding subsidized guardianship into the federal assistance entitlement largely on the basis of rigorous evaluation findings that demonstrated guardianship subsidies were a cost-effective permanency alternative to retaining children in administratively more burdensome, long-term foster care. Furthermore block grants are no guarantee that federal dollars will be spent more wisely by the states. Many of the proposed flexible funding proposals require Congress to guess— with all the accuracy of central social planners—how many children each year will enter and leave foster care five years in advance. Given the wide error-band of long-term social forecasts, entitlements, all of a sudden, don't look so inefficient. If there is an unforeseen rise or fall in the number of children needing foster care in each state, the barometer of categorical entitlements ensures that the right-amount of money goes for spending on the specific funding categories earmarked by Congress. As Robert Rector perceptively points out, a “no strings” approach to federal revenue sharing is more of an invitation for fiscal irresponsibility than a blueprint for encouraging responsible state innovation. Rather than allowing a “thousand flowers to bloom,” what is required is a federal financing structure that permits greater state flexibility but within a solid accountability framework that aligns incentives with the child welfare principles and outcomes desired by Congress and the wider public.

Consider for a moment an analogy with medicine. No one truly believes that the health of congestive heart failure victims can be improved simply by freeing up

Medicare dollars from hospital-based care and allowing states to spend flexibly on a range of interventions from acupuncture to promising but untested drug treatments. The principles of evidence-based medicine support investment in only those interventions scientifically proven to work. Large scale, clinical experiments, for example, are proving invaluable in correcting medical opinion about once presumed beneficial innovations, such as hormone-replacement therapy and painkiller medication (e.g. Vioxx), which ultimately proved to increase heart risks after more rigorous evaluations were conducted. A similar reliance on randomized clinical trials and next-best, “quasi-experimental” designs must also begin to inform child welfare practice to achieve safe, efficient, and effective change.

Flexible-funding options are most meaningful when built upon a solid foundation of evidence-based policies and practices and embedded within a coherent accountability framework that measures results against well-defined outcome standards. The medical field is only now beginning to lay this foundation and build this framework in women’s health after years of excluding females from large-scale medical demonstrations. The child welfare field is much farther behind. When investments in rigorous child welfare demonstrations are sometimes made, the results are often just as clarifying and unexpected as what we’ve since learned about the once supposed benefits of breast self-exams and hormone-replacement therapy.

Consider the family preservation experiments that Congress mandated in the mid-1990s. At the time, observational studies that monitored out-of-home placements (but lacked control groups) showed some promise. Many child welfare administrators reacted to the suggestion that investment in intensive family preservation programs could prevent more costly foster care placements and sought additional revenues. Had a flexible IV-E funding option existed back then, undoubtedly many states would have elected to invest a good share of their categorical IV-E dollars in intensive family preservation services. In fact, hundreds of millions have already been devoted to this purpose by the 1994 Family Preservation and Support (since renamed Promoting Safe and Stable Families) provisions of the Social Security Act. This was, of course, before the results of the family preservation experiments became widely available.

The multi-site studies that Westat, the Chapin Hall Center for Children, and James Bell Associates conducted in the late 1990s show that intensive family services are

no more effective in preventing out-of-home placement and reducing the recurrence of abuse than regular, less costly in-home services.⁴ Although fewer and fewer states are now investing in intensive family preservation, there is nothing in any of the pending flexible funding proposals that would prevent a state from allocating a large share of their lock grant allotment to an appealing but ultimately more expensive and less effective service.

Evidence-Based Demonstrations Combine Flexibility with Accountability

As an alternative to “no strings” block grants, the Social Security Act gives states an important but underutilized option to help determine “what works:” section 1130 permits as many as ten states per year to conduct demonstration projects by waiving certain requirements of titles IV-B and IV-E to facilitate the demonstration of new approaches to the delivery of child welfare services. Expansion and simplification of the IV-E child welfare waiver process could quickly lessen fiscal restraints on state innovation, encourage controlled experimentation on promising practices, and advance the evidence-based practices that are needed to promote system reform and institutionalize quality services.

How might this work? It may be helpful to consider how waivers helped to encourage innovation and advance reform in the two states that have received the most child welfare waivers to date —Illinois and Maryland.

About the time Congress authorized child welfare waivers in 1994, Illinois had achieved the dubious distinction of having the highest per-capita rate of foster care in the nation – 17.1 foster children per one-thousand child population. Maryland ranked eighth highest at 8.8 foster children per one-thousand. Much of the need for substitute parenting in these two states was accommodated by placing children in the homes of relatives—an increasingly important form of foster care that is ill-handled under the current IV-E entitlement structure.

Court orders in each state (*L.J. v. Massinga* in Maryland and *Reid v. Suter* in Illinois) prohibited child welfare officials from diverting relatives caring for foster children to less costly AFDC programs or summarily discharging the children to the family’s custody without first offering them the benefits of foster care licensing and support. As a result, both systems were beset by a growing backlog of children in stable, long-term kinship foster care.

Focus groups in Illinois revealed that many of the foster children under relative care were, for all practical purposes, “already home.” Reunification with birth parents

had been ruled out, and many of the children had formed life-long attachments to their caregivers. A survey of these families in Illinois found that most relatives perceived the best plan for the children was to remain with them until the children were fully grown. Many of those fostering kin expressed a willingness to adopt, although few had been presented this option by caseworkers. Conversely, a sizeable segment of kin expressed hesitation about adopting their own family members. Focus groups suggested that their reluctance wasn't born of an unwillingness to make a permanent commitment. Rather they felt that termination of parental rights was unnecessarily divisive and forced extended family relations into the nuclear-family mold of parent and child. They preferred, instead, to retain their family identities as grandparents, aunts, and uncles rather than become their minor relative's adoptive parents.

The Illinois survey of kinship caregivers suggested that family permanence could be boosted if kin could receive modest subsidies to become the private guardians of their grandchildren, nieces, and nephews for whom the state was spending more money by keeping them unnecessarily in public foster care. Subsidized private guardianship seemed tailor-made to address these families' concerns since it transfers legal guardianship from the state to the family without severing parental rights. However, IV-E does not recognize guardianship subsidies as a federally reimbursable expenditure, even though it can help ensure family permanence and lower the administrative costs for the child welfare agency. The result was that thousands of foster children in Illinois and Maryland remained backlogged in more costly, IV-E reimbursable foster care instead of being permanently placed with guardians from their extended family.

The availability of IV-E waivers in 1995 offered a way to address this situation. Both Illinois and Maryland submitted applications to HHS requesting waiver authority to permit a 5-year demonstration of a federally subsidized private guardianship as a permanency status under the title IV-E program. Illinois' waiver began in 1996 and Maryland's began a year later. By the end of the initial demonstration periods, Maryland courts were able to transfer over 300 children and Illinois courts 6,800 children from state custody to IV-E subsidized private guardianship.

As a result of the waiver demonstration and related initiatives in performance contracting and adoption reform, Illinois' foster care program shrank from 52,000 children in 1997 to less than 17,000 today. Maryland's foster care program also turned a corner declining from

13,500 children in 1999 to below 12,000 children. The impact of the waiver was less far-reaching in Maryland than in Illinois because of the limited appeal of Maryland's program to relatives who were licensed as foster parents. Maryland's guardianship subsidy was set much lower than its foster care subsidy, which makes it financially prudent only for non-licensed kin. Illinois' guardianship subsidy, on the other hand, is equivalent to both the adoption subsidy and the foster care payment. As a result in July of 2000, for the first time, the number of Illinois children in assisted adoptive and guardianship homes surpassed the number of children in public foster care. Because of the design of the demonstration's cost-claiming procedures, Illinois retained millions (\$28,000,000+) in IV-E reimbursements to reinvest in system improvements, which it would have otherwise foregone in the absence of the waiver. Maryland also was able to realize administrative savings and maintain cost neutrality, even though non-licensed kin who became legal guardians were paid \$133 more in monthly assistance than they would have received under TANF in the absence of the waiver.

Using Cost-Neutrality Groups to Reward Innovation and Limit Federal Investment Risk

Waivers allow states the flexibility to claim reimbursement for otherwise unallowable services provided to a demonstration group of children and families. Instead of claiming IV-E reimbursements for actual demonstration expenditures, the state generates IV-E claims by basing bills on the per-child amounts it spends on a representative control (cost neutrality) group of children and families who receive the standard federally-eligible services. In this way, spending on the neutrality group approximates the reimbursements the state would have received in the absence of the waiver. Claims for services provided to the demonstration group are imputed by multiplying the per-child cost in the neutrality group by the total number of children assigned to the demonstration group. As a result, if the state is correct in hypothesizing that the innovation achieves the desired outcome at a lesser cost, it is rewarded by being able to keep the difference (i.e. savings) between the lower actual costs and the higher imputed IV-E costs. On the other hand, if the proposed innovation is not cost effective, the federal government's costs do not increase because its liability can not rise above the amount of money it would have spent in the absence of the waiver (as fixed by the per-child spending in the neutrality group). This process is intended to encourage innovation by rewarding states for effective demonstrations while minimizing the federal government's investment risk for failed experiments. The federal government spends no more

than it would have spent absent the waiver. Block grants and other flexible funding options also accomplish the latter goal of limiting federal risk, but differ in the sense that they are not designed to reward innovation. Also the waiver's cost neutrality method of reimbursement avoids the complication of having to forecast future trend lines and payment ceilings as required by most block grant and other flexible funding schemes. Instead imputed claims are processed quarterly based on the actual costs incurred in the cost neutrality group, which can rise or fall with the changing conditions and needs of children and families.

Returning to the specific examples of Illinois and Maryland, the subsidized guardianship demonstrations boosted permanency and exit rates significantly above the levels achieved in the cost-neutrality groups. Although in Maryland's case, as noted above, the effect was limited to non-licensed kin, the costs of administering a subsidy for a child discharged to private guardianship in both states is substantially less than the costs of administering a maintenance payment for a child retained in foster care. Under the terms of the waiver, both states are allowed to seek federal reimbursement for the amounts they would have received had the child remained in foster care (as determined by the per-child cost in the neutrality group). In Illinois' case, the difference between the actual and imputed costs amounted to the tens of millions, which the state was able to retain and reinvest in service expansion, additional research, and related capacity enhancements.

Using IV-E waivers to encourage innovations in permanency planning and reinvesting the savings in system capacity is important. But much of the frustration with the current IV-E structure has to do with the inability to use IV-E to provide preventive and treatment services. The complaint is that most federal funds become available to states only after children have been removed from their homes. Comparatively meager amounts are available to help prevent and treat the conditions that cause children to be removed from the home in the first place. How might waivers be used to encourage innovations at the front-end of the system to prevent children from being taken into the foster care system?

Learning from Experimentation at the Front-End of the Child Protection System

Both Illinois and Maryland received second waivers to address the treatment needs of parents with substance abuse problems. It is estimated that between 50 and 80 percent of foster children are taken from families with substance abuse problems. Illinois' second waiver, which began in 1999, permits the state to use cost neutrality

calculations to fund drug "recovery coach" services to parents that are otherwise disallowed under existing IV-E guidelines. Maryland's second waiver, which was implemented in 2001, permits the state to fund family support team to assist parents in overcoming their addiction.

Illinois targets recovery coach services to parents whose children are already in state custody in the hopes of boosting treatment completion and family reunification rates. Maryland targets substance abuse services both to parents with children in out-of-home care and to intact families in the hopes of preventing children from being taken into protective custody as a result of parental drug relapse or recurrence of abuse. In this latter instance, if substance abuse services prove successful in engaging parents in treatment and helping them stay drug free, fewer children in the demonstration group will likely come into foster care than children in the neutrality group. Since foster care is more costly in the long run than funding drug recovery services and maintaining children in parental custody, both the children and the state stand to gain if substance abuse services prove efficacious in preventing removal. The demonstration could net significant savings when the per-child cost in the neutrality group is applied to the cost claims for children in the demonstration group. However, if the hypothesized differences in removal rates fail to materialize, the state absorbs the cost and either discards the once promising innovation or retools the program to fix suspected implementation glitches.

Both Illinois and Maryland ran into implementation problems that resulted ultimately in Maryland's abandoning its substance abuse demonstration and Illinois' substantially shifting implementation gears to focus greater attention on the role of the courts. Both states encountered lower than expected enrollment, which raises questions about the often cited statistic that puts the percentage of birth parents in the system with substance abuse problems at upwards of 80 percent. Similarly, Illinois' inquiries into the reasons why reunification differences failed to materialize despite the demonstration's greater success in connecting birth parents to treatment raises questions about the validity of the assumption that affording access to drug treatment alone is the solution to the foster care crisis.⁶

In testing hypotheses about service delivery assumptions and expected outcomes, waiver demonstrations seek to eliminate erroneous propositions, verify promising solutions, and refine theories of best practice. Allowing for the possibility that basic assumptions and hypothesized solutions may turn out to be erroneous

distinguishes IV-E waivers from other flexible funding options. If an intervention is scientifically proven to work, there is no justification for withholding treatment from a control group. Likewise if there is no scientific evidence of an intervention's efficacy, there is no justification for subjecting an entire population to uncontrolled experimentation. Although in principle block grants can be used to support rigorous evaluation, it is seldom done in practice. For example, funds for research and evaluation dried up after the TANF block grant replaced the waiver provisions of the former AFDC entitlement program. Waivers emphasize random assignment and provide for a 50 percent match-rate (without regard to eligibility) for independent evaluations. Without these provisions, it is doubtful that many administrators of a flexible funding option would devote the necessary resources to research and evaluation.

Flexibility in and of itself is not a guarantee that administrators will redirect dollars to under-resourced areas, such as preventive and treatment services. If that is the desired result, waivers could be structured in such a way to encourage innovation in under-resourced areas either by earmarking challenge grants to outcome areas not directly supported under IV-E, such as child safety or well-being, or assigning different reimbursement rates to the varying lengths of time children are maintained in foster care. For example, H.R. 4856 provides for challenge grants to reward state efforts to move children safely from foster care and prevent the removal of children from their homes. The idea is a good one, but the proposed legislation would tie financial rewards to a state's exceeding the national standards that are defined as part of the federal Child and Family Services Reviews (CFSR). Besides the well-documented limitations of the current national child welfare standards, another problem is that there is no requirement to determine whether the observed changes are due to performance improvements or simply to extraneous factors, such as economic shifts or legal rulings, which are independent of state efforts. As an alternative, rewards could instead be tied to demonstrable improvements in states' remedying deficiencies identified in the CFSR and exceeding agreed-upon safety and well-being benchmarks, as verified by a third-party evaluator as is currently required under the existing waiver process.

A complementary approach for encouraging front-end innovations is to assign specific waiver demonstrations a higher federal match rate at the beginning months of foster care and a lower rate at the later months, such as the 120 percent of current match rates for the first 18

months proposed under the Grassley, DeWine and plan (never formally introduced) and the 40 percent of current match rates for foster care in excess of 24 months. Under this financing arrangement, the graduated match reduction would more richly reward preventative programs that successfully reduce entry rates into foster care than the current static match rate. For example, waivers that successfully lower entry rates compared to the neutrality group would be rewarded under the Grassley plan with 120 percent of the current federal match for the difference in the proportions of children remaining in foster care up to a maximum of 18 months. Graduated reductions in federal match rates also has the advantage of accelerating any savings from successful waivers to the state government and limiting the cost to the federal government since the state's share of savings would taper off under the Grassley plan to 40 percent of the current federal match rate after 24 months.

Congress' original intent behind waivers was to provide a process for determining which specific innovations were successful in achieving desired outcomes and realigning financing incentives by making those scientifically-proven programs eligible for IV-E reimbursement. As of yet, neither HHS nor Congress has not acted on this intention. Scientific evidence from both Illinois and Maryland demonstrates that subsidized guardianship shortens length of stay and increases family permanence. However, HHS has agreed only to extend the Illinois demonstration for another five years, rather than propose legislation for making this successful model available to all states.

Under current law, HHS has indefinite authority to renew existing waivers but its authority to grant new waivers is temporary. Under Congress' latest continuing resolution, HHS authority to grant new waivers will expire in 2005. Fortunately, this prospect has not deterred states from applying for new waivers to replicate Illinois' and Maryland's successes. Seven states requested waivers for subsidized guardianship in 2004, two of which—Wisconsin and Minnesota—have been already been granted. Meanwhile support for a statutory change is building. The Kinship Caregiver Support Act (S. 2706) was introduced in July of 2004, and the Child Protective Services Improvement Act (H.R.1534) was introduced in April of 2003. Both pieces of legislation would authorize the use of federal dollars to support guardianship subsidies for children living with relatives who agree to care for them permanently.

Challenges in Evaluating Systemic Reform versus Service Demonstration

One of the alleged deficiencies in the current IV-E waiver program is that the cost neutrality formula and evaluation designs are geared mainly towards testing service demonstrations, such as drug treatment, wrap-around services, and alternative permanency options, and are less well suited for encouraging broad-scale, systemic reforms. This criticism is somewhat overblown. There is nothing inherent in the waiver review process that precludes states from applying for broad-scale, waiver authority that functions much like a block grant. In fact, the states of Indiana, North Carolina, Ohio, and Oregon have already received flexible-funding waivers much like the ones proposed by the Administration and the Pew Commission. The problem is not in securing waiver authority but how best to design evaluations that can yield valid results.

The classical experimental design that randomly assigns subjects to treatment and control conditions is the best way to determine causal connections between interventions and outcomes. Because random assignment helps ensure that the comparison groups are statistically similar at the start of the intervention, if there are statistically significant differences in outcomes at the end of the intervention, a reasonable inference is that the intervention itself rather than any pre-existing disparities or concurrent influences is responsible for the result.

The more units that a researcher has available to assign to treatment and control conditions, the more precise the statistical inference that the experimenter can draw. As units are clustered into higher levels of aggregation (e.g. children, siblings, families, neighborhoods, counties, regions) or organization (e.g. caseworkers, teams, private agencies, public departments, counties, court jurisdictions), the less precise are the inferences that can be drawn. Still, broad-scale change at the level of an agency or county can be reliably tested so long as there are enough other agencies or counties around to randomly assign to different experimental conditions.

Given sufficient numbers of organizational units, random assignment poses no insurmountable barrier to the evaluation of systemic reforms. In fact, Illinois' "recovery coach" waiver successfully implemented randomization at the level of private agencies. But even when randomization proves difficult, there are recognized alternative evaluation designs, which may not have all the merits of a classical experiment, but can still yield valid inferences. For example, North Carolina evaluated its flexible funding waiver by matching 19 demonstration

counties to 19 comparison counties based on size and demographics. The evaluators found that the probability of placement for children in the demonstration counties declined more than for children in the comparison counties.⁷

But what if the level of aggregation extends all the way up to the state level and leaves no units that can be randomly assigned? Again the challenge is really one of evaluation rather than an inherent limitation of waivers. For example, a valid quasi-experimental design for evaluating single-site demonstrations, particularly in large states or counties, includes staggering implementation so that sub-units (e.g. counties, field offices, supervisory teams) are brought in randomly at different times. This often occurs naturally as new policies and training are gradually rolled out. Randomized implementation helps rule out the possibility that other contemporary influences (e.g. economic, political, or policy) account for the effect, which is harder to do if a single pre-post comparison is done on the entire site. For example, Illinois staggered the implementation of performance contracting to occur in downstate counties a year after it was implemented in Cook County. The fact that downstate caseloads declined a year later than Cook County helps to strengthen the inference that the introduction of performance contracting was responsible for the change. If other factors were actually responsible, such as an improved economic climate or federal policy changes, the decline should have occurred at approximately the same time in both sites.

Quasi-experimental designs are less burdensome to implement than classical experimental designs. There are times that they make sense even though they offer less credible evidence than a random assignment experiment. This is particularly true when a state wants to replicate a promising innovation that has already been shown to be efficacious in prior experimental studies. In these cases, the waiver approval process could be simplified and structured in sequence of phases. For example, a Phase I could continue to require random assignment for untested innovations, and a new Phase II could allow alternative quasi-experimental designs for the replication of previously tested innovations. Further simplification could provide for a Phase III that could make the service innovation an allowable IV-E expense in all states after all experimental and quasi-experimental testing requirements have been satisfied. This would give states the flexibility to spend categorical dollars on proven demonstrations by requesting waivers, perhaps as part of a state plan amendment. Under current rules, states must develop and submit state plans before they may receive funding for child welfare activities under the Social Security Act.

Encouraging Innovations to Achieve Child Welfare Outcomes

The real test of the utility of waivers or any other financing mechanism is how well it advances the capacity of child welfare systems to achieve the outcomes valued by families, children, and society at large. There is broad consensus in federal and state policy, court consent decrees, professional literature, and historical documents around the following general aims of child welfare intervention:⁸

- *Safety*: Children deserve to grow up in a safe and nurturing home.
- *Stability*: Children are entitled to a stable and lasting family life and should not be deprived of it except for urgent and compelling reasons.
- *Continuity*: If alternative care is necessary to foster or protect children, children should be placed in proximity to their home and in the least restrictive (most family like) setting that conserves existing sibling, kinship, and community ties.
- *Well-Being*: Children's developmental opportunities for health, education, emotional, and financial well-being should not be unduly compromised by state intervention.
- *Permanence*: Children have a right to permanent guardianship of the person, either natural guardianship by birth or adoption or legally appointed guardianship by the court.

Both the prevention of a child's removal (stability) at the front end of child protective intervention and the expedited discharge of a foster child to birth, adoptive, or guardianship homes (permanence) at the back-end have the potential to directly reduce IV-E costs below cost-neutrality thresholds. For example, currently approved waivers that authorize wrap-around services to shore-up family stability (California), hasten reunification through drug rehabilitation services (Illinois and New Hampshire), subsidize private guardianships (Delaware, Illinois, Maryland, Montana, New Mexico, North Carolina, and Oregon) and fund post-adoption services to reduce re-entry (Maine) carry the greatest opportunity for earning IV-E savings.

Safety innovations offer a smaller potential for earning savings since success is rewarded indirectly only if the safety improvement ultimately reduces rates of entry or

re-entry into foster care. Prevention of recurrence in and of itself doesn't directly yield IV-E savings because child protective services are unallowable expenses under existing guidelines. Thus IV-E waivers directed towards improving safety would profit the most by targeting those circumstances, such as drug addiction, parental mental illness, or domestic violence, which in the absence of ameliorative services have a high likelihood of precipitating an out-of-home placement. Currently approved waivers that authorize services to substance-abusing parents (Delaware and Maryland) are examples of the sorts of demonstrations that target high-risk factors to prevent placement into foster care.

Continuity innovations also present some potential for generating IV-E savings even though they are primarily concerned with reallocating IV-E funds to conserve sibling, kinship, and community ties. For example, Mississippi's intensive service waiver funds newly created services, such as respite care and other support services, to encourage relative placements, placements with siblings, and placement in the community of origin. New Mexico's waiver allows Tribes to administer IV-E funds to protect and care for their children directly without state supervision. If the goals of safety and permanence can be accomplished at a lower cost by preserving continuity, these waivers can also generate significant savings.

The principle of well-being is less readily promoted through IV-E waiver demonstrations since success is rewarded indirectly only if improvements in health, education, and psychological well-being ultimately result in less costly care, for example, by enabling "step-down" to less intensive settings or preventing more restrictive placements. Improvements in health status, grade-point average, and psychological tests don't directly lower costs because none of these services are currently fundable under IV-E. States would be hard pressed to maintain cost neutrality if they were to undertake innovations to enhance child well-being alone. This is demonstrated by the fact that no state has an approved waiver demonstration that focuses exclusively on the improvement of child well-being. This is an outcome area that could benefit from the establishment of a federal challenge grants as described above.

Strengthening Waivers' Capacity to Encourage Innovation, Increase Flexibility, and Improve Accountability

Congress' authorization of child welfare waivers in 1994 gave states a powerful incentive for testing promising innovations to improve child and family outcomes. It offered states the flexible use of categorical IV-E dollars to experiment on novel approaches to service delivery. It rewarded states financially for successful demonstrations and limited the federal risk for failed experiments. By encouraging rigorous evaluations to identify valid models and eliminate erroneous propositions, waiver demonstrations help to advance best practice and contribute to new knowledge of what works best for children and families.

The utility of child welfare waivers is reflected in the fact that all of the current federal financing reform proposals – the Administration's flexible funding option, the Pew Commission's recommendations, and the Ways and Means block grant— each seek to extend or simplify and strengthen the existing waiver provisions. Only the Administration's proposal retains all of the current features of the current program. The Pew Commission recommends eliminating the cap on the number of waivers HHS may approve, permitting HHS to approve waivers that replicate waiver demonstrations that have already been implemented in other states, and urging states to solicit waiver applications from their counties and cities to encourage and support practice innovation at the local level. The only practical wrinkle is that the folding in of IV-E child placement activities and administration into a capped, indexed grant lessens the ability of state to reap savings from foster care reductions since administrative costs would no longer be claimed as part of the cost neutrality group. This reduced financial incentive to innovate could be offset by challenge grants or by giving states the option of removing child placement activities from the consolidated grant and continuing to claim these particular expenses in the cost neutrality calculation. Although the Ways and Means proposal also calls for the expansion and improvement of the federal child welfare waiver process along the lines recommended by the Pew Commission, it is difficult to see the incentive for states to obtain waivers if the capped block grant already gives them the flexibility they would ordinarily seek through the waiver process. Furthermore the consolidation and capping of foster care maintenance expenses together

with child placement and administrative costs obviates the need for cost neutrality groups and prevents states from realizing savings from any cost efficiencies achieved in the demonstration group. Targeting the challenge grants to states that obtain waivers seems the only way to retain the incentive if the foster care categorical entitlement is abolished.

Assuming that some financial incentive is retained to encourage states to innovate through waiver demonstrations, The following policy options could help to expand and improve the existing IV-E waiver process:

- Act on results from waiver demonstrations by making proven innovations allowable IV-E expenses for all states either as part of the existing entitlement or a new indexed block grant.
- Extend the authority of HHS to grant new waivers indefinitely and lift the cap on the numbers of waivers that can be approved.
- Allow county and municipal child welfare systems to apply through the state to obtain their own waiver authority to test innovations.
- Offer challenge grants to states that undertake waiver demonstrations as part of their Program Improvement Plan (PIP) to address performance deficiencies as identified in federal Child and Family Services Reviews. Waivers provide an alternative to the current model of imposing financial penalties on underperforming states and offer states the financial incentive and flexibility to test new approaches to service delivery to achieve national performance standards.
- Establish a tiered evaluation system, consisting of Phase I for previously untested innovations that require randomization and Phase II for already tested innovations that can be replicated with less rigorous evaluation designs. Phase I evaluations should be reimbursed at higher rate to encourage state experimentation on untested solutions.
- Offer states the option of graduated IV-E match rates to stimulate innovation at the front-end of the child protection system. This could be accomplished

by assigning selected waiver demonstrations higher reimbursement rates initially and reduced rates the longer period of time children are maintained in foster care. Such an arrangement would reward front-end waiver demonstrations that successfully prevent unnecessary placement while at the same time aligning federal financing incentives with the desired outcome of discouraging long-term foster care.

- Establish a national Waiver Demonstration Resource Center to assist states in developing the expertise to plan, implement, evaluate, and manage waivers. States that entered into partnerships with university research centers to provide this technical assistance, such as Illinois and Maryland, have secured multiple waiver to test innovative solutions to pressing child welfare problems.

An expanded and improved IV-E waiver program would give states greater flexibility while maintaining accountability for achieving desired outcomes. The evaluation requirements ensure that dollars are invested in only those innovations that are scientifically proven to work. Cost neutrality calculations reward states for successful innovations and limit the federal risk for failed experiments. To fully realize its promise, however, would require Congress' enacting the waiver improvements recommended by the Pew Commission and periodically acting on the results from waiver demonstrations by making proven innovations a statutorily allowable IV-E expense for all states. In this way, Congress can ensure that best practice and successful innovations routinely get woven into the institutional fabric of our nation's child welfare systems.

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Endnotes

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- ⁸ These principles are culled from a variety of sources, including: Report of the 1909 White House Conference on Dependent Children, Children's Bureau Legislative Guides to the Termination of Parental Rights and Responsibilities and the Adoption of Children, Child Welfare and Adoption Assistance Act of 1980, the United Nations Convention on the Rights of Children, the B.H. Consent Decree, and the Adoption and Safe Families Act of 1997.

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