



National Association of Public  
Child Welfare Administrators

an affiliate of the American Public Human Services Association

## **Child and Family Services Reviews Legislative Enhancements**

### ***Issue***

It is time once again to look at lessons learned and take action to improve child welfare monitoring processes. There are a number of issues that should be addressed prior to the next cycle of Child and Family Services Reviews (CFSRs), scheduled to begin in 2012. However, to ensure that the improvements gained in recent years are not lost, it is crucial that a moratorium be placed on the secretary of Health and Human Services to prohibit the assessment or collection of any financial penalties associated with State Plan requirements under Title IV, Parts B and E until Congress has the opportunity to improve the entire process.

The current law requires withholding funds. State administrators understand the need for accountability and the need to be good stewards of public funds. But there is the need to balance accountability with flexibility. Opportunities to implement corrective action plans should be extended to allow states to apply funds, which are subject to withholding, to improving performance. Penalizing states financially does little more than exacerbate problems by taking funds from areas that have the greatest need.

### ***Background***

Federal child welfare compliance reviews were first mandated by the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272). The early review system led to widespread dissatisfaction because it was paper focused, did not address outcomes for children and families served, and imposed penalties without providing technical assistance to improve performance. Beginning in 1989, Congress passed a series of moratoriums prohibiting the U.S. Department of Health and Human Services (HHS) from collecting penalties associated with these reviews.

In 1994 Congress adopted amendments to the Social Security Act (Public Law 103-432) that mandated a new review system to ensure states' substantial conformity with federal requirements under Titles IV-B and IV-E. The goal was to establish a system of accountability that would not only monitor substantial compliance but would lead to improved child welfare services and better outcomes for families and children served. The HHS was charged with providing technical assistance to help states improve performance before withholding any funds.

As stipulated by the law, HHS designed two types of reviews: (1) Child and Family Services Reviews to assess state compliance with activities funded by both Titles IV-B and IV-E; and (2) IV-E Reviews, which focus on the eligibility of state expenditures for foster care and adoption assistance. Between 2001 and 2004, all 50 states, the District of Columbia, and Puerto Rico completed their first round CFSR. In addition, and as required by the law, HHS established a Program Improvement Plan, or PIP, process. These corrective action plans give states an opportunity to end any noncompliance prior to HHS withholding any federal matching funds. To this end and to the extent feasible, technical assistance to enable the state to develop and implement needed corrective actions was made available through a network of National Resource Centers.

The first round of CFSRs served as a catalyst for national public child welfare reform. In many cases, the CFSR/PIP processes also contributed to more collaborative relationships between federal and state governments. By the end of September 2010, 42 states will have completed the on-site component of the second round of CFSRs.

There are growing concerns that the current CFSR/PIP structure and methodology are not an effective means to improve child welfare services and ultimately outcomes for children and families served. Concerns center on:

- *The accuracy, validity and reliability of current data used in the process to drive PIPs are questioned by child welfare experts and social science researchers.*
- *Baseline data on clients lacks uniformity, which limits its use to set national standards and to compare states' performance.* State child welfare systems serve a range of populations. Children and families who enter some state systems voluntarily, or through systems such as juvenile justice or mental health, are in the same database and held to the same standards as child protective services cases, despite the fact that they require a different service array and guidelines for interventions.
- *Reviews are time-consuming, labor-intensive and the cost burden of the on-site components of the reviews is significant.* The financial expenditures and extensive amount of staff time preparing and participating in the onsite component of the CFSRs could be better used to deliver services and develop programs for children and families. The estimated state cost for on-site components, when staff time is included, is at least \$500,000. This is particularly significant in an economic climate that has created staff shortages with furloughs, layoffs and hiring freezes.
- *The case sampling methodology is not valid, nor is it reliable, to reflect a state's practice.*
- *Significant delays in the release of final reports frequently lead to the use of outdated findings and recommendations to drive targeted improvements.* For some states this has been further exacerbated by delays in feedback and final PIP approvals. In addition, without a timely final report and approved PIP, it is difficult to request legislative funding for needed programs that are geared to improve outcomes for the children and families served.
- *Inconsistency in usefulness of technical assistance to states.* Some states report that the consultants provided do not understand the environment in which services are provided.
- *Penalties or threat of penalties promote adversarial relationships between states and the federal government, generate negative effects on staff morale and lead to wasted time and high attorneys' fees, in addition to withholding funds necessary to make corrections.*

## **Recommendations**

- First, the HHS secretary shall not reduce any payment to, withhold any payment from or seek any repayment from any state under Title IV Part B or E of the Social Security Act, by reason of a determination made in connection with any conformity review of state compliance with the State Plan requirements of the ACT for any federal fiscal year preceding fiscal year 2012.
- Second, Congress should review child welfare monitoring processes, and simplify these as much as possible, subject to maintaining effective accountability for improvements.
- Third, consideration should be given to allowing states to invest the funds subject to withholding in program management activities and service programs to improve the area of nonconformity.