



National Association of Public
Child Welfare Administrators

an affiliate of the American Public Human Services Association

How States are implementing the Fostering Connections Act

Montana's At-risk Children

Montana's Department of Health and Human Services, Child and Family Services Division (CFSD), is the agency designated responsible for providing child protective services to Montana's children. The CFSD's Centralized Intake system receives approximately 25,000 calls each year with approximately 15,000 entered into Montana's child welfare automated system. For the twelve month period ending 06/30/09 Montana investigated 8,735 reports of abuse and neglect that involved 11,500 children. Of these reports, 13 percent were substantiated and 860 children entered out-of-home care.¹ Families reported to Centralized Intake whose issues do not meet the definition of abuse or neglect as defined in statute, but who are in need of assistance, are referred to community based programs for primary prevention services to strengthen families' ability to maintain children safely in their own homes.²

From 2006 through 2009, Montana experienced a significant reduction in the number of children in-out-of home care.³ On June 30, 2006, Montana had 2,092 children in out-of-home care. Data from June 30, 2008, shows that the number of children in out-of-home care was down to 1,770.⁴ As of June 30, 2009, 1,570 Montana children were in out-of-home placement.⁵ The cost saving with the reduction in foster care was not proportionate to the decrease because the children remaining in care have higher levels of need than those who exited. Cost saving that was recognized was diverted to support services to meet the higher levels of need for children remaining in out-of-home care, services to stabilize placements, and services for in-home/reunification.⁶

Montana's in-home/reunification service array is one factor contributing to the decrease in out-of-home placements. In State Fiscal Year 2008 1,770 children received in-home/reunification services.⁷ Through these services every effort is made to divert children from entering the foster care system and reduce the duration of stay in out-of-home placements. In addition, an extensive statewide methamphetamine awareness program has been conducted. This statewide program is believed to be a contributing factor for a decrease in the number of children needing placement services due to parental use of methamphetamines.⁸ In June, 2009, 29.2 percent of the children in care whose parent(s) were involved with drugs or alcohol had parent(s) who used Methamphetamines compared to 51.5 percent in August, 2006. An emerging trend appears to link increased alcohol and prescription drug abuse to many new foster care placements.⁹

Because of the economic downturn, the State has been concerned that foster care caseloads may increase. For the past few months, the number of children in out-of-home placement has increased slightly each month.¹⁰

Montana's Budget Landscape

Montana was one of the few states which was initially less impacted by the national economic problems. As a mineral-rich state, Montana saw revenue growth as a result of high oil prices. However, with the decline in oil prices, revenues are declining¹¹ and budget issues have emerged. Montana has a biennium budget and the state will receive \$16 million in federal fiscal stimulus¹² but this may not be enough to off-set dwindling state revenues coupled with an increasing need for social services—a portion of the federal stimulus monies was allocated for provider rate increases for foster families and other substitute care providers. The state has implemented a 7 percent vacancy savings which has resulted in a delay in the State's ability to hire staff when a vacancy occurs. The child welfare program must find ways to operate on less state funding at the same time federal funding is decreasing.¹³

P.L. 110-351 State Options

Guardianship Assistance Program (GAP) will be implemented in Montana. The state operated a subsidized guardianship program under a Title IV-E Demonstration Waiver from January 1999 to March 2007.¹⁴ The state continues to fund the guardianships established under the demonstration project. The CFSD was advised by the Administration of

Children and Families (ACF) that a) the program could be terminated in December 2009; and b) the children who were being served under the demonstration project could be grandfathered into the new federal program. The state plan amendment addressing the requirements of the Guardianship Assistance Program has been submitted to the ACF Denver Regional Office and additional Title IV-E children will be submitted for federal funding as soon as the state plan amendments are approved. The fiscal impact of the new program is unknown but is expected to be minor, if any, because the Montana program will require that the child be in foster care for a minimum of six months before a guardianship can be established. The benefit of the new Title IV-E Guardianship Assistance Program in Montana will be that permanency will be achieved for a larger number of children. One difference between the Title IV-E guardianship demonstration project and the new Guardianship Assistance Program is that under the demonstration program guardianships could be established on behalf of Title IV-E eligible children who were placed with non-relative families. Except for those children in non-relative guardianships grandfathered into the new program, no Title IV-E eligible child placed in foster care with a non-relative family will be eligible for Title IV-E guardianship assistance.¹⁵

The proposed state plan amendments contain an expanded definition of kin that includes non-blood relatives and recognizes the importance of clan membership for Tribal children. The proposed definition of a kinship guardian is: a) a member of the child's extended family; b) a member of the child's or family's tribe; c) the child's godparents; d) the child's stepparents; or e) a person to whom the child, child's parents and family ascribe a family relationship and with whom the child has had a significant emotional tie that existed prior to the agency's involvement with the child or family. CFSD policy allows guardianship as a permanency option for children at any age who are in either state or tribal custody after a determination is made at a permanency staffing that neither reunification with the child's parents nor adoption is in the best interest of the child. Either state or tribal courts can approve the guardianship (depending on jurisdiction).^{16 17}

Support to eligible young adults aged 19, 20, or 21 may be implemented in Montana on a limited basis. Foster care payments end when the child reaches the age of 18, unless extended with approval by the Division Administrator. Mont. Code Ann. §52-2-603 allows CFSD to make out-of-home placement payments for youth to age 21 if the youth remains in substitute care and funding is available. A youth must enter into an agreement with CFSD to remain in care and to stay in school. Presently, the CFSD does not fund placements beyond age 18 for post secondary education but this may be considered when the federal funds are available, depending on Montana's budget picture and further legislative approval.^{18 19}

Support to eligible youth who exit care to guardianship or adoption after age 16 is under review for possible implementation. Currently, youth adopted from foster care or appointed a guardian after reaching age 16 are eligible for the Montana Foster Care Independence Program that serves youth under the age of 21 emancipating from the foster care system. These services are designed to provide youth the life skills they need to make a successful transition into adulthood and include: interactive group instructional meetings which provide peer support and experiential activities within a community, transitional living plans that help youth identify goals, life skills assessments that help youth identify their strengths and needs and provide a framework for selecting appropriate programs and services, mentors, incentive payments, training vouchers for eligible institutions, stipends that may be used for education and associated expenses (travel, room and board, expenses for setting up dormitory room or apartment) and other activities that increase life skills and improved employability.²⁰

Montana Tribes

Montana has twelve Indian Tribes on seven federal reservations: Fort Peck (Assiniboine and Sioux), Blackfeet, Rocky Boy (Chippewa and Cree), Fort Belknap (Assiniboine and Gros Ventre), Crow, Northern Cheyenne, Flathead (Salish, Pend d'Oreille, and Kootenai). Montana also has one landless tribe, the Little Shell Band of Chippewa Indians, which has received provisional federal recognition. All tribal/state relations are held on a government-to-government basis. Montana has Title IV-E contracts with six of the seven federally recognized Tribal groups and has a Title IV-E agreement with the seventh (Fort Peck).²¹ The tribal leadership from each reservation took a very active role in the negotiations of these contracts/agreements which address tribal sovereignty issues as well as specific federal requirements.²² State Program and Fiscal Bureau staff provide technical assistance and consultation to the Tribes in the areas of foster care, guardianship, adoption, Title IV-E eligibility, Tribal contracts, the Montana Foster Care Independence Program, Child Protection Services and the Interstate Compact on the Placement of Children. Monitoring of the contracts is limited to assuring compliance with federal statute. Policy, program, practice, fiscal, and personnel requirements are under the authority of the Tribes for those Tribes which contract with the State. Montana has an Indian Child Welfare Act (ICWA) program specialist who is directly responsible for assisting field staff in their compliance with the provisions of ICWA and serves

as a liaison between state and tribal programs. CFSD continuously works diligently to sustain and develop collaborative and meaningful partnerships with Tribal governments in the State. Montana is often cited as a national leader in this regard.²³

P.L. 110-351 Mandatory Provisions

Montana requested a delay for implementation of all the mandatory provisions except sibling connections. The reason was to be able to properly analyze what statutory and policy changes may be required. Further guidance from ACF is needed to conduct this analysis.

Relative Notification begins with a family identification meeting that occurs within three days after a child's removal in those regions where family identification meetings are available. Montana also uses its Family Group Decision Making process to notify and locate relatives on an ongoing basis. The CFSD adopted policy related to diligent search for relatives and notification of identified relatives within 30 days of placement. The CFSD is awaiting further clarification from ACF related to requirements for "comprehensive notification to all relatives within 30 days of placement". In addition it is still unclear what constitutes an acceptable relative search by federal standards. Currently, Montana identifies relatives by asking the parents and expands its search by asking other relatives as they are located. There is significant focus on family finding efforts and increased use of kin placements.²⁴ In 2003 kin placements were 19.11 percent of total out of home placements. By 2007 the percentage had increased to 26.6 percent, an overall increase of 39 percent.²⁵

Sibling Connections is the only mandatory provision for which Montana did not request a delay. Montana has met the challenges in this area and performs well. Case files must document in the child's case plan whether the child is placed with siblings and explain why siblings are separated. Updated information is required for each Foster Care Review Committee (FCRC) meeting. Due to the limited number of foster homes in some communities and the vast area the state covers, when siblings are not placed together in some instances it can mean they are seventy to one-hundred miles apart. Because of this, special recruitment efforts are made to find foster families to reunify separated siblings and take large sibling groups. Montana's foster home licensing standards allow for an exception to be granted on the number of children for whom a family may be licensed if the exception is needed to prevent separation of a sibling group.²⁶

Health oversight and coordination continues to present challenges although this was found to be a strength in Montana's August 2008 Child and Family Service Review.²⁷ Montana has a large land area and transportation in some rural areas is limited, making the access to all types of medical services a challenge. Throughout the state access to dental and mental health services is problematic, primarily due to the rural nature of the State and Medicaid reimbursement rates for these services.²⁸ If a child has not received a medical exam during the investigation of suspected child abuse/neglect, an exam is required prior to placement in the foster home or within the first 30 days after placement. An Early and Periodic Screening, Diagnosis and Treatment (EPSDT) exam must be requested to establish any ongoing or future treatment needs. Within 45 days of removal, the substitute care provider is required to complete a Child Assessment by Foster Care Provider for the child. This assessment is utilized to determine if the child's behaviors warrant a mental health assessment. In addition, children under the age of 3 who are placed in foster care must be referred to the local developmental disability Part C program for assessment for developmental disabilities. The medical records of the child are up-dated every six months for inclusion in the report submitted to the Foster Care Review Committee. Depending on the needs of the youth, Medicaid benefits may be available up to age 21 if the youth remains in substitute care. Medicaid benefits may also be available under a subsidized adoption agreement if the needs of the youth warrant coverage.²⁹

Transition planning for children aging out of foster care must be developed for youth in foster care at age 16 or within 60 days of placement for youth 16 or older upon entering care. Youth age 13 to 15 years of age and their foster care providers complete a life skills assessment. The results are used to identify the youth's strengths and needs and provide a framework for the foster care provider to work with the youth. All youth age 16 and older must be referred to the Montana Foster Care Independence program and have a written Transitional Living Plan (TLP). These TLPs identify the programs and services to be offered to the youth—updates to the plan must to occur at least every six months in conjunction with the FCRC meeting or more often if needed. Youth participate in these meetings to develop or update his or her plan.³⁰ Beginning in April, 2008 CFSD replaced the contracted delivery of these services with CFSD transitional living specialists (TLS) who work closely with the youth. The TLS's utilize the Ansell Casey Life Skills Assessment in working with the youth to develop the youth's transitional living plan. Chafee funds are used when applicable and appropriate. The approach is youth and family centered.³¹ Youth Centered Meetings are scheduled as needed to help youth identify their needs, personal goals, independent living goals and available resources. In addition, the Youth Centered Meetings provide an excellent avenue to include youth in the decision-making about his/her life/case planning.³²

Family Connections Grants

Montana was unable to identify the required state funding match to submit an application for any of these grants. Initially, CFSD was working with Montana State University (MSU), Department of Health and Human Development, to develop innovative kinship care initiatives, which included a kinship navigator program. But the state could not go forward with these efforts because it did not have the funds for the state match. There was discussion with the ACF, Children's Bureau Regional Office, to ask about the possibility of eliminating the match requirement based on the most recent economic downturn. Since the match is required by federal law, ACF could not permit an exception. Montana operates on a biennium budget and to make the necessary match commitment would have required legislative action for the match commitment for the third year of the grant. This was not feasible given the timeframes and the economic conditions. The Department did submit a grant application on behalf of MSU; however, as of September 28, MSU had not received notice of a grant award.³³

Family Group Decision Making (FGDM) meetings were started in Montana in 1995 and are institutionalized statewide as an important case practice engaging family and professional support systems to reduce risk for a child. FGDM meetings must be offered within the first 90 days of any case being opened for services, regardless of whether or not the child has been placed out of the home. This is a service component that has been integrated into Tribal agreements.³⁴ Twenty-two percent (185 meetings) were conducted for Native American children involved with the CFSD in SFY2007.³⁵

The CFSD is assessing the feasibility of instituting an intensive family finding process. Development of this process will be integral in addressing permanency needs for youth in long-term foster care. Lack of permanency for these youth was identified as an area needing improvement during the 2008 CFSR process.³⁶

Montana's foster home licensing standards include exceptions that can be granted for kin care placements. One exception which can be granted is mentioned above related to the number of children for which a family may be licensed. An exception may be granted if the exception is necessary to prevent separation of a sibling group. Another exception that may be granted is related to the space required for sleeping arrangements.³⁷

Opportunities & Challenges

Montana does an excellent job involving the tribes and public and private community agencies (e.g. faith based organizations, mental health, corrections, etc) in serving children and families. But the economy has stretched all these partnerships to maximum capacity. The state has not completed a full cost benefit analysis on the options and mandates of the Act but implementing these provisions and mandates along with other pending requirements in a restrained economic climate presents a number of challenges. For example, geography and transportation issues are frequently further compromised by weather conditions impeding the ability of workers to meet the federal face-to-face calendar month child visitation requirement and families may need to travel a great distance in rural areas for specialized services. The state is still working to modify the automated system to comply with the National Youth in Transition Data (NYTD) regulations. Although funding for development of a new SACWIS was approved in 2007, these new mandates require modifications to the existing automated system, challenging the capacity of the available hardware, because implementation cannot be delayed until the new system is implemented.

Pending notification of federal guidance related to relative notification the state intends to proceed with the diligent search requirement by identifying relatives via information from parents and utilizing Family Group Decision-making meetings. Legislation was enacted by the 2009 Legislature which requires that the CFSD establish a close relative registry effective October 1, 2009. Once established, close relatives (defined as the child's grandparents, aunts, uncles, adult brothers, and adult sisters) may register with the CFSD for notification on the first working day after the child is placed in foster care. This registry will assist Montana in meeting the diligent search requirement. However, depending on how comprehensive the search must be with the increased requests for licensing studies, system capacity may become an issue. In addition, the expanded search/notification requirement may require legislative changes as well as policy changes to address confidentiality issues.³⁸

Conclusion

Family centered practice is the focus in Montana. Therefore, Montana would support changes at the federal level which would enhance Montana's ability to increase involvement of families when working with children who have been abused or neglected. Title IV-E guardianship assistance should be available to establish subsidized guardianships for Title IV-E eligible children with non-relatives. De-linking foster care from the 1996 AFDC requirements would make more children eligible for Title IV-E and provide a new infusion of federal funds, freeing up more of the state's general fund revenues to support older youth and enable the development of specialized services in remote rural areas.

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- ² Ibid.
- ³ Conference call with Shirley Brown, Division Administrator, Montana Child and Family Services Division. August 18, 2009.
- ⁴ State of Montana, Department of Public Health & Human Services, Child and Family Services Division. *Statewide Assessment*. (May 2008). Retrieved September 1, 2009 from <http://www.dphhs.mt.gov/publications/statewideassessment.pdf>.
- ⁵ State of Montana, Department of Public Health and Human Services, Child and Family Services Division database.
- ⁶ Conference call with Shirley Brown, Division Administrator, Montana Child and Family Services Division. August 18, 2009.
- ⁷ State of Montana, Department of Public Health and Human Services, Child and Family Services Division database.
- ⁸ State of Montana, Department of Public Health & Human Services, Child and Family Services Division. *Statewide Assessment*. (May 2008). Retrieved September 1, 2009 from <http://www.dphhs.mt.gov/publications/statewideassessment.pdf>.
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- ¹³ Conference call with Shirley Brown, Division Director, Montana Child and Family Services Division. August 18, 2009.
- ¹⁴ Conference call with Shirley Brown, Division Director, Montana Child and Family Services Division. August 18, 2009.
- ¹⁵ National Center for Children in Poverty, Columbia University Montana Child Welfare Waiver http://www.researchforum.org/project_general_197.html.
- ¹⁶ Conference call with Shirley Brown, Division Director, Montana Child and Family Services Division. August 18, 2009.
- ¹⁷ Montana's Title IV-E State Plan Guardianship Assistance Plan Amendments, submitted to ACF, September, 2009.
- ¹⁸ State of Montana, Department of Public Health & Human Services, Child and Family Services Division. *Statewide Assessment*. (May 2008). Retrieved September 1, 2009 from <http://www.dphhs.mt.gov/publications/statewideassessment.pdf>.
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- ²³ Conference call with Shirley Brown, Division Director, Montana Child and Family Services Division. August 18, 2009
- ²⁴ Conference call with Shirley Brown, Division Administrator, Montana Child and Family Services Division. August 18, 2009.
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- ²⁶ Conference call with Shirley Brown, Division Administrator, Montana Child and Family Services Division. August 18, 2009.
- ²⁷ Conference call with Shirley Brown, Division Administrator, Montana Child and Family Services Division. August 18, 2009.
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- ³¹ Conference call with Shirley Brown, Division Administrator, Montana Child and Family Services Division. August 18, 2009.
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- ³³ Conference call with Shirley Brown, Division Director, Montana Child and Family Services Division. August 18, 2009
- ³⁴ Conference call with Shirley Brown, Division Director, Montana Child and Family Services Division. August 18, 2009
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- ³⁶ Conference call with Shirley Brown, Division Director, Montana Child and Family Services Division. August 18, 2009
- ³⁷ Montana's Licensing Requirements for Youth Foster Homes, adopted June 2006
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