



National Association of Public  
Child Welfare Administrators

an affiliate of the American Public Human Services Association

## **How States are Implementing the Fostering Connections Act**

### **New York's At-risk Children**

New York's public child welfare system is State supervised and county administered, which includes 62 jurisdictions.<sup>1</sup> In 2006, New York had a total of 26,973 children in foster care<sup>2</sup> and about 2,413 new cases were placed with relatives.<sup>3</sup> In the same time period, about 8,040 of these children were waiting on adoption and the state finalized 2,810 adoptions.<sup>4</sup> From 2005 to 2008, the state's foster care caseloads have remained steady.<sup>5</sup>

### **New York's Budget Landscape**

New York's projected budget gap for fiscal year 2009 is \$4.7 billion, which is 3.4 percent of the general funds.<sup>6</sup> Governor David A. Patterson's projected budget gap for fiscal year 2010 is \$17.7 billion, which is 24.3 percent of the general funds.<sup>7</sup> Due to the most recent economic crisis, the state faces significant decreases in revenue as it largely relies on housing and Wall Street stock markets. Although the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) is a helpful resource for states, it is not expected to significantly offset New York's projected \$17.7 billion gap.<sup>8</sup>

Despite its budget deficit, the state continues to reimburse counties at a rate of 63.7 percent for child protective and preventive, adoption and independent living services.<sup>9</sup> These uncapped funds have grown by \$16 million in the past year and continue to remain flexible. New York funds counties' foster care programs through a block grant. Once the county has spent allocated state dollars, it is responsible for paying the rest of its out-of-home program expenditures. The state is currently reimbursed for federally eligible foster and adoptive children at a 50 percent match rate. Although this federal assistance has helped the state, New York has seen a 15.5 percent decrease in Title IV-E maintenance and administrative claims from FY 2004 to FY 2006.<sup>10</sup>

### **P.L. 110-351 State Options**

New York's focus is to implement elements of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) that will create positive outcomes for all children in the state.<sup>11</sup> As New York examines the mandatory and optional provisions of P.L. 110-351, the state must make several policy and legislative changes to accomplish this goal. As a result, the state may experience a delay in implementation.

New York does not currently operate a guardianship assistance program and is considering the new federal option.<sup>12</sup> First, New York must address several policy and practice issues that negatively impact the state. These policy changes would include determining eligibility standards for families to receive subsidy and defining "child" and "relative" in the state's statute. At this time, the state is conducting a stakeholder roundtable discussion and working with their legislature to address these issues. Additionally, the state is working closely with judges, advocates, and others on the best way to move forward with the program. Once New York identifies these standards, the state intends to craft legislation that will help design an effective guardianship assistance program. Moreover, New York is also awaiting clarity from the Administration for Children and Families (ACF) to determine if the state can claim eligible cases to the law's effective date as this outcome can reflect positively or negatively on the state's budget.

Regarding transitioning youth, New York currently supports youth ages 18, 19, 20, and 21 with state funds.<sup>13</sup> Prior to implementing a federal program, the state must receive ACF guidance on the extending support to older youth provision of P.L. 110-351. Currently, New York requires youth ages 18 to 21 to remain in custody to receive support. To ensure state law mirrors the Fostering Connections language, the state needs additional guidance on these provisions prior to making legislative changes to their current statute. New York also extends support to certain disabled older youth exiting care before age 18 and adoption assistance after age 18.

## **New York's Tribes**

The state has two federally recognized tribes which are the Seneca Nation of New York and the St. Regis Band of Mohawk Indians of New York.<sup>14</sup> The St. Regis tribe has expressed interest in operating a Title IV-E program under P.L. 110-351. The federal government provides implementation grants to help Tribes prepare and submit a Title IV-E plan. However, if the tribe decides it lacks the capacity to operate the program, they must return the implementation grant funding. The tribe is concerned about returning the funds if they find they are unable to operate a program. The St. Regis tribe broadly extends throughout the northern counties of New York and, reaches the Canadian boarder. Therefore, the state and Tribe may face inter-jurisdictional issues as they both must follow federal, state and international guidelines when serving at-risk children and families.

## **P.L. 110-351 Mandatory Provisions**

New York currently complies with the mandatory provisions of the Fostering Connections Act and successfully collaborates with several systems throughout the state to improve policies and practices for youth in care.<sup>15</sup> To expand this effort, New York has a Council on Children and Families throughout each jurisdiction, where state administrators negotiate solutions for interagency collaborations. Commissioners of the Office of Children and Family Services (OCFS), the State Education Department (SED), the Office of Mental Health (OMH), the Office of Mental Retardation and Developmental Disabilities (OMRDD), the Office of Alcoholism and Substance Abuse Services (OASAS), the Department of Health (DOH), and the Division of Probation and Correctional Alternatives (DPCA) assemble to discuss statewide cross-systems collaborations to better serve children and families.<sup>16</sup> OCFS provides counties with oversight and coordination to effectively comply with all mandatory requirements of P.L. 110-351.

New York issued emergency regulations on December 31, 2008 to require counties to comply with the new federal requirements.<sup>17</sup> New York amended their state regulations to clarify the educational stability provision, requiring counties to have foster children remain in their school of origin where possible and coordinate with the child's local school district to obtain records. Additionally, children must attend school full-time unless they have a medical condition. Regarding relative notice, state law already requires counties to exercise due diligence to identify relatives when a child is removed from the home. The emergency regulations expand state language to recognize the importance of relatives being notified with the exception of those who have a history of domestic violence. To encourage strong sibling connections, New York immediately places siblings together once they enter into care whenever appropriate. Under the transitional plan for youth aging out, New York's regulations were amended to require that case planning for the foster child must commence 180 days prior to the child's 18<sup>th</sup> birthday or scheduled discharge date and the transition plan must be completed 90 days prior to the scheduled discharge date. Moreover, youth must give voluntary consent to remain in care past age 18. Through New York's Council on Children and Families, OCFS is working with DOH to continue to successfully meet the health oversight mandates of P.L. 110-351 by updating their health records and documenting children's medical visits through their data base system. Because New York faces significant budget cuts, the state may experience administrative challenges as counties implement these provisions.

## **Family Connections Grants**

Prior to applying for a Family Connections Grant (FCG), the state plans to hold roundtable discussions with judges, advocates, and case workers to discuss efficient and cost effective programs that are funded under this provision.<sup>18</sup> The state provides funding for various counties to operate Kinship Navigator and family team conferencing programs. New York also has intensive family finding initiatives in several counties, but there are no formal procedures around these efforts.

## **Opportunities and Challenges**

There are many opportunities in the optional provisions for New York, particularly around the extension of services for older youth as the state plans to use federal dollars to continue this support.<sup>19</sup> However, New York faces some challenges with certain optional provisions. The state is also working with their budgetary staff to determine the impact of other provisions. Once New York receives these figures, the state can calculate expenditures and cost savings for certain programs.

The state is reforming their SACWIS (known as CONNECTIONS) to document that the mandatory provisions are being effectively implemented.<sup>20</sup> New York requires its workers to heavily utilize SACWIS to document services required under state and federal law. The state is also interested in free technical assistance around P.L. 110-351 implementation and strategies for cost savings.

## Conclusion

New York's caseloads have remained consistent;<sup>21</sup> however the state is passionate about improving the outcomes for children and families by enhancing policy and practice.<sup>22</sup> To help strengthen this effort, the state is reviewing P.L. 110-351's optional provisions, especially those that will provide a fiscal advantage. The state is assisting the state legislature to draft legislation that will positively impact the state's at-risk children. As New York continues to explore how it will move forward with implementation, the state continues to work with other agencies to develop strong cross-systems collaboration in meeting the needs of vulnerable youth and families.

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<sup>1</sup> New York State Office of Children and Family Services (OCFS).

<sup>2</sup> Children's Bureau. Adoption and Foster Care Reporting System (AFCARS). Adoptions of Children with Public Child Welfare Agency Involvement By State FY 1995 – FY 2006. Revised March 2008.

<sup>3</sup> Children's Bureau. Adoption and Foster Care Reporting System (AFCARS). Adoptions of Children with Public Child Welfare Agency Involvement By State FY 1995 – FY 2006. Revised March 2008.

<sup>4</sup> Children's Bureau. Adoption and Foster Care Reporting System (AFCARS). Adoptions of Children with Public Child Welfare Agency Involvement By State FY 1995 – FY 2006. Revised March 2008.

<sup>5</sup> National Association of Public Child Welfare Administrators. Survey on Reduction Strategies and Cost Savings. November 2008.

<sup>6</sup> National Conference of State Legislatures (NCLS). Update on State Budget Gaps: Still Bleak. February 2009.

<sup>7</sup> National Conference of State Legislatures (NCLS). Update on State Budget Gaps: Still Bleak. February 2009.

<sup>8</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>9</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>10</sup> Child Trends. Federal, State, and Local Spending to Address Child Abuse and Neglect in SFY2006. December 2008.

<sup>11</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>12</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

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<sup>14</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>15</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>16</sup> New York State Office of Children and Family Services (OCFS).

<sup>17</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>18</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>19</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>20</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.

<sup>21</sup> National Association of Public Child Welfare Administrators. Survey on Reduction Strategies and Cost Savings. November 2008.

<sup>22</sup> Conference call with Bill Gettman & Dee Alexander, New York State Office of Children and Families Services (OCFS), on March 9, 2009.