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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families

1. Log No: ACYF-CB-IM-06-05

2. Issuance Date: December 7, 2006

3. Originating Office: Children's Bureau

4. Key Words: Title IV-B, Child Welfare Services Program, Promoting Safe and Stable Families Program, Monthly Case Worker Visits, Regional Partnership Grants

INFORMATION MEMORANDUM

TO: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Titles IV-B and IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations.

SUBJECT: **NEW LEGISLATION:** The Child and Family Services Improvement Act of 2006 (Public Law (P.L.) 109-288).

REFERENCES: Titles IV-B and IV-E of the Social Security Act (the Act); P.L. 109-288.

PURPOSE: This is to inform State, Tribal and Territorial Title IV-B and IV-E agencies of the enactment of the Child and Family Services Improvement Act of 2006, provide basic information about the provisions of this law and discuss its implications for such agencies.

INFORMATION: President George W. Bush signed the Child and Family Services Improvement Act of 2006 into law on September 28, 2006. The new law makes changes to Title IV-B, subparts 1 and 2, of the Act, and reauthorizes the Promoting Safe and Stable Families Program (PSSF) and the basic grant under the Court Improvement Program. A summary of the major changes to the programs follows¹:

Child Welfare Services Program (Title IV-B, subpart 1)

The law changes the Title IV-B, subpart 1, program from a permanent authorization to a five-year authorization. It authorizes \$325 million for each of the Federal Fiscal Years (FY) 2007 through 2011. In lieu of the definition of "child welfare services" formerly section 425(a)(1) of the Act, funds spent by States and Tribes must be spent according to a newly established program purpose. This allows a broader array of

¹ All references to a "State" or "States" include the Territories that administer Title IV-B of the Act.

services and activities and promotes more State flexibility to design their programs accordingly. The new program purpose is to: protect and promote the welfare of all children; prevent the neglect, abuse or exploitation of children; support at-risk families through services that allow children to remain with their families or return to their families in a timely manner; promote the safety, permanence and well-being of children in foster care and adoptive families; and provide training, professional development and support to ensure a well-qualified workforce (sections 421 and 425 of the Act).

Title IV-B, subpart, 1 State/Tribal Plan Requirements. The law adds new IV-B, subpart 1, plan requirements at section 422 of the Act that require the State and Tribes to:

- Spend no more than 10 percent of Federal expenditures for administrative costs (effective October 1, 2007);
- Describe how physicians or other appropriate medical professionals are consulted and involved in assessing the health and well-being of foster children and for determining appropriate medical treatment;
- Have in place a disaster plan for programs funded by Title IV-B and IV-E (effective September 28, 2007); and
- Describe standards for the content and frequency of caseworker visits for children in foster care, which at a minimum must be monthly and focus on case planning and service delivery (effective October 1, 2007) (section 422(b)(14)-(17) of the Act).

The law revises and updates the language in several other Title IV-B, subpart 1, plan requirements, including:

- Provisions requiring a description of services and activities carried out under IV-B, subpart 1;
- Provisions requiring a description of the steps taken to expand and strengthen the range of existing services and develop and implement services to improve child outcomes; and
- Provisions requiring policies and procedures for children abandoned at or shortly after birth (section 422(b)(3), (4) and (8) of the Act).

The law removes obsolete Title IV-B, subpart 1, plan requirements, including:

- Provisions requiring the application of child care standards under the Social Services Block Grant to Title IV-B;
- Provisions regarding training and the use of paraprofessionals and volunteers; and
- Provisions requiring an inventory of children in foster care.

Monthly Caseworker Visit Data and Performance Measures for States. To receive FY 2008 funding under Title IV-B, subpart 1, the law requires the State to submit FY 2007 data on:

- The percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and
- The percentage of the visits that occurred in the residence of the child (section 424(e)(1) of the Act).

States, in consultation with the U.S. Department of Health and Human Services (HHS), are required to establish by June 30, 2008, an outline of steps to be taken to ensure that 90 percent of children in foster care are visited by their caseworkers on a monthly basis by October 1, 2011, and that the majority of the visits occur in the residence of the child. The outline must include target percentages to be reached each fiscal year. HHS must reduce the Federal share of match for a State's Title IV-B, subpart 1 funds by a certain statutory percentage if the State does not meet its annual progress toward the 90 percent caseworker visit standard (section 424(e)(2) of the Act).

Limit on Use of Child Welfare Services Funds. The law prohibits States/Territories, for FY 2008 and later, from spending their Title IV-B, subpart 1, funds on child care, foster care maintenance or adoption assistance payments in excess of the amount of Title IV-B, subpart 1, funds they spent on these activities in FY 2005 (section 424(c) of the Act).

Limit on Use of Non-Federal Foster Care Funds for Program Match. In addition, beginning in FY 2008 a State can not use more than the amount it spent in FY 2005 using non-Federal funds on foster care maintenance payments as match for the Title IV-B, subpart 1, program (section 424(d) of the Act).

Promoting Safe and Stable Families (Title IV-B, subpart 2)

The law reauthorizes the PSSF program for FY 2007 through FY 2011. Title IV-B, subpart 2, mandatory funds are reauthorized at \$345 million and discretionary funds at \$200 million.

FY 2006 Monthly Foster Care Caseworker Visit Funds. The law appropriates \$40 million for FY 2006 in Title IV-B, subpart 2, program mandatory funds for States to spend through September 30, 2009. States may only spend the funds to support monthly caseworker visits with children who are in foster care under the responsibility of the State, with an emphasis on activities that will improve caseworker retention, recruitment, training and the ability to access the benefits of technology.

FY 2007 – FY 2011 PSSF Funding for Monthly Caseworker Visits to Children in Foster Care. The law creates a set-aside to support State spending on monthly caseworker visits in the following amounts: \$5 million for FY 2008; \$10 million for FY 2009; and \$20 million for each of FYs 2010 and 2011. No FY 2007 funds are set aside for monthly caseworker visits during that fiscal year although, as noted above, FY 2006 funds may be utilized for this purpose. Funds are allotted to States by formula and require a 25 percent State match. Funds are to support monthly caseworker visits with children who are in foster care under the responsibility of the State, with a primary emphasis on activities designed to improve caseworker retention, recruitment and ability to access the benefits of technology (sections 433(e) and 436(b)(4) of the Act).

Title IV-B, subparts 1 and 2, Expenditure Reports. States and Tribes must submit to HHS annually, the planned child and family services expenditures by the agency for the next fiscal year. In addition, States and Tribes must submit to HHS annually its Title IV-B, subparts 1 and 2, actual expenditures for the preceding fiscal year along with numbers of families and children served, the population served and the geographic areas served by the agency. Reports are due beginning June 30, 2007. The Administration for Children and Families (ACF) must in turn compile and report these State estimates and expenditures to Congress annually beginning September 30, 2007 (sections 432(a)(8)(B) and 432(c) of the Act).

Administrative Costs for the PSSF Program. States may only spend 10 percent of the total expenditures for PSSF on administrative costs (section 434(d) of the Act).

Tribes and Tribal Consortia. The law amends the PSSF program to allow Tribal consortia to apply for Title IV-B, subpart 2, funds (sections 432(b)(2), 433(a), 434(c), 436(b)(3), 437(b)(3) and (c)(1)).

The law also increases the set-asides for Indian Tribes (including Tribal consortia) under the mandatory and discretionary funds to three percent each, from one and two percent respectively (sections 436(b)(3) and 437(b)(3) of the Act).

The law removes the HHS Secretary's authority to exempt Indian Tribes (including Tribal consortia) from requirements under the PSSF program, with the exception of the 10 percent limit on administrative costs and the requirement to spend a significant portion of PSSF funds on each of the four service categories. Consequently, Tribes are now required to assure that PSSF funds will not be used to supplant Federal or non-Federal funds expended under this subpart (sections 432(b)(2)(A) and 432(a)(7)(A) of the Act).

Regional Partnership/Substance Abuse Grants. The law creates a new set aside in Title IV-B, subpart 2, for competitive regional partnership grants to increase the well-being of, and improve the permanency outcomes for, children affected by methamphetamine or other substance abuse. Grants may be used for family-based substance abuse treatment, mental health services, preventive services and counseling among other services and activities consistent with the grants' purpose. Grants are for two to five years for amounts between \$500,000 and \$1 million. The regional partnerships must involve either a State Title IV-E/IV-B agency or an Indian Tribe or Tribal consortium along with other partners. Funding levels will be \$40 million for FY 2007; \$35 million for FY 2008; \$30 million for FY 2009; and \$20 million for each of FYs 2010 and 2011. ACF will issue an announcement at a later date outlining the grant application requirements.

Requirements for Foster Care Proceedings. The law amends the definition of the case review system to require States and Tribes to have procedural safeguards in place to ensure that courts conducting permanency hearings consult with youth, if age-appropriate, regarding his/her permanency plan. The requirement applies to both Title IV-E and IV-B of the Act. States will need to update the Title IV-E State plan preprint (section 475(5)(C) of the Act).

Court Improvement Program (Title IV-B, subpart 2)

The basic Court Improvement Program is reauthorized without change through FY 2011 (section 438 of the Act).

Implications of the Title IV-B Amendments for States and Tribes

ACF plans to issue detailed guidance under a separate program instruction on the new Title IV-B plan and other requirements in the law.

However, ACF wants to highlight several areas that States and Tribes should focus their attention on now.

FY 2006 State PSSF Expenditures. The \$40 million PSSF program funds appropriated for FY 2006 must be used to “support monthly caseworker visits with children who are in foster care under the responsibility of the State, with a primary emphasis on activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.” States have through September 30, 2009, to spend the \$40 million appropriation. Since these funds are for the explicit purpose of the monthly caseworker visits and other related costs, States must track the \$40 million to ensure funds were spent according to the statutory guidelines including non-supplantation of IV-E funds. For the purposes of this requirement, States are to use the definition of foster care in 45 Code of Federal Regulations (CFR) 1355.20. ACF will provide more details on tracking Title IV-B expenditures, both actual and planned, at a later date (section 436(a)(4) of the Act).

2007 Annual Progress and Services Report (APSR) for States and Tribes. The APSR due June 30, 2007, must address the following new requirements:

- The assurance that no more than 10 percent of the State or Tribe’s subpart 1 expenditures are spent on administrative costs. States and Tribes should begin developing a process to track their administrative expenditures under Title IV-B, subpart 1. Administrative costs are defined in section 422(c)(1) of the Act as costs for the following activities to the extent they are incurred in administering the Title IV-B State plan: procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under Title IV-B, subpart 1) (section 422(b)(14) of the Act).
- The description of how physicians or other appropriate medical professionals are consulted and involved in assessing the health and well-being of foster children and for determining appropriate medical treatment (section 422(b)(15) of the Act).
- The disaster plan for the Title IV-B programs that must include how a State or Tribe would: 1) identify, locate and continue availability of services for children under State care or supervision

who are displaced or adversely affected by a disaster; 2) respond to new child welfare cases in areas adversely affected by a disaster and provide services in those cases; 3) remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster; 4) preserve essential program records; and 5) coordinate services and share information with other States (section 422(b)(16) of the Act).

- The standards for the content and frequency of caseworker visits for children in foster care (section 422(b)(17) of the Act).
- The submission of State and Tribal planned and actual Title IV-B expenditures, child and families served, population and geographic regions served as required (section 432(a)(8)(B) of the Act).

Monthly Caseworker Visit Data and Performance Measures. ACF will provide States with more details on when and how States must report this information, but planning should begin immediately to meet the following requirements:

- States must report the following FY 2007 data in order to receive full Title IV-B, subpart 1, funding for FY 2008:
 - The percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and
 - The percentage of the visits that occurred in the residence of the child (section 424(e)(1) of the Act).
- By June 30, 2008, the State, in consultation with HHS, must establish an outline of the steps it will take to ensure that 90 percent of children in foster care are visited by their workers on a monthly basis, and that the majority of the visits occur in the residence of the child by October 1, 2011. The steps towards the targeted percentages may include activities designed to improve caseworker retention, recruitment training and ability to access technology.

For the purposes of these requirements, States are to use the definition of foster care in 45 CFR 1355.20.

EFFECTIVE DATE: The effective date of the law is October 1, 2006, although some requirements have later effective dates that are specified in the statute. Further, the law permits the HHS Secretary to approve a delay beyond the October 1, 2006, effective date for those State plan requirements that the Secretary determines require legislation other than legislation

appropriating funds. In such cases, the delayed effective date is the beginning of the calendar quarter following the close of the State's first regular legislative session after the date of enactment (section 12(b) of P.L. 109-288). States should seek approval of a delayed effective date through the Regional Office. ACF will provide instruction on the delayed effective date application process in a forthcoming program instruction.

INQUIRIES TO: Regional Child Welfare Program Managers, ACF Regions I-X

/s/

Joan E. Ohl
Commissioner
Administration on Children,
Youth and Families

Attachment: The Child and Family Services Improvement Act of 2006 (P.L. 109-288)