

CENTER ON FATHERS, FAMILIES, AND PUBLIC POLICY

23 N. Pinckney St., Suite 210, Madison, Wisconsin 53703

TEL 608.257.3148 FAX 608.257.4686

WWW.CFFPP.ORG

POLICY BRIEFING

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Role of Noncustodial Fathers in Child Welfare System Assessed

The U.S. Department of Health and Human Services has released a report prepared by the Urban Institute, *Study of Fathers' Involvement in Permanency Planning and Child Welfare Casework*. The report is a review of literature related to recent changes in child welfare policy and practice toward noncustodial fathers, particularly in relation to case decision making and permanency planning. The ability of noncustodial parents to maintain parental rights, to afford child support and to be considered a potential primary caretaker will all be affected by recent shifts in child welfare policy. Key points in the review include:

- States are increasingly using child support enforcement tools to seek reimbursement from parents for the cost of providing foster care to children. Since 2000, the federal government has required foster care agencies to take steps to secure an assignment to the state of any rights to child support collected on behalf of a child receiving foster care payments. From fiscal year 1999 to 2001, child support collections retained by the state for this purpose increased from \$37.1 million to \$52 million.
- Child welfare agencies are also increasingly requiring parents to repay the cost of out-of-home placement for children living with relatives. Focus groups conducted by the Urban Institute revealed that relative caregivers reported concerns that parents were being required to repay the monthly foster care payment that was being provided to them.
- The child welfare system has become increasingly motivated to locate and identify fathers of children in foster care, in part because the Adoption and Safe Families Act (ASFA), passed in 1997, shortens the amount of time children can remain in foster care without permanency planning from 18 to 12 months. In order to locate fathers, states have been encouraged to utilize child support enforcement tools, such as the Federal Parent Locator Service (FPLS).
- Another explicit and potentially more perilous incentive for finding fathers quickly is to speed the process, when deemed necessary, for terminating parental rights. The Adoption and Safe Families Act has increased the likelihood that this is occurring more consistently.
- Child welfare agencies have also increasingly taken on the practice of 'concurrent planning', or pursuing an adoptive home for a child while at the same time attempting to preserve or reunite the family. The plan that is actually implemented depends on which becomes most appropriate as the case develops. Concurrent planning can mean that a father or his relatives are able to become a placement resource, but it can also be a means to have the father located early in the process in order to obtain a termination of his parental rights.
- Paternal registries are records maintained by a state containing information about men who have provided information that they may be the father of a child. States have varying policies regarding paternal registries, but can proceed with an adoption

without the father's consent only if he has not legally established paternity or provided information to the paternal registry. If a father fails to take either of these actions, he may have his parental rights automatically terminated. Deadlines for taking such actions vary, but can be as short as 5 days from the birth of the child.

- Child support enforcement practices, combined with the inability of low-income fathers to afford court-ordered child support, can serve as a deterrent to the establishment of paternity, and thus increase the likelihood that fathers will be left out of planning for their children or will lose any prospect of securing parental rights.

The report is available on-line at <http://aspe.hhs.gov/hsp/CW-dads02>.

Relatives Caring for TANF Children Lack Needed Support

A recent issue of *The Forum*, a publication from the Research Forum on Children, Families and the New Federalism, reports on the status of child-only TANF cases. The report is based in part on an analysis of administrative data and 340 in-depth interviews with relative caretakers conducted by the South Carolina Department of Social Services. In TANF child-only cases where a relative is caretaker, the children have typically been removed from parental care for the same reasons as would be the case if they were placed into foster care. Relative caretakers, however, receive less money and fewer services than do foster parents.

Decreasing welfare caseloads have led to an increase in the proportion of the TANF caseload that is child-only, since child-only cases are not subject to time limits or sanctions. But the increase is also attributable to TANF work requirements and sanctioning policies, a growing state preference for placing children with relatives when placing them outside the parental home, and parents who are disabled and receive SSI benefits but have children who receive TANF benefits. Among the points made in the issue:

- Most relative caretakers in child-only cases are grandparents or other older relatives in poorer health than the general population. Almost 40% of the relative caretakers interviewed received disability benefits due to poor health or physical impairments. In 11% of the households, a second adult was disabled.
- Children lived with relative caretakers because one or both of their parents abused drugs (28%), because they were believed to have been abused or neglected (16%), or because one or both of their parents were incarcerated (13%). Twenty percent were designated as deserted by their parents. In the remaining cases, parents had died, were disabled or institutionalized, or were minors. Thirty-five percent of the children had prior child protective services involvement.
- TANF payments to relative caretakers are significantly less than to foster parents. In South Carolina, a TANF relative caretaker receives \$102 per month for one child, while a foster parent receives \$339. Yet relative caretakers are not likely to attempt to become foster parents for a variety of reasons including: not wanting to give legal custody of the child to the state, hoping for a reconciliation of the children and parents, and concerns about meeting licensing requirements.

The authors point out that providing larger TANF grants and relatively inexpensive support services to the caretakers of these children would cost substantially less for states than formal foster care. The report is available from the Research Forum at www.researchforum.org.

States May Lose Unspent SCHIP Funds

On October 1, \$1.2 billion in unspent funds that had been allocated to states for the State Child Health Insurance

Program (SCHIP) reverted back to the federal treasury. The reversion, in combination with pending federal budget cuts and increasing budget crises at the state level, could have a drastic impact on the numbers of children enrolled in the program. SCHIP was originally created in 1997 and by December 2001 covered approximately 3.5 million children whose parents were not eligible for Medicaid but could not otherwise afford health coverage. Congress has yet to decide the fate of future funding. Options under consideration include: returning the reverted SCHIP funds to the states that were unable to spend them, creating a new funding formula that shifts the reverted funds to states that have spent the most on the program to date, or allowing the funds to remain in the federal treasury and allocating them to unrelated budget items.

The funds remain unspent primarily because the original federal allocation schedule provided more funds to states in the first years of SCHIP, and a dip in funding for fiscal years 2002-2004. A provision in the budget creating the program provided that unspent funds from the first three years of the program would revert to the treasury. Program start-up has been slow in many states, leaving funds unspent in spite of the increasing cost of the program as enrollments climb and implementation gets fully underway. Unspent funds also result from eligibility criteria that vary by states, with states that have stringent criteria, such as Texas, underspending their funding allocation, while states with generous eligibility criteria, such as Wisconsin and New York reaching their funding limit.

For states that lose SCHIP funds, the cuts come at a critical time in state budgeting. In the 2001-2002 fiscal year, 46 states had a budget gap that totaled more than \$37 billion. Next year's gap is projected to grow by more than \$58 billion.

For more information on SCHIP and its funding, see *Children Losing Health Coverage*, a Special Report from Families USA, available at www.familiesusa.org.

Ruling Upholds Drug Tests for Welfare Recipients

On October 18, a three-judge panel of the U.S. 6th Circuit Court of Appeals unanimously ruled in favor of a Michigan policy requiring welfare recipients to take a drug test as a condition of receiving benefits. The policy was halted in November 1999 when a U.S. District Judge issued an injunction, deeming the drug testing likely to be an unconstitutional invasion of privacy rights. The district court panel, however, overturned that ruling with this decision, and took the position that random drug testing is a justified means by which to protect children, the public and tax dollars from abuse. Former President George Bush appointed all three judges on the panel. The ACLU of Michigan initiated the legal challenge, and will now request that the full appeals court hear the case.

Under the Michigan policy, 20% of welfare recipients are randomly tested every six months. A positive test result leads to a requirement to complete a treatment program. Both the test and the treatment are a mandatory condition of receiving benefits. Before the 1999 injunction, the program was in place for five weeks. During that time, drug tests were positive for 8% of the cases, a percentage consistent with drug use in the general population. Of the 21 who tested positive for drugs, all but 3 were for marijuana.

The ruling is expected to encourage the implementation of such policies in other states, and to bolster policies already in place in some form in Florida, Illinois, Indiana, Louisiana, Maryland, Nevada, New Jersey, New York, North Carolina, Oklahoma and Oregon.

The decision can be found at <http://pacer.ca6.uscourts.gov/cgi-bin/getopn.pl?OPINION=02a0367>.

The ACLU legal complain is available at www.aclumich.org.

The name of the case is *Marchwinski v. Howard*.

Hawaii Child Support Agency Must Account for Unpaid Child Support

A Hawaii state judge has ruled that the state child support agency must account for more the \$3.5 million in uncashed child support checks. The ruling applies to child support that was paid but not distributed to custodial parents since 1986, either because checks were issued but not cashed or because checks had been returned because of an incorrect address. As many as 10,000 parents could get the overdue child support payments as a result of the ruling. The ruling also requires the agency to fully account for the uncashed or “stale” checks, listing each custodial parent for whom a check was issued but not cashed by name, check date and check amount.

Attorneys who brought the lawsuit claim the agency has such profound problems with accounting that it currently has no documentation of where more than \$7.5 million in child-support payments came from, nor does it know to whom it is owed. The judge’s ruling asserted that the child support agency has a financial duty to the children and custodial parents entitled to child support payments to account for outstanding and uncashed checks and for checks with bad addresses.