



The Florida Senate

Interim Project Report 98-59

October 1998

Committee on Ways and Means

Senator Donald C. Sullivan, Chairman

COMPARATIVE ANALYSIS OF ELIGIBILITY CRITERIA AND MONETARY BENEFITS PROVIDED BY “FOSTER CARE FOR CHILDREN,” “SUBSIDIZED CHILD ADOPTION,” AND WAGES

SUMMARY

In the past three years, the Florida Legislature has been responsible for the enactment of major legislative reforms which have profoundly affected welfare assistance and child protection, including foster care and related services. This report provides an analysis of the implications of the policies embodied in those legislative changes on the budgeting and financial management of the affected programs. In addition, the study also raises other related issues which surfaced during this research and which are likely to require legislative attention during the upcoming budget review cycle.

In assessing the effect of welfare reform on child welfare, the study found no evidence to suggest that welfare reform has caused the need for budget increases in foster care and related services. In fact, the newly created Relative Caregiver Program will allow payment of a most-needed placement option for children residing in the home of a relative who, but for this program, might end up being placed in a foster home.

The study found that expenditures for out-of-home care have exceeded the program's budget for the last several years. Since the trend is projected to continue, the report explores the apparent causes of the funding shortage and recommends resolution through the 1999 appropriation. Furthermore, in anticipation of the legislatively mandated privatization of foster

care and related services, the study suggests emphasis on measurement of standards of performance for all contracted services as mandated by Chapter 98-25, Laws of Florida.

Finally, the report recommends additional staff analysis prior to the upcoming budget cycle to ensure that the final legislative decisions are based on the most accurate and most recent information.

This analysis does not examine the potential cost associated with the implementation of the “Agriculture, Research Extension, and Education Reform Act of 1998,” (PL 105-185). Passed by Congress only recently, the fiscal impact associated with the legislation will vary depending on the rules that are ultimately promulgated by the U.S. Department of Health and Human Services.

BACKGROUND

Since 1996, the Florida Legislature has led the nation with the passage of progressive, far-reaching legislative initiatives which have already had, and have the potential for creating even more profound and lasting changes in the financing of welfare assistance and child protection, including foster care and related services. It is, therefore, imperative that the annual legislative budget which supports the recently reformed programs be formulated in a way which would further the goals set forth in the original legislation.

From the start of the welfare reform debate, Florida legislative leaders recognized that research has consistently demonstrated that the best predictor of child abuse and neglect is income. They knew that to avoid unintended negative consequences, the implementation of welfare reform would have to be linked to child welfare reform and, to that end, the Work and Gain Economic Self Sufficiency Act of 1996 (WAGES) embodied the following provision:

414.24 Integrated welfare reform and child welfare services.--The department shall develop integrated service delivery strategies to better meet the needs of families subject to work activity requirements who are involved in the child welfare system or are at high risk of involvement in the child welfare system. To the extent that resources are available, the department and the Department of Labor and Employment Security shall provide funds to one or more service districts to promote development of integrated, non-duplicative case management within the department, the Department of Labor and Employment Security, other participating government agencies, and community partners. Other factors to be considered shall include innovation regarding training, enhancement of existing resources, and increased private sector and business sector participation.

Since the enactment of WAGES and, in keeping with the act’s intent, the Legislature has passed legislative reforms affecting every component of Florida’s child protection system. The list includes:

- 1997 proviso language in the General Appropriations Act allows local community providers to certify their local dollars as match for federal Title IV-E of the Social Security Act which funds eligible child welfare services.

- 1997 Implementing Bill mandates a study to report the outcome of the above proviso.
- Chapter 98-78, Laws of Florida, directs the Department of Children and Families to establish the Relative Caregivers Program.
- Chapter 98-403, Laws of Florida, enacts into Florida law, the requirements of the federal Adoption and Safe Families Act of 1997.
- Chapter 98-5, Laws of Florida, creates the “Comprehensive Child and Adolescent Mental Health Services Act.”
- Chapter 98-18, Laws of Florida, provides for the privatization of foster care and related services.

Such major reforms create the need for assessing the implications of the new policies on the development of future legislative budgets, which is the reason for the study which culminated in this report.

METHODOLOGY

The process for carrying out this project included the following steps:

- Legal Research
Using the Internet as a primary search tool, this step was designed to collect, review, and analyze all federal and state legislation enacted since 1996 which has affected the Temporary Cash Assistance Program and the Child Welfare Program in Florida.
- Data Collection and Analysis
Using statistical reports generated by the Department of Children and Families, this step included the collection and analysis of actual and projected caseloads, expenditures, and costs for the following programs:
 - WAGES Temporary Assistance
 - Food Stamps (Children Only)
 - Medicaid (Children Only)
 - Out of Home Care
 - Therapeutic Care
 - Adoptions including Subsidized Adoption
 - Relative Caregiver Program

- Telephone Interviews

This step consisted of a series of telephone interviews with key district personnel from the Department of Children and Families. The purpose of the interviews was to obtain budget and expenditure information not otherwise obvious from the statistical reports. Each interview ended with a broadly worded question designed to elicit recommendations on ways to streamline and strengthen the budget process.

FINDINGS

This study concluded with the following findings:

- ***There is no evidence to suggest that welfare reform has been the cause of the recent growth in the out-of-home caseload.*** Although the WAGES caseload has consistently declined since the inception of the program while the out-of-home care caseload continues to grow, there is no evidence to suggest any connection between the two events. For years, opponents of welfare reform voiced their widespread concern that any potential reduction in the cost of cash assistance would ultimately be offset by a corresponding increase in the cost of child welfare. Their fear was predicated on the belief that child abuse and neglect have an obvious correlation to the abuser's income or, more specifically, the lack of it. For the purpose of this study, in order to make sense of the suspicious caseload trend, telephone interviews were conducted with Children and Families district office staff. Without exception, all persons interviewed dismissed the notion of a possible link between the success of the WAGES program and the increased demand for child welfare and related services.
- During FY 1997-98, Florida experienced a dramatic increase in the demand for and cost of shelter, foster care, and group home care.

The new trend caused a shortfall of \$9.2 million in the out-of-home care budget for FY 1997-98, part of which was corrected by transferring funds from other programs, and part of which simply carried over to the current fiscal year and, to date, remains unsolved. That being the case, the \$2.5 million increase in general revenue appropriated for FY 1998-99 was insufficient to cover the program shortage. The Department of Children and Families has submitted a legislative budget request for what they consider to be the adequate level of appropriation for out-of-home care for FY 1999-2000. The proposal would provide a budget increase of \$19.4 million, \$12.4 million of which would be funded from general revenue and \$7.0 million from the federal Title IV-E, Social Security Act.

To better understand the various components that make up this deficit, it would be helpful to review the basic elements that make up the out-of-home care appropriation. There are three types of placements for abused and neglected children that are budgeted in the out-of-home care appropriation: shelter, family foster homes, and residential group care homes. The out-of-home care budget is also the source of funding for clothing and other needs of children in foster care. All categories of out-of-home placement have been the subject of steady increases in caseload during FY 1997-98, and the first half of FY 1998-99.

"Shelter placements" are temporary in nature, may be in a licensed family home or facility, and may be the placement of choice if any of the following occurs:

- A child whose caretaker has been the subject of a protective investigation, causing that child to be temporarily removed from the home while the investigation is being completed.
- Families whose children have been the victim

of abuse and neglect and have been placed under protective supervision while the child remains in the home. If the child’s safety becomes a concern, that child may be placed in a shelter.

- Children in foster care may be temporarily placed in shelter if the foster home or facility has asked that they be moved elsewhere. The actual average monthly rate of payment for a child in shelter is \$754.

“Family foster homes” and “residential group homes” are the placement of choice for child abuse victims who cannot be left safely in their parents’ homes. Foster children often stay in these out-of-home placements until they are reunited with their families, become adopted, or are placed in another, more permanent arrangement. The average monthly rate of payment for care provided in family foster homes is \$385 and \$1,419 if the child requires residential group care.

During FY 1997-98, Florida experienced a substantial increase in the number of children residing in shelter, foster homes, and group homes. On June 30, 1997, there were 10,338 children for whom out-of-home payments were made. A year later, this number had risen to 12,195, an 18 percent increase. There are several factors which have contributed to this caseload growth. The federal “Adoption and Safe Families Act of 1997,” whose provisions were incorporated into Chapter 98-403, Laws of Florida, states that “health and safety of the children served shall be of paramount concern,” suggesting that child safety would always override other relevant yet secondary considerations, such as preservation of the family unit. The Department of Children and Families has implemented changes in state policies and procedures to ensure child safety and those changes have caused an increase in the number of children placed outside their homes, particularly in temporary shelter. In addition, Florida has experienced a 3.5 percent increase in the number of child abuse investigations in the past fiscal year, many of which have resulted in out-of-home placement.

Despite the fact that the out-of-home care deficit has been caused primarily by increases in the need for placements, telephone interviews with Department of Children and Families personnel revealed two other factors which have contributed to the additional cost. They are:

- 1) When the Mental Health Services appropriation is not sufficient to fund the cost of therapeutic care required by foster children (including highly expensive residential treatment care), the out-of-home care appropriation must cover the service cost.
- 2) Because there is no short-term “respite care” available for foster parents to break from their parental role in times of high stress, more expensive alternatives are often chosen instead.

Moreover, other budgetary issues have also contributed to the lack of adequate funding for out-of-home care for children. They are:

- The Social Services Block Grant, which previously funded a significant portion of the cost of therapeutic mental health services for children, was reduced by 15 percent by the federal Welfare Reform legislative changes implemented in 1996. As a result, Florida exercised an option allowed by the new legislation; it transferred TANF block grant funds to offset the loss of Social Services Block grant. Although, on the surface, this transaction appeared to be an ingenious funding strategy, TANF funds offers limited choices for grant application due to the restrictive nature of the block grant.
- In the budget for FY 1998-99, TANF funds were also used to replace general revenue formerly used to cover the appropriation for mental health services for children. The general revenue had been used as match to draw down federal Title XIX funds for those services which qualified for Medicaid. Under the new funding scheme, TANF funds cannot be used as Medicaid match, so this strategy

has also caused a reduction in the dollars available to purchase services.

- ***Trend analysis of subsidized adoption placements reveals that the growth rate for the program’s participation is up by 14 percent and this total will likely require an increase in appropriation.*** The actual number of children receiving monthly adoption subsidies has grown from 10,162 to 11,786. In addition, the department suggests that the average monthly subsidy payment should be increased by 10 percent to meet the requirements of children with special needs who meet the eligibility criteria for subsidies. The monthly average is now \$261.

Special needs children are children who meet one or more of the following criteria as set forth by Section 409.166, Florida Statutes, in accordance with the “Adoption Assistance and Child Welfare Act”:

- Has established significant emotional ties with his or her foster parents;
- Is eight years of age or older;
- Is mentally retarded;
- Is physically or emotionally handicapped;
- Is of Black or racially mixed parentage;
- Is a member of a sibling group which needs to be placed together.

These children receive monthly subsidies until they reach age 18. The federal “Adoption and Safe Families Act of 1997,” whose requirement for a more efficient time frame for terminating parental rights was adopted into Chapter 98-403, Laws of Florida, is likely to be contributing to the increased number of subsidized adoption cases. In order to accommodate this program trend, the Department of Children and Families is requesting a budget increase of \$4.3 million for FY 1999-2000. Of that amount, \$2.7 million would be funded from the General Revenue Fund and \$1.6 million would be funded from Title IV-E, Social Security Act.

- ***Chapter 98-5, Laws of Florida, adopted by the 1998 Legislature as the “Comprehensive Child and Adolescent Mental Health Services Act” and has the potential for creating cost containment, and its principles should be implemented into the FY 1999-2000 legislative appropriation.*** The newly enacted legislation provides parameters to define who needs and who receives services so that whatever dollars are appropriated for this program will be targeted to the children and adolescents who need the services most. As created by the act, s. 394.492, Florida Statutes, delineates the target population in priority order, making whatever mental health dollars are available through the appropriation more accessible to foster children.

An even more important section of the new legislation is Section 9 which creates three demonstration models for three years for children and adolescents who have a serious emotional disturbance and for their families. Chapter 98-5, Laws of Florida, encourages the Department of Children and Families, the Agency for Health Care Administration, the Department of Education, the Department of Health, and the Department of Juvenile Justice to work on a partnership with other agencies in the community and to forge a cost sharing arrangement that would promote an efficient program. In accordance with the new legislation, the Agency for Health Care Administration has developed a plan to administer therapeutic services to children in foster care. The services would be reimbursed based on a “bundled” rate for agreed upon outcome measures which would be linked to the Mental Health PB² measures in the General Appropriations Act.

- ***Recently enacted legislation mandating the privatization of children’s services should be the basis for the planning of future appropriations.*** Chapter 98-180, Laws of Florida, provides for the future privatization of foster care and related services to be phased in

over a three-year period beginning on January 1, 2000. The legislation also requires the transfer of all responsibility for child protective investigations for Pinellas, Manatee, and Pasco counties to the respective sheriffs of those counties by the end of FY 1999-2000. In part, to ensure the successful implementation of all future privatization efforts, the 1998 Legislature passed Chapter 98-25, Laws of Florida, which provides additional duties for the Department of Children and Families' Office of Standards and Evaluation with respect to measuring standards of performance for all contracting services.

- Effective October 1, 1998, the newly enacted Relative-Caregiver Program created by Chapter 98-78, Laws of Florida, will provide financial assistance and support services to relatives who care for children placed within their supervision as a result of child abuse, neglect, or abandonment. ***This program will be a worthy candidate for TANF funding in future years.*** As of the time the legislation passed the Florida Legislature, approximately 8,126 children who had been removed from their homes as a result of a court and department determination of abuse, neglect, or abandonment were residing with relatives. Of these, 6,257 were receiving WAGES cash assistance benefits of \$180 per month. The remaining 1,869 children would be eligible for payment under the new program and all 8,126 children would be eligible for the higher payment. During the 1998 appropriations process, \$11 million from TANF block grant was set aside for the Relative Caregiver Program. However, preliminary projections by the Department of Children and Families indicate that the estimated cost of the program approximates \$18 million. Because Chapter 98-78, Laws of Florida, did not take effect until October 1, 1998, accurate financial analysis of the program's true cost will have to be deferred until the program gets fully underway and data becomes available.

RECOMMENDATIONS

Based on the findings in this study, the recommendations set forth in this section should be considered within the context of the budget review which will precede and lead to the eventual passage of the 1999 General Appropriations Act.

- Budget staff should continue to analyze WAGES and child welfare caseloads and average costs to ensure that statutory intent is carried out in the annual legislative appropriation. Staff should make a presentation to the committee during budget deliberations to explain the budget implications of this data comparison.
- In the next three to four months, committee staff should recalculate the child welfare funds deficit projected for FY 1998-99 to determine the related effect of the cost containment policies which are being aggressively pursued by the Department of Children and Families. The revised projection should be fully funded in the 1999 General Appropriations Act.
- The Budget Committee should hold a hearing to discuss the cost sharing arrangement being developed by the Agency for Health Care Administration to support the funding of mental health services for children according to the "Comprehensive Child and Adolescent Mental Health Services Act." The new funding arrangement has the potential for being less expensive and more effective in promoting quality services.
- Before the final budget is completed, budget staff should analyze and report to the committee subsidized adoption data so that the final budget is based on the most recent updated averages reflective of the new policies and procedures that have been put into effect.

- Budget staff should track the implementation of the Relative Caregiver Program and update and report to the committee the projected cost of the program for FY 1999-2000 prior to the adoption of the 1999 General Appropriations Act.
- Funding problems caused by inappropriate TANF block grant shifts in the FY 1998-99 Children’s Services budget should be corrected in the FY 1999-2000 legislative appropriation.

COMMITTEE(S) INVOLVED IN REPORT (*Contact first committee for more information.*)

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MEMBER OVERSIGHT

Senators William G. Myers and Tom Rossin