

Leveraging Federal Funding to Support Children in Texas

Testimony to the Texas House County Affairs Committee: Interim Charge #7

Interim Charge #7: Examine how Texas is preparing for federal changes that impact health, including the Family First Prevention Services Act, the next phase of the 1115 Healthcare Transformation and Quality Improvement Program Waiver, and federal grants for Texas' opioid response.

Family First Prevention Services Act (FFPSA)

The 2018 Family First Act (FFPSA) restructured how the federal government finances state child welfare systems by prioritizing prevention and higher-quality foster care providers. The FFPSA, which takes effect on October 1, 2021, must be a priority for the Texas Legislature during the upcoming session.

Prevention

One of the primary goals of the FFPSA is to reduce the number of children entering foster care by creating new federal funding opportunities to help states address unmet mental health and substance use disorder treatment needs of children and their caregivers.

Each year, [over 550,000 Texas children and adolescents experience severe mental health needs](#), but many do not receive mental health services until they enter foster care. Similarly, many parents do not receive mental health or substance use services in Texas that could prevent the need for CPS involvement. In fact, [parental substance use contributes to most removals](#) in Texas. And some Black and Hispanic moms in Texas [fear seeking treatment for mental health or substance use disorders](#) because they want to avoid CPS involvement.

The FFPSA could potentially help Texas expand access to these services and keep more children safe with their families instead of being removed and placed in foster care. Eligibility for FFPSA-funded prevention is tied to the state's definition of "foster care candidacy." The new [DFPS Strategic Plan](#) for the FFPSA recommends a slight expansion of the existing candidacy definition, but the state's proposed definition requires a family to be or have been actively involved with CPS to receive FFPSA-funded prevention services. Keeping the definition narrow cuts off Texas' ability to use FFPSA funding to provide mental health and substance use services to

certain populations who would clearly benefit. DFPS mentions in their recently released Strategic Plan that they meet with HHSC monthly “to discuss Behavioral Health Services needs and capacity,” but they do not discuss any specific strategies for using new FFPSA funding to increase behavioral health service capacity or address the unmet needs of Texans. DFPS’s FFPSA plan is a great start, but we believe it is important to build on the plan and address areas that need additional attention.

High Quality Foster Care

When the FFPSA takes effect, Texas is projected to lose substantial federal funding – \$52 million per biennium – for foster care for two main reasons: (1) none of the state’s foster care providers meet the heightened federal quality standards for facilities that care for children with significant mental health needs, and (2) the FFPSA requires ongoing court review and approval of placement in facilities that meet the new standards, which Texas would not currently comply with. Historically, all types of foster care providers could be eligible for federal reimbursement. Under FFPSA, states will only receive federal reimbursement for foster care facilities that meet a heightened set of standards and are subject to additional oversight (with a few other exceptions for highly specialized placements).

Improving foster care standards and oversight would not only help avoid the loss of funding, but would take a key step towards ensuring the children are safe when they are placed in congregate care foster care facilities.

Policy Steps Needed

To prevent children from entering foster care by keeping them safely with their families, legislators should ask DFPS for a more thorough analysis of whether to include the following populations or programs in the state’s definition of foster care candidacy or for alternative strategies to meet the needs of these populations:

- **Soon-to-be first-time mothers with substance use disorders.** Although substance use treatment services during pregnancy would benefit mother and baby (and prevent adverse health effects), the state’s current and proposed definition of foster care candidacy cuts off this new source of federal funding that could be used for substance use and other prevention services for this population. These women would only be eligible to receive FFPSA-funded substance use services after their child is born and a referral to CPS is made. Instead, foster care candidacy criteria could include pregnant women with substance use disorders so they may be eligible for FFPSA-funded prevention services.
- **New parents with maternal mental health challenges.** Maternal mental health challenges, which may arise during pregnancy and the postpartum year, can have devastating effects on women and children if untreated. Parents [may be less likely to implement injury prevention measures](#), such as putting their baby on her back to sleep. Children of mothers with untreated maternal mental health challenges and related conditions are at [increased risk of child abuse or neglect](#).

- **Youth in the juvenile justice system.** [Seventy percent of youth in the juvenile justice system have serious mental health disorders.](#) Many children in the juvenile justice system also enter the foster care system because their parents refuse to accept parental responsibility once the child becomes involved in the justice system. Utah, Nebraska, Maryland, and Washington have an approved FFPSA plan that [includes youth in the juvenile justice system in their foster care candidacy definition.](#) Kansas, Virginia, Ohio, and Colorado plan to use FFPSA funding for some services provided to youth and families in their juvenile justice systems. If the existing narrow definition remains in place, these children would have to be designated as a foster care candidate through CPS for them to receive services funded through the FFPSA.
- **Children and youth in the Children’s Mental Health Residential Treatment Center Relinquishment Avoidance Project.** This project at the Texas Health and Human Services Commission (HHSC) was intended to prevent children from being legally removed from their families to receive needed mental health services, which is exactly aligned with the goals of the FFPSA. Families are often referred to this project when parents or caregivers cannot access needed mental health services on their own. FFPSA could help fund mental health services for these children. However, this program is not offered through CPS, and these children are not included in the proposed foster care candidacy definition.

To mitigate the projected loss of \$52 million in federal funding for foster care and better serve children with complex needs, the Legislature should take the following actions:

- **Extend Eligibility for Treatment Foster Family Care.** CPS began the Treatment Foster Family Care program to increase capacity in the foster care system and reduce the number of children under the age of 10 in Residential Treatment Centers (RTCs), a type of congregate care that serves children with significant behavioral health needs. Expanding eligibility for this program to kids of all ages would support DFPS’ primary FFPSA strategy of reducing reliance on congregate care altogether.
- **Allow providers to offer post discharge planning and after care services.** The state needs clear long-term strategies to elevate the quality of care provided in RTCs. Although no providers in Texas currently meet all the FFPSA standards, some RTCs are very close and have indicated that they would meet all the new federal requirements if they were allowed to offer discharge planning and after care services (a function currently performed by CPS). This was not discussed in the DFPS report, but making this change could help protect some federal funding.
- **Expand High-Quality Specialized Foster Homes and Facilities.** Legislators should add placements that will be reimbursable using federal funding to the existing Foster Care Needs Assessment, including: placements specializing in prenatal, postpartum, or parenting supports for youth; licensed residential family-specialized substance use treatment facilities; qualified residential treatment programs as defined

in the FFPSA; supervised independent living; and settings specializing in serving survivors of human trafficking.

- **Strengthen court oversight for all kids who enter congregate care.** To draw down federal funding for foster care under the FFPSA, not only must congregate care providers meet heightened quality standards, but the courts must review and approve placements in foster care facilities that meet the new standards – an added layer of oversight intended to assure that children in congregate care are only there if they need to be and they are receiving the type of care they need to heal and thrive. Although the FFPSA only requires this additional oversight for higher quality providers, the Legislature should amend the Texas Family Code so all children in congregate care settings can benefit from heightened court oversight. As shown in the recent hearings in the federal lawsuit, many safety concerns go unaddressed in congregate care settings, especially for children in long-term foster care who have less frequent court oversight of their placement. Enhanced court oversight would not only remove barriers to receiving federal funding for foster care, but – most importantly – may keep children in foster care safer. The DFPS Strategic Plan indicated that there may be a cost associated with these changes because it could add to the workload for caseworkers. However, reducing any concerning use of congregate care through better oversight may lessen costs over time as family-based settings are often more affordable for the state and better for kids.

With Phase-Out of DSRIP 1115 Waiver Funding, Texas Should Maximize Federal Funds to Insure more Texans

The phase-out of Delivery System Reform and Incentive Payment (DSRIP) funding from the 1115 Healthcare Transformation and Quality Improvement Program Waiver will be a loss for communities across Texas that have benefitted from many improved services for people who are uninsured. Texas could more than replace these funds by maximizing federal funding by implementing Medicaid expansion to provide health coverage to child care educators, grocery store clerks, and other workers. Medicaid expansion would also provide health care to improve women’s health before, during, and after pregnancy, including contraception, mental health, and chronic care. In addition to covering adults, Medicaid expansion has been shown to indirectly [decrease the children’s uninsured rate](#) by connecting more families with health coverage.

With the phase-out of DSRIP funding and the impact of COVID, this is a critical time to bring federal health care dollars to Texas.

The federal government is offering Texas an estimated \$10 billion per year to cover 90 percent of the cost of providing Medicaid health insurance to adults with low-wages. Recent Medicaid expansion discussions in Texas have theorized that the funding for the remaining “non-federal” 10 percent share of the cost could be partially

financed by local governments and health care provider taxes, similar to the way Texas covers the state's share in the current 1115 Medicaid Waiver, as well as the state savings generated by Medicaid expansion. A [recent analysis published by the Episcopal Health Foundation](#) estimated the non-federal costs of Medicaid expansion in Texas would be \$650 million per year and annual state savings would total \$704 million. The funding will help the state economy through the recession and help Texas leaders fully fund – not cut back – the many services in the state budget that Texans need now more than ever.

Now is the time for Texas to reduce the uninsured rate by expanding Medicaid to cover essential workers –such as grocery store workers and child care teachers –and other low-wage Texas adults, including those who lost jobs or work hours due to COVID.

- **Medicaid expansion would provide an insurance option to 2.2 million uninsured low-wage Texas adults, according to pre-pandemic estimates.** Over half of the [2.2 million](#) Texans are in the Coverage Gap, meaning they are below the poverty level with no insurance options. The other nearly 1 million people are between the poverty level and 138% of the line.
- **Most people who would benefit from Medicaid expansion are working – or would be able to work thanks to Medicaid expansion.** Over [three-quarters](#) of uninsured Texans who would be covered by the expansion are in a family with at least one worker. Many are employed in construction, food preparation, sales, and [other fields](#). Medicaid expansion also [helps more people](#) start working or go back to school.
- **Reducing the uninsured rate is critical for [detecting and stopping cancer](#), [supporting healthy moms and babies](#), [managing mental health challenges](#), [treating substance use disorders](#), and addressing other health needs.** [Research](#) shows that when people have insurance, they are healthier and less likely to die prematurely. Uninsured individuals typically [wait longer](#) to seek medical care, leading to worse health outcomes and higher costs, and they are [less likely](#) to see a health care professional.
- **Pumping billions of Medicaid expansion dollars into Texas would help reboot our struggling state economy, help rural hospitals stay open, create jobs, and take pressure off of property taxes.** By implementing Medicaid expansion, Texas would draw down [\\$10 billion or more per year](#) in federal health funding. The funding would help the economy recover from the current recession. It would create – [and save](#) – health care jobs. (A [2013 study](#) estimated it would generate 231,000 new Texas jobs by 2016.) It [could prevent](#) more [closures of rural hospitals](#). It would reduce the need for local governments to [use property tax revenue](#) to provide health care services to uninsured residents. It would also cut down the amount of uncompensated care that hospitals provide. These are some of the reasons that [so many](#) Texas leaders from the business community, local government, and other sectors have endorsed expansion.

- **Medicaid expansion has been a big success in other states.** This recent [Kaiser Family Foundation report](#) summarized over 400 studies of Medicaid expansion, concluding that expansion has been a success – in many ways – in the states that have implemented it. For example, residents of those states have seen better overall health outcomes, more financial security, and less medical debt. [Voters in Oklahoma](#) and [Missouri](#) have chosen to accept federal Medicaid expansion funding. Texas is one of only 12 remaining states where there is [essentially no health insurance option](#) for working age adults below the poverty line who do not receive insurance from their employers.
- **Texans support Medicaid expansion.** In 2019, a poll commissioned by the Episcopal Health Foundation [found](#) that 64 percent of Texans support Medicaid expansion. A 2016 poll by the Texas Medical Center Health Policy Institute [found](#) 63 percent of Texans backed expansion. Other polls show similar results.