



TITLE IV-E SUPPORTS PARENT REPRESENTATION IN OKLAHOMA'S CHILD WELFARE SYSTEM



Title IV-E of the Social Security Act establishes a state-federal partnership for the cost of providing foster care, adoption assistance, and kinship guardianship assistance programs.¹ The program **permits Title IV-E state agencies to claim federal reimbursement for a portion of expenditures for eligible children who are removed from the home and placed in foster care.**² January 2019 revised federal policy permits matching funds to help pay for costs of independent legal representation for a child who is a candidate for Title IV-E foster care or in foster care and the child's parent.³



In December 2020, Legal Aid Services of Oklahoma (LASO) became one of the first legal aid organizations to contract with a state agency to use Title IV-E funds for representing parents involved in neglect and abuse cases. LASO's contract with the Oklahoma Department of Human Services (OKDHS) provides reimbursement costs associated with representing parents — including attorneys, social workers, and peer mentors — to help prevent children from being removed from their parent's care.

Parent Representation Can Improve Permanency Outcomes

Research shows that family contact with the child welfare and civil court systems can often be prevented when parents get help with civil legal problems such as eviction and foreclosure, expunging an old criminal record to qualify for a job, accessing public benefits, and family law issues like divorce or child support.⁴ Studies also show that when a child must be removed from their home due to suspected abuse or neglect, access to interdisciplinary legal services can result in faster reunification, and speedier adoption and higher permanency rates when reunification is not possible.⁵ In addition to the direct benefits to children and families observed as a result of preventative approaches or speedier permanency, legal aid also circumvents social costs associated with extended stays in the child welfare system, and reduces government expenditures in state child welfare systems and public benefits.⁶

Title IV-E Funds Parent Representation to Help Keep Families Together

Title IV-E of the Social Security Act authorized the Federal Foster Care Program,⁷ which helps provide out-of-home care for children until they can safely return home, are placed permanently, or are placed in other planned arrangements; and the Adoption Assistance Program,⁸ which provides funds to states, the District of Columbia, Puerto Rico, and tribes to facilitate the timely placement of children. Administered by the U.S. Department of Health and Human Services Children's Bureau, foster care funds are available as open-ended entitlement grants, meaning there is no upper or lower limit on reimbursements for eligible expenditures. Specifically, Title IV-E permits the state administering agencies to be reimbursed up to 50 percent for every qualifying dollar the state spends on foster care for children who are removed from home and placed in foster care.⁹

The January 2019 Children's Bureau policy revision regarding legal representation enabled states to claim federal matching funds through Title IV-E to help pay for costs of independent legal representation for a child who is a "candidate" for Title IV-E foster care and the parent to prepare for and participate in foster care legal proceedings.¹⁰ Subsequent guidance clarified the policy includes administrative costs of paralegals, investigators, peer partners or social workers ... and for office support staff and overhead expenses."¹¹

Legal Aid Services of Oklahoma (LASO) Provides Parents with Interdisciplinary Representation

In 2014, OKDHS approached LASO about providing pre-petition legal help — using some of its Temporary Assistance to Needy Families funds¹² — for divorce, domestic violence, relative placement/guardianship, and housing cases in an effort to remove legal obstacles that increase the risk of children entering or remaining in foster care.¹³ In July 2020, prompted by LASO's success keeping families together and the new Title IV-E funding opportunity, OKDHS and LASO entered into a contract to provide interdisciplinary legal representation (including trained attorneys, social workers, and peer mentors) to parents involved in neglect and abuse cases. This includes legal issues which directly relate to preventing children from being removed from their parent's care or being returned to their parent's care after removal. The Title IV-E funded program has already helped children stay with their parents by addressing domestic violence, child support problems, and false allegations of substance abuse, and child neglect.

Though the parent representation program is too new to glean data on effectiveness, its promising start is reflected in the words of interdisciplinary team members:

"Having the honor to support and guide parents through what is a painful and confusing time is not only helpful for the parents who are overwhelmed, but also for us mentors as we continue on our journey of recovery and parenting." - Legal Aid Services of Oklahoma Parent Mentor

"Having a social worker involved is already a phenomenal help. She sent me a few very detailed emails recently about a hearing set for the next day that highlighted issues I may not have been otherwise fully aware of. I greatly appreciate having her on the team." - Legal Aid Services of Oklahoma Parent Representation Attorney

LASO and OKDHS believe the interdisciplinary team's robust advocacy will help keep Oklahoman families safely together. Its efforts also align Oklahoma with the Children's Bureau's new vision for child welfare in the United States, which includes investing in more effective avenues for justice and providing high-quality legal representation to improve overall wellbeing for families.¹⁴

Endnotes

1. Congressional Research Service (October 2012), *Child Welfare: A Detailed Overview of Program Eligibility and Funding for Foster Care, Adoption Assistance and Kinship Guardian Assistance under Title IV-E of the Social Security Act*, <https://www.everycrsreport.com/reports/R42792.html>

2. U.S. Department of Health and Human Services, Administration for Children & Families, Children's Bureau (n.d.), *Title IV-E Foster Care Eligibility Reviews Fact Sheet*, <https://www.acf.hhs.gov/cb/fact-sheet/title-iv-e-foster-care-eligibility-reviews-fact-sheet>

3. See Question 30 of the Child Welfare Policy Manual (CWPM), https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=36. See also https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/claiming-title-iv-e-funds-to-pay-for-parents-and-childrens-attor/ and <https://www.naccchildlaw.org/page/TitleIVforLegalRepresentation>

4. U.S. Department of Health and Human Services, Administration for Children & Families, Children's Bureau (January 2021), *Informational Memorandum: Civil Legal Advocacy to Promote Child and Family Well-being, Address the Social Determinants of Health, and Enhance Community Resilience*, <https://www.acf.hhs.gov/cb/policy-guidance/im-21-02>. See also The Justice in Government Project, *Key Studies and Data About How Legal Aid Helps Keep Families Together and Out of the Child Welfare System* (last updated February 2020), <https://www.american.edu/spa/jpo/toolkit/upload/foster-care-8-8-19.pdf>.

5. *Ibid*, see Thornton & Gwin (2012), Courtney & Hook (2012), and Wood et al. (2016).

6. *Ibid*, see Sankaran (2014), Thornton & Gwin (2012), and Safe and Sound (2019), *The Economics of Child Abuse: A Study of California*, <https://safeandsound.org/wp-content/uploads/2019/08/Safe-Sound-2019-CA-Report.pdf>. See also Karlee M. Naylon & Karen Ann Lash, *How Can Civil Legal Aid Help Keep Families Together and Kids Out of Foster Care?*, Children's Bureau Express, <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issuueid=215§ionid=2&articleid=5538>

7. See <https://www.acf.hhs.gov/cb/grant-funding/title-iv-e-foster-care>

8. See <https://www.acf.hhs.gov/cb/grant-funding/title-iv-e-adoption-assistance>

9. Mark Hardin (February 2019), *Claiming Title IV-E Funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview*, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/claiming-title-iv-e-funds-to-pay-for-parents-and-childrens-attor/

10. *Supra* note 3.

11. See Question 32 of the Child Welfare Policy Manual (CWPM), https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=36. See also Children's Bureau, *Technical Bulletin, Frequently Asked Questions: Independent Legal Representation* (July 20, 2020), https://www.acf.hhs.gov/sites/default/files/documents/cb/technical_bulletin_faq_legal_representation.pdf

12. See Questions 19, 20, 21, of U.S. Department of Health and Human Services, Administration for Children & Families Office of Family Assistance (2010), *Q & A: Use of funds, TANF program policy questions and answers*, <https://www.acf.hhs.gov/ofa/resource/q-a-use-of-funds?page=all>. See also The Justice in Government Project, *FAQs About Legal Aid & TANF* (last updated May 2020), <https://www.american.edu/spa/jpo/upload/faqs-about-tanf-11-1-19.pdf>

13. Casey Family Programs (February 2020), *How Can Pre-Petition Legal Representation Help Strengthen Families and Keep Them Together?*, <https://www.casey.org/preventive-legal-support/>

14. David Kelly and Jerry Milner (July 2019), *High-Quality Legal Representation is Critical to Creating a Better Child Welfare System*, ABA Children and the Law, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/high-quality-legal-representation-is-critical-to-creating-a-bett/