



THE FEDERAL ROLE IN FUNDING CHILD PROTECTION How Eliminating the “Lookback” Could Help Texas

New National Report Shows Fewer Children Eligible for Federal Foster Care

Nationally, in 1998, more than half of the children in foster care were eligible for federal support, but, by 2005, fewer than half were—an estimated 35,000 fewer children. Experts project that the number of children eligible for support will continue to decline by about 5,000 a year. Many factors contribute to this decline, including changes in state policies and demographics. A new analysis by *KIDS ARE WAITING: Fix Foster Care Now*, led by The Pew Charitable Trusts, with CPPP as a partner, shows that part of the decline is the result of the federal “lookback” policy. This policy makes a child’s eligibility for federal funds dependent on whether their family would have qualified for support in 1996 under the rules of the now-defunct Aid to Families with Dependent Children (AFDC).

As this new national report explains, because many factors contribute to the overall rate of eligibility for federal foster care, some states show decreases in federal support, while others, including Texas, show increases. As this policy page explains, however, even though Texas shows an increase, the “lookback” will soon negatively affect our state. The national report describes a variety of proposals for addressing the lookback provision. This policy page examines these proposals and discusses which would be best for Texas. For a full copy of the national report, visit www.kidsarewaiting.org.

Explaining the “Lookback”

Congress in effect reduces federal funding for foster care each year by the way it defines eligibility for Title IV-E federal foster care funding.

Before welfare reform in 1996, a child qualified for federal foster care funding if the child’s family was poor enough to qualify for Aid to Families with Dependent Children.

AFDC was an open entitlement, meaning that the federal government paid for every family who qualified. Likewise, the federal government paid for foster care for every child who qualified. As part of welfare reform, Congress replaced AFDC with Temporary Assistance for Needy Families,

which is not an open entitlement for every family but a fixed block grant for each state.

Having replaced AFDC (an entitlement) with TANF (a block grant), Congress had to adopt a new eligibility standard for foster care. Congress chose to require the states to determine eligibility by “looking back” to the AFDC income rules in effect on July 16, 1996. Thus, a child’s eligibility depends on whether the child’s family as of today meets the criteria for AFDC in 1996.

This federal policy could potentially be particularly devastating for Texas children. On July 16, 1996, AFDC eligibility in Texas was determined using income eligibility as of 1993. In other words, in 1996, Texas was already looking back to 1993. So now,

Texas must look back fourteen years to determine eligibility.

Obviously, a smaller percentage of total families qualify as 1996-poor with each passing year (or in Texas 1993-poor), and consequently a smaller percentage of abused children are entitled to federal funding.

Explaining the Numbers

Between 1998 and 2004, however, the actual percentage of children eligible for federal foster care funding in Texas has gone up, not down. If the lookback is really a problem for Texas, how could this be? The answer has to do with changes in the way Texas determines eligibility.

In 1998, according to the new national report,¹ the national average for the percentage of children eligible for federal foster care was 51.8%. Texas, however, was only 19.4%. Remember, a child was eligible for federal foster care only if their family was eligible for AFDC. Because Texas had a very strict eligibility standard for a family to receive AFDC, a smaller percentage of its child population was eligible for federal foster care.

In the years between 1998 and 2004, Texas did three things to increase the percentage of children it claimed as eligible for federal foster care. First, Texas made a concerted effort to claim federal funds for every child who was eligible. In other words, the state just did a better job of establishing eligibility. As part of this, Texas automated its eligibility determination process, which helped ensure that the state claimed federal funds for all eligible children.

More important, however, Texas adjusted state policies in a way consistent with

¹ Numbers from state sources may vary because of differences in methodology in calculating the rate, but state numbers show the same thing: the percentage has gone up.

federal policies to increase the percentage of children for which it could claim federal foster care reimbursement. These changes are technical, but stated simply, Texas increased its percentage by qualifying children based upon whether it could have qualified them in 1996 under federal law and policy rather than whether it actually would have qualified them in 1996 under state law and policy.² This change brought Texas closer to national norms.

Going forward

The improvements in practice and the adjustments in policy that Texas made between 1998 and 2004 increased the percentage of Texas children eligible for federal foster care, but going forward, these gains will be subject to the same erosion from the lookback as in all the other states. If Congress eliminates the lookback, Texas will benefit just like other states.

While Texas was catching up, the lookback was not a problem, but now that Texas has caught up, the lookback will be.

Why this matters to children

If the lookback merely meant that the federal government paid for less foster care and that the states paid for more, the problem would be only a fiscal one. Sadly, however, the problem is one of child safety. The whole reason Congress funds foster care is that the states have less fiscal capacity and greater spending limitations than the federal government. Thus, as the federal share falls over time, states will be hard pressed to make up the difference. Texas is particularly poorly positioned to make up any difference.

² See Section 1540 Foster Care Maintenance Resources and Appendix 1542 at http://www.dfps.state.tx.us/Handbooks/CPS_Handbook/CPS_Handbook.htm

Solutions

KIDS ARE WAITING: Fix Foster Care Now outlines four possible solutions.

1. Make all children eligible for federal assistance. This would be of great help to Texas children, but would substantially increase the federal cost. It is an unlikely solution.

2. Provide an optional fixed (block) grant. Texas does not fare well under block grants, which the federal government typically bases upon a state's historical spending. Moreover, the federal government typically allows block grants to decline over time.

3. Update the federal eligibility criteria by adjusting eligibility for inflation or by linking to another standard such as Food Stamps or TANF. The key here is what defines eligibility. Texas would not fare well under a link to TANF because our eligibility limit is so strict. A link to Food Stamp eligibility would be preferable. An inflation adjustment would also help.

4. De-linking and making offsetting changes. Under this approach, all abused or neglected children would be eligible for federal assistance but the federal government would offset the increased costs of such a program, for example, by reducing reimbursement per child. Under this approach, no state would be worse off.

The Pew Commission on Children in Foster Care recommends this fourth approach. Texas children would probably fare best under some version of de-linking and offsetting.

Other groups have made similar proposals. For example, the American Public Human Services Association has proposed that

when a state takes a child into foster care, the federal government pay a fixed percentage of the cost regardless of the income of the child's family.

Alternatives to Foster Care

Many argue that the current federal financing structure for child welfare encourages states to over-rely on foster care. For example, the Pew Commission on Children in Foster Care has urged consideration of federal flexible funding for child protection, taking states out of the straitjacket of providing foster care or nothing at all.

Even if the federal government adopts flexible funding, however, fixing the lookback remains important because a state must still determine eligibility according to federal rules. The lookback stands in the way of children benefiting from federal help.

Moreover, if the lookback is not fixed, states must pick up the cost of foster care previously paid for by federal dollars, reducing the state dollars they have available for the flexible spending needed to help keep children out of foster care or return them home sooner. In other words, if the federal government leaves the lookback in place, it may actually contribute to the problem of children unnecessarily in foster care.

Acting Now

Implementing any alternative to the lookback raises technical issues, but for the safety of our children and the health of our families, Congress must figure out how to look forward to the next year instead of back to 1996, and Congress needs to do so before the distance between the two grows too large, becoming unaffordable to close.

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