

Latest News on Implementing the New Federal Guidance on IV-E Referrals

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SPEAKERS

Panelists

- Natalie Dillon, Director, Colusa Sutter Yolo Regional Child Support Agency
- Larry Desbien, Director, Division of Child Support Services, Colorado Department of Human Services
- Trish Skophammer, Director, Child Support Services, Office of the Ramsey County Attorney, Minnesota

Moderator

- Elaine Sorensen, Technical Advisor, Office of Planning, Research, and Evaluation, Administration for Children and Families



BACKGROUND

The Adoption Assistance and Child Welfare Act of 1980 (PL 96-272) established Title IV-E.

The Child Support Enforcement Amendments of 1984 (PL 98-378) clarified the relationship between title IV-E and title IV-D by adding the following to PL 96-272:

(a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(17) provides that, **where appropriate, all steps will be taken**, including cooperative efforts with the State agencies administering the program funded under part A and plan approved under part D, **to secure an assignment** to the State of any rights to support **on behalf of each child receiving foster care maintenance payments under this part;**



BACKGROUND

During the 1980s and early 1990s, there were very few IV-E Foster Care cases being referred to the child support program (OIG 1992).

That changed with the advent of state automated systems that were developed during the 1990s. The federal government required child welfare agencies, to the extent practicable, to develop an interface with IV-D agencies as part of their statewide automated system (ACF-OISM-001).

As a result, most child welfare agencies designed their statewide system to automatically refer all IV-E Foster Care cases to the child support agency.



BACKGROUND

By 2007, the federal government expressed a desire for child welfare agencies to review their policies regarding assignment of support rights and referrals to the child support agency (OCSE-IM-07-06).

This guidance:

- Emphasized that child welfare agencies have the authority to secure an assignment of support rights **“where appropriate”**, noting that not all cases are appropriate for assignment.
- Emphasized that child welfare agencies should consider how referral criteria might be different depending on the circumstances of each case, giving examples of “appropriate” and “inappropriate” referrals.
- Encouraged child welfare agencies to “collaborate with their title IV-D agency to determine what constitutes an ‘appropriate referral’”.

2012 Federal guidance reiterated these same concerns (OCSE-IM-12-02).



RESEARCH FINDINGS

- Most families involved in IV-E Foster Care and the Child Support Program are poor
 - In one study of MN, about one-third of parents had an annual income below \$10,000 (Skophammer 2017). A study by Orange County found that over half of child welfare parents had an annual income below \$10,000 (2020).
- Collecting Child Support to Recoup the costs of Foster Care Increases the Length of Stay in Foster Care
 - One study of WI estimates that collecting \$100 in child support per month to offset the costs of foster care is associated with a 6.6-month delay in family reunification or other type of permanency (Cancian et al. 2017).



RESEARCH FINDINGS

- The Cost of Pursuing Child Support on Behalf of Foster Care Cases Are Greater than the Amount Collected
 - For every dollar spent by the child support program
 - Minnesota collects \$0.36 (Skophammer 2017)
 - California collects \$0.27 (Orange County 2020)
 - Washington collects \$0.39 (Washington 2019)
- Percentage of Out-of-Home Placement Costs Recovered is Minimal
 - In FY 2019, only 2% of IV-E Foster Care Maintenance Payments were offset by child support payments



NEW GUIDANCE

Child Welfare Policy Manual 8.4C Question #5 was revised on June 8, 2022

- Encourages child welfare agencies to adopt a default position of not securing assignment of child support rights for children receiving title IV-E Foster Care Maintenance Payments (FCMP).
- Under new guidance, assignment is not required except in very rare circumstances
 - When there is no adverse effect on the child
 - Will not impede achievement of permanency plan
 - For example, consider when the parent has income above a certain level
- When a referral is made, encourages child welfare agencies to use 6-month reviews to determine if assignment should continue.



NEW GUIDANCE

Joint Dear Colleague Letter issue on July 29, 2022

- Highlights new Q&A in the Child Welfare Policy Manual
- Reiterates that child welfare agencies should implement across-the-board policies that require an assignment of child support rights to receive IV-E Foster Care Maintenance Payments only in very rare circumstances.
- Asks child welfare agencies to make the necessary amendments to their computer systems to stop automatically referring parents to the child support agency and to implement a policy where the default position is not to refer parents to the child support agency.



SUMMARY OF CURRENT STATE POLICIES

States that have adopted new guidance: CA, CO, and WA

States that are working on adopting new guidance: MI, MN, MT, and WY

States that already had policies that limited referrals prior to the new guidance: FL, IN, NM, NY, OR, VT



REFERENCES

Cancian, Maria, Steven T. Cook, Mai Seki, Lynn Wimer. (2017). Making parents pay: The unintended consequences of charging parents for foster care. *Children and Youth Services Review* 72 pp:100-110.
<https://www.sciencedirect.com/science/article/pii/S0190740916303425?via%3Dihub>

Office of Inspector General. (1992) Child Support for Children in IV-E Foster Care. Washington, DC: Department of Health and Human Services, OEI-04-91-00530. <https://oig.hhs.gov/oei/reports/oei-04-91-00530.pdf>

Orange County Department of Child Support Services. (Second Edition, July 2020). Child Support and Foster Care Special Study. <https://www.css.ocgov.com/sites/css/files/import/data/files/116568.pdf>.

Skophammer, Trish. (2017). Child Support Collections to Offset Out of Home Placement Costs: A Study of Cost Effectiveness. Dissertation for the Graduate School of Hamline University. https://digitalcommons.hamline.edu/hsb_all/16.

Washington Department of Social and Health Services, Economic Services Administration, Division of Child Support. (2019). Washington's Cost Effectiveness for Foster Care Child Support Cases. <https://www.dshs.wa.gov/sites/default/files/ESA/dcs/documents/Cost%20Effectiveness%20FC%20collections%20FINAL.pdf>



Foster Care Changes in California

Natalie Dillon, Director

Colusa Sutter Yolo Regional Child Support Agency



AB 1686

AB 1686 Assemblyman Bryan – approved by Governor Newsom 9/29/22, effective 1/1/23.

- Requires Child Welfare Agencies to presume that the payment of support by the parent is likely to pose a barrier to the proposed reunification and unnecessarily extends children's time in foster care.
- Upon periodic review, Child Welfare shall refer the child's case to the local child support agency if a determination is made that, due to a change in the child's circumstances, it is no longer contrary to the child's best interest to have the case referred to the local child support agency.



CDSS ACL 23-29

- California Dept of Social Services (CDSS) issued All County Letter (ACL) 23-29, on March 20, 2023, that requires the County Welfare Department to no longer refer parents whose children have been removed from the home and are receiving Child Welfare Services to Child Support. Including when:
 - Parent has refused or is no longer receiving reunification services
 - The child is in legal guardianship, including kin related placement and nonrelative extended placement



ACL 23-29 Exception

ACL 23-29 added the following exception:

- **Unless** a parent's annual income is greater than \$100,000 or 400% of Federal Poverty Level (FPL), whichever is greater **AND** a referral will not pose a barrier to reunification.

The ACL went on to say:

- Additionally, as of January 1, 2023, the accrual and collection of foster care related child support payments for cases that do not meet the exception above shall stop.

[illegible]



DCSS E-Communication – Foster Care Referral Guidance

California Department of Child Support Services (DCSS) Issued an E-Communication on June 30, 2023, which:

- References federal policy, state law and CDSS policy established in ACL 23-29
- Encourages local child support agencies (LCSA) and county welfare departments to collaborate locally and does not require the CW 51 since this is not a Good Cause determination and is seeking a better referral and termination process.
- References a Tableau Dashboard of all cases since 1/1/23 to assist LCSAs in ceasing establishment and enforcement of child support that are no longer appropriate.



DCSS Direction

Referrals post 1/1/23:

- Assume referrals post 1/1/23 are inappropriate unless you have information to the contrary.
- Reject Service Requests as “received in error”.
- Dismiss the Summons and Complaint, if served, or proceed to judgment to establish parentage and a \$0 child support order.
- If order exists – cease charging, recall enforcement remedies i.e. IWO, set aside or modify to \$0.
- Close the case as “opened in error”.
- If income is greater than \$100,000 or 400% FPL, confirm appropriateness of referral with County Welfare Department and proceed accordingly.



DCSS Child Support Services Information (CSSI) Letter

In addition to the content of the E-Comm, DCSS specifies:

- CWDs are reminded that periodic reviews must continue for certain cases as required by the MPP 31-503.2 and are encouraged to reassess cases where a parent meets the income exception and is referred to child support if information is received that suggests a parent's economic situation has changed and they no longer meet the exception.
- The policy does not apply to probate cases, or other non-foster care related child support orders.
- General procedural guidance on how to meet legislative intent for cases that were referred inadvertently post January 1, 2023.
- Does not address automation.



DCSS Child Support Services Policy (CSSP) Letter – Foster Care Arrears

AB 135 – Uncollectible Debt (enacted 7/6/2021)

This bill, as of January 1, 2023, requires LCSAs to cease enforcement of child support arrearages and otherwise past due amounts owed to the state that the Department of Child Support Services or the local child support agency has determined to be uncollectible, as specified. The Department was given until 7/1/24 to promulgate regulations.

CSSP Letter – Foster Care Arrears Relief Letter

LCSAs shall deem any state-owed arrears, as well as fees and costs, which have accrued on foster care referrals as uncollectable pursuant to FC Section 17400(a)(2)(B) when the parent(s) income does not meet the income exception provided under regulations promulgated pursuant to FC Section 17552.



AB 1324

- AB 1324, Assemblyman Bryan, is pending before the Legislature
- Addresses child support referrals made **prior** to January 1, 2023
- Elimination of all ongoing foster care related child support obligations including arrears owed to the state and associated interest on cases that were referred prior to January 1, 2023.



Thank you





Stopping Automatic Referrals from Child Welfare to Child Support / Colorado's Experience

Larry Desbien, Director
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Child Support Services

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COLORADO
Department of Human Services





Reason for Change

Commitment to policies that support our Department's Mission and Values:

Our mission:

Together, we empower Coloradans to thrive.

Our values:

People-first approach. Balance. Accountability.
Transparency. Ethical. Collaboration.

Updated Federal Guidance

- Previous policy directing agencies to determine “where appropriate” on a case-by-case basis is withdrawn
- Agencies are encouraged to adopt across-the-board policies
- "We ask that child welfare agencies make the necessary amendments to their systems to effectively implement a policy where the default position is not to refer parents to the child support agency."
- Links: Child Welfare Policy Manual and Joint Letter



Research

A recent research study showed that pursuing families to recoup out-of-home placement costs can be **detrimental to reunification efforts** and increase the amount of time spent out-of-home.

Child support order amounts are positively associated with length of time to reunification.

\$100 increase in mother's order is estimated to increase the spell length by 6.6 month

(Cancian, Cook, Seki, & Wimer, 2012; 2017)



COLORADO
Department of Human Services

Current State

- Default = referral to Child Support from Child Welfare
 - IV-E and Non IV-E Child Support Cases
 - Foster Care Fees against the placing parent
- Must find a reason why a referral is not appropriate ("good cause")

Proposed State

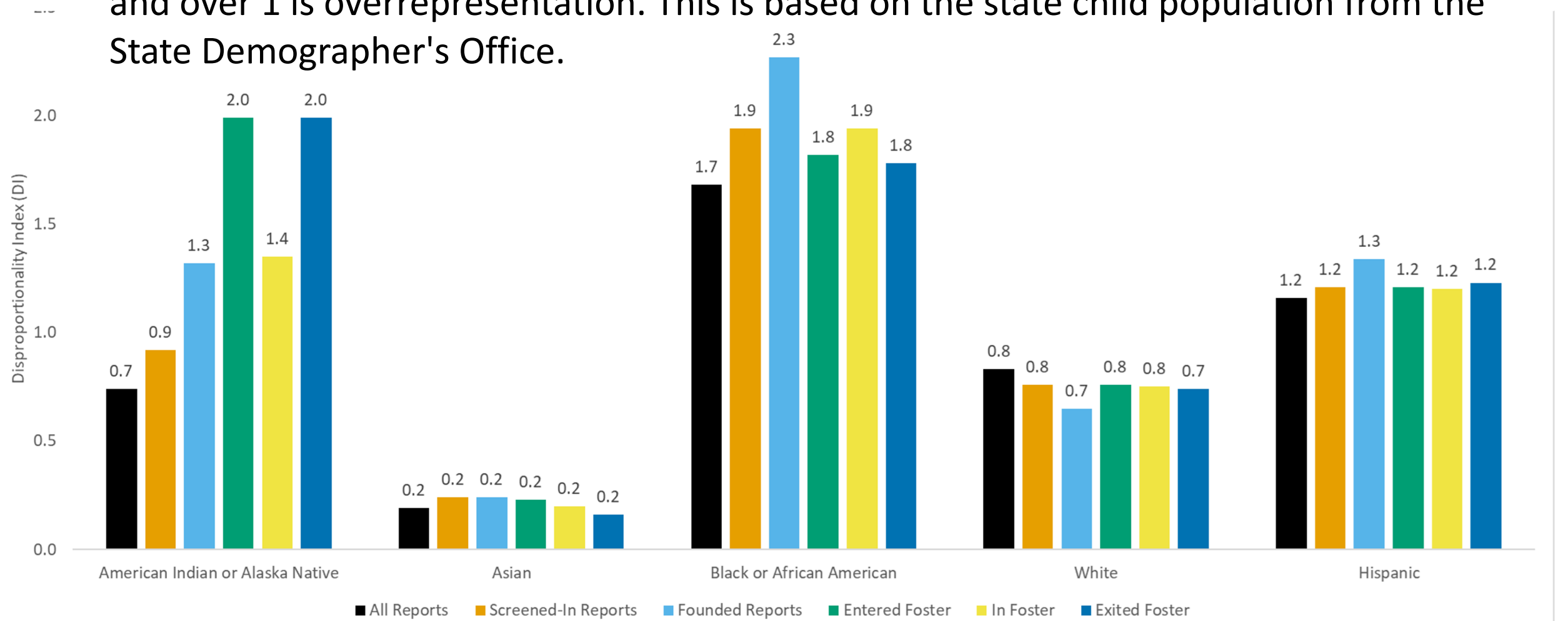
- Default = no referral
- Must find a reason why a referral is appropriate



COLORADO
Department of Human Services

Disproportionality data in Child Welfare for Colorado

Here is a chart for CY 2022 for disproportionality data in Child Welfare - a value of 1 (dotted line) would indicate equal representation, less than 1 is underrepresentation, and over 1 is overrepresentation. This is based on the state child population from the State Demographer's Office.



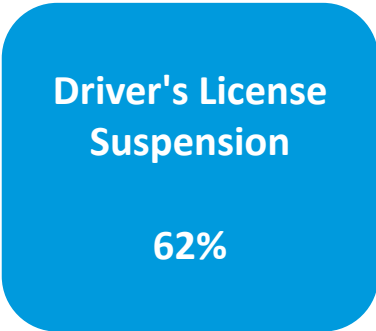
Child Support Services (CSS) Enforcement Actions

CSS IMPACT ON FOSTER CARE FAMILIES

- Paying child support places a financial burden that can thwart reunification requirements
- Not paying child support subjects parents to enforcement actions that can jeopardize reunification



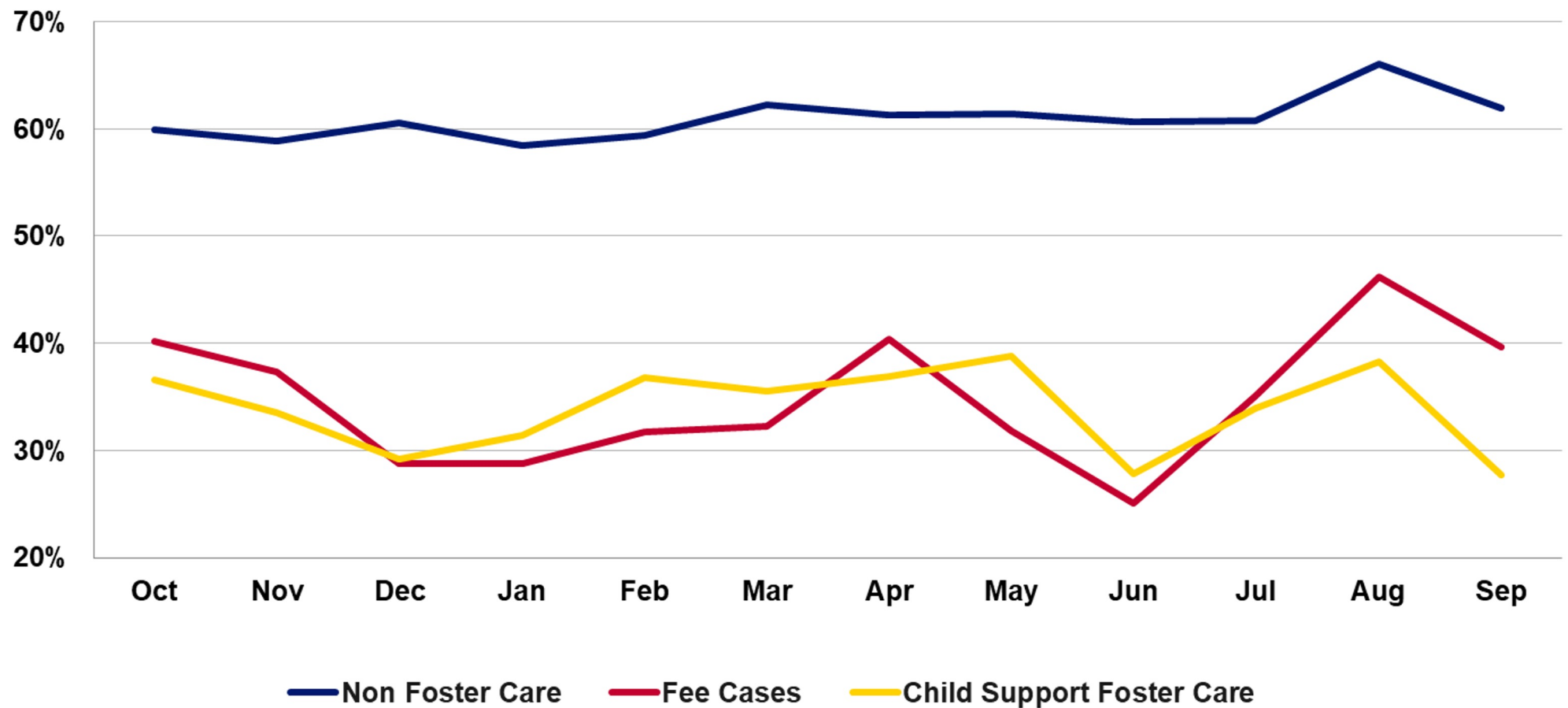
- > Wage, Unemployment Insurance, and or Disability Benefit garnishment
- > Negative Credit Reporting
- > Property liens
- > Bank levies
- > Suspension or revocation of driver's and professional license
- > Intercepts of tax refunds, worker's compensation payouts, and insurance payouts





Using Colorado Data

Percent of Current Support Paid





Rule Revisions Approved by the State Board of Human Services Effective June 1st, 2023

7.601.712 Referral to Child Support services IV-e and non IV-E case(s)

The county department may refer any child/youth placed in out of home care to the county department's child support services unit if the county department finds that a referral is appropriate. a referral may only be appropriate when:

1. The referral will not impede successful achievement of the child/youth's permanency plan or compromise the parent's ability to meet the current or future financial needs of the child/youth;
2. The referral will not compromise the parent's ability to meet the needs of the other children in the household who may be at risk of removal
3. *The child/youth is in continuous placement for more than forty-five (45) days; and*

If a referral is made, the county department must review the case every 6 months to reassess the appropriateness of the referral.



Transition Plan of Foster Care Cases that Child support Services is Already Working

- **Foster fee cases with children under the age of 19:** automated case closure will occur unless Child Welfare determines it is appropriate to remain open in compliance with the new rule change.
- **Foster fee arrears only cases with children over the age of 19:** counties are encouraged to close these cases.
- **Child Support cases:** Counties will continue to work these cases unless the CSS Unit has received notification from the Child Welfare Unit that a referral is not appropriate for the obligor parent under the new policy.



What Contributed to the Policy Change in Colorado?

Data Driven Based Decision Making

Research, low cost effectiveness and wasted time that will be better used for other IV-D purposes

Focused discussion on what is best for families & away from the slight loss of revenue (testimony from parents who have been impacted)



Thank you





Minnesota's Experience

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Minnesota's Statute Change

§260B.331
Delinquency

§260C.331
Juvenile Safety and Placement
(Child Welfare)

Costs-of Care

Two parts:
Income and resources of the child
Ability of the parents to contribute

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Income and resources of the child
Ability of the parents to contribute



Minnesota Statue Change

- The old law-
 - The court shall order, and the local social services agency shall require the parent or custodian of a child
- The new law- effective July 1, 2022
 - The court may order, and the responsible social services agency may require the parents or custodian of a child
- To use the total income and resources attributable to the child for the period of care, examination, or treatment
 - Includes social security benefits, SSI, veterans benefits, railroad retirement benefits and child support
- If the income and resources attributable to the child are not enough to reimburse the full cost, the court shall inquire into the ability of the parents to support the child
- Parents are to be given a reasonable opportunity to be heard



Racial Disparities

	Black children in population	Black children in foster care	American Indian children in population	American Indian children in foster care	Multiple race children in population	Multiple race children in foster care	Hispanic children in population	Hispanic children in foster care	White children in population	White children in foster care
Nationally	14%	22%	1%	2%	5%	8%	26%	22%	49%	43%
Minnesota	11%	13%	1%	19%	5%	21%	9%	10%	67%	33%



Minnesota Statue Change

- The law covers IV-E and non-IV-E foster care placements
- The new law-
 - The local social services agency shall determine whether requiring reimbursement is in the child's best interest
- Child Support deviations
 - §518A.43 subd. 1(8) consider whether ordering and redirecting child support would compromise the parent's ability to meet the requirements of reunification plan or meet the child's needs after reunification



Minnesota's Statute Change

In determining best interest, the social services agency shall consider:

360B.331 Delinquency

- If reimbursement will comprise the parent's ability to meet the child's treatment and rehabilitation needs before the child returns home
- If reimbursement will compromise the parent's ability to meet the child's needs after the child returns home
- If redirection or changing payee of benefits would limit financial stability for the child meet the needs of the family

360C.331 Juvenile Safety and Permanency

- If reimbursement will comprise the parent's ability to meet the requirements of reunification plan
- If reimbursement will compromise the parent's ability to meet the child's needs after reunification
- If redirection or changing payee of benefits would limit financial stability for the child meet the needs of the family



Minnesota Practice

- Includes both IV-E and non-IV-E cases
- Broad view of foster care
- Happens both in and outside of the child support system
- Inconsistent across the state before and after the statute change
- Working on policy guidance
- Some counties have stopped, some using interim guidance, some business as usual until final policy is developed
- County concerns about loss of revenue



Interim Guidance

- Communicate with social service agency
- Assure that referrals were intentional and pursuant to new guidance
- Establish paternity where appropriate, deviate to \$0
- Close for inappropriate referral
- Default position is existing orders are paid to custodial parent
- If choosing to wait for final guidance to close, document reasons for taking no action



Cost of Care Workgroup

- 40+ group of child support, child welfare, parents, fosters, attorneys
- Will finalize recommendations later this summer to present to Department of Human Services leadership
- Scope (creep)
- Subcommittees
 - Best Interest
 - Child Support
 - Other collections
- Almost never in the child's best interest!
- Resistance to change
- Majority opinion is slight
- Highlights a need for consistency



Child Support Recommendations

Continue to establish
parentage when
needed, set support
at \$0 or reserve

Agency motion to
stop child support
when child is placed
with obligor

Stop referring other
cases

Forgive arrears on
existing cases and
close them

Stop doing new
redirections and
reverse existing

Notify the parents!



Remaining Questions

- When is it appropriate?
 - Income level
 - Substance abuse
 - Reunification is not the plan
- When it is appropriate, who should do it?
 - Child Support
 - Parental fee units
- Social security and other federal benefits
- Subsidized adoptions
- Maintaining County and interjurisdictional cases



Thank you

