

November 27th, 2023

Kathleen McHugh
Director, Policy Division
Children's Bureau
Administration for Children and Families

Re: NRPM Foster Care Legal Representation, RIN:0970-AC89

Dear Director McHugh,

On behalf of the American Public Human Services Association (APHSA), the bipartisan membership association representing state and local human services agencies, and through our National Association of Public Child Welfare Administrators (NAPCWA), we appreciate the opportunity to thoroughly review and provide comments on the proposed regulation update that would expand legal representation services that can be offered under Title IV-E.

APHSA acknowledges the Administration for Children and Families (ACF) for its commendable effort in providing state and local agencies with additional and flexible options to expand supports for populations affected by child welfare. This strategic move aligns with the overarching objective of improving the well-being of families within the child welfare system. There is overwhelming interest from state and local leaders to expand legal representation services; however, since the initial update to the *Child Welfare Policy Manual* that explicitly defined parental and youth legal representation as an IV-E reimbursable expense, states have encountered challenges in successful implementation and compliance with intricate tracking and reporting requirements. A central concern lies in the capacity of agencies to effectively track services, particularly in pre-petition scenarios where there is no open child welfare case and therefore no mechanism for data collecting or tracking. Additionally, successful implementation and execution of IV-E legal representation requires significant collaboration and alignment with the family court system. The level of partnership required extends beyond existing capacity and will need to expand to support the implementation of IV-E legal representation. Acknowledging these reflections and considering the proposed regulation changes, APHSA offers the following for ACF to be considered for final rule:

Provide Technical Assistance: Agencies stand to benefit significantly from dedicated technical assistance in the reimbursement process and requirements to ensure timely and consistent funding. Additionally, ACF should provide agencies with technical assistance and guidance to support the partnership and collaboration with the family court system.

Clarify Data Tracking and Reporting Requirements: Clear and concise requirements concerning data tracking and reporting are imperative for accountability and effective program management. APHSA emphasizes the need for specific guidance and standards on what data is required, best practices in the collection of required data in partnership with family courts and reporting requirements.

Providing this clarification and support to agencies will ensure compliance and timely reimbursement to support continued services.

Examples of Independent Legal Representation

APHS offers examples of independent legal representation that agencies are interested in utilizing to service their unique and diverse populations. We recommend that ACF explicitly include these types of legal services in the final rule:

1. **Preventative Legal Representation:** Assistance provided prior to a petition being filed to support a parent, child, or kinship caregiver during an investigation.
2. **Preventative Legal Services:** Aid offered prior to a petition being filed to assist with non-child welfare civil legal needs, such as housing, intrafamily violence, special education, etc.
3. **Post-Petition Legal Representation:** Legal representation in an open child welfare case, from the time a petition is filed through the entire case, for a child, parent, or intervening tribe.
4. **Post-Petition Civil Legal Services:** Legal services for a child or parent to address ongoing ancillary civil legal aid needs.
5. **Legal Representation for Foster Youth:** Representation for foster youth in both the dependency case and in ancillary civil legal matters as they transition from foster care to adulthood.

APHS appreciates ACF's commitment to enhancing legal representation in the child welfare system. The proposed regulation holds significant potential to positively impact the lives of children and families. We look forward to ongoing collaboration to ensure the successful implementation of the proposed regulation, addressing the outlined considerations and recommendations. For more information, please contact Meg Dygert at mdygert@aphsa.org.

Sincerely,

Fariborz Pakseresht



Chair, APHS Leadership Council
Director, Oregon Department of Human
Services

Vannessa Dorantes, LMSW



Chair, National Association of Public
Child Welfare Agencies (NAPCWA)
Commissioner, Connecticut Department of
Children & Families



Matthew Lyons

A handwritten signature in black ink, appearing to read "Matthew Lyons", written in a cursive style.

Senior Director of Policy & Practice
American Public Human Services Association

