8

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Leadership, voice and vision for child welfare in New York State

Council of Family & Child Caring Agencies

Testimony Presented by
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Joint Legislative Hearing

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Good afternoon, my name is Jim Purcell and I am the CEO of the Council of Family and Child Caring Agencies (COFCCA), the primary statewide representative for nearly all of the not-for-profit agencies that provide child welfare and juvenile justice services to New York's abused, neglected, and troubled children and their families. On behalf of our 100 member agencies, and the thousands of children and families they help, we thank Chairmen DeFrancisco and Farrell for the invitation to appear today, and we look forward to continuing to work closely with Chairs Assemblywoman Paulin and Senator Savino and their Committees.

I will address four areas of the budget: child welfare financing, juvenile justice reform, a short list of critical programs for restoration, and finally, a few structural issues affecting nonprofit providers, and therefore the families they serve.

Child Welfare Financing

We are pleased to see the reauthorization of child welfare financing in the Governor's budget. Most important is that preventive services funding remains open-ended, since these services are the cornerstone of child welfare services that help strengthen at-risk families, whenever possible, to prevent the placement of children into foster care. Preventive services also shorten lengths of stay in foster care when children must be placed outside their homes, provide aftercare services to families when their children are returned from foster care, and prevent their return to care. This funding is also used for child protective services, adoption administration, and independent living services for older youth in foster care.

We ask, however, that the Legislature reject the Governor's proposal to change the statutory language to reflect a permanent 62% state share for preventive services. While we understand, regrettably, the state's need to continue the reimbursement rate at 62% this year, it is important to leave the statutory language as it is, so there is a commitment by the state to return to a 65% reimbursement rate, and support keeping children safe and with their families, as the economy improves.

The foster care block grant is also reauthorized at last year's funding level. I offer two comments about that the block grant: the need for some flexibility in the use of the funds and the importance of removing subsidized kinship guardianship from the block grant.

First, a few words about flexibility. We are pleased that the block grant language continues the ability of counties to apply to OCFS to use these funds flexibly, through a managed care or similar model, to promote safety and permanency for children removed from their homes. There are opportunities for cost-neutral innovation across the state in which public-private partnerships, sharing responsibility and risk, provide more effective services that address local needs. Examples might include a county or cluster of smaller counties that contract with a nonprofit agency to start up an evidence-based foster care program (e.g. multi-dimensional treatment foster care, or MTFC) that requires up-front intensive staff training and start-up costs. These costs are offset later through shorter lengths of stay in foster care and reduced rates of recidivism. But current funding mechanisms would not allow the agency to recover those upfront costs. Similarly, a county might contract with an agency for a short-term residential program for children entering foster care to immediately complete a thorough assessment and establish visiting between the parents and children, which research shows to be tied to a greater likelihood of the children being reunited with their family. We ask that OCFS, working with counties and nonprofit providers, identify areas in which block grant funds can be used flexibly, issue updated guidance, and actively promote cost-neutral innovation to improve outcomes for families.

We urge the Legislature to remove subsidized kinship guardianship from the block grant. Subsidized kinship guardianship is not foster care; it is a new discharge option from foster care and as such, should be funded outside of the Block Grant like adoption subsidy is for children discharged to adoption. In fact we propose that it be included in the same appropriation with the same funding formula as adoption subsidies since these two funding streams are very similar in their purposes: offsetting costs for kinship and adoptive families who make a permanent commitment to children in foster care. Subsidized kinship guardianship is a wonderful permanency option that COFCCA has long supported, but the funding does not belong in the block grant.

While we are pleased to see community optional preventive services (COPS) reauthorized in the budget language, the funding level of $12.1 million is less than half of the $26 million COPS allocation just two years ago. COPS programs are a critical component of the continuum of child welfare services because they are designed at the local level to meet locally identified community needs. Unlike mandated preventive services that target families with a child at imminent risk of placement in foster care, COPS programs serve at-risk families to avert crises and later foster care placements. COPS programs cost less, are less heavily regulated and have a less intrusive eligibility process while still subject to OCFS approval. Examples of COPS programs include group parenting skills, school-based, and therapeutic programs. COPS cannot be used as a substitute or alternative to providing mandated preventive services to eligible children and families.

While we are tempted to advocate for an increase in COPS funding, we know the results would likely mean a decrease in other much needed and under-funded human services. Rather, we urge the Legislature to build in two-part flexibility to preventive services that we believe can be accommodated within current overall preventive services allocations. First, allow counties to provide up to 15% of their overall preventive services programs as COPS. Counties are in the best position to know what type of preventive services their current caseloads of at-risk families need. Accountability would be maintained by continuing OCFS authority to approve new COPS proposals and to require performance measures. Second, COFCCA urges the Legislature to allow counties to use donated funds for a portion of the local preventive services share to promote public-private partnership and investment in preventive services at the local level.

Juvenile Justice Reform Initiatives

COFCCA supports the Close-to-Home proposal that will allow New York City to operate much of its own juvenile justice system because we support the principle of keeping youth close to their families and home communities, whenever possible and appropriate. We have many questions about implementation and, in particular, whether provider agencies will have the programmatic and fiscal support needed to serve hundreds of additional juvenile delinquents and their families while maintaining agency and community safety. We urge the state and City, together, to immediately bring nonprofit providers to the planning table in a meaningful way, since they will be integral to the success of this initiative.

We also wonder about the potential impact on youth and their families from upstate counties as OCFS continues to downsize its system and shifts to a regional placement model; upstate youth deserve to be kept close to home as well. Where that is not possible we hope OCFS will address the distance concerns through enhanced transportation options for parents to maintain the strongest possible link while the youth is in care.

Critical Restorations

Even in this difficult economy, there are some omissions in the Governor's budget that we urge the Legislature to restore because they support critical services that will simply be eliminated without restored funding. These include:

- $4 million in Community Reinvestment for seven programs in Suffolk, Nassau and Monroe counties, and NYC. These are community-based programs that just started in 2011, with services targeted to younger teens in the specific zip codes with the highest rates of juvenile justice placements. These programs are exactly aligned with the state's juvenile justice reform agenda and early performance data is quite positive. Failing to include additional funds for at least one more year to give these programs a chance is short-sighted and wasteful of the $4 million invested to date.

- COFCCA is pleased to join a dozen other organizations in urging the Legislature to restore funding for the Safe Harbor Act. This important legislation was passed in 2008 to address the widespread sexual exploitation and commercial trafficking, occurring in New York State, of thousands of children. According to the OCFS Report, at least 300,000 of our nation's youth are victims of commercial sexual exploitation of children (CSEC) each year and several thousand of these children reside in New York State. The Safe Harbor legislation recognized the trauma and damage done to sexually exploited children, and authorized $10 million in funds to allow CSEC victims to receive desperately needed treatment so that they can recover, build on their inner strengths and go on to build meaningful lives. This legislation importantly shifted the focus from viewing these children as criminals, to viewing them as deeply scarred victims. Regrettably, funding to support this legislation was never realized. We believe that it is time to honor the promise made in the legislation. Allocation of the $10 million originally authorized will allow the State to put in place a continuum of services for hundreds of CSEC victims. In the FY 12-13 budget, we urge you to fulfill the promise made in 2008 and extend support to a population that, without our support, will sadly remain largely hidden and without voice. The Coalition of organizations which has come together on this issue will be submitting more detailed written testimony.

- Settlement Houses: New York has a proud history of supporting community-based, grass roots services delivered by settlement houses and we urge the Legislature's continuing support. Let's not follow in the tracks of the recent announcement of the closing of Hull House in Chicago; New York can do better.

Structural Issues

Finally, I want to address a couple of structural issues contained in the budget. First are cost of living adjustments, or COLAs, which are designed to adjust existing payment rates to reflect increased costs. We are not talking today about costs like raises for staff, we're talking about costs over which agencies have little or no control, including health insurance increases of between 12 – 30%, certain retirement costs, food, gasoline, etc. Rates set by state agencies for our agencies are based on actual costs two years ago and are further suppressed by a lack of increases and cuts to payments, such as the 2% reduction in Medicaid payments that no amount of administrative efficiency can reduce.

We are at the point where the only things left to cut, for the majority of agencies, have an impact on direct services to children and families. Downsizing the workforce means increased caseloads; fewer dollars spent per family means reductions in services.

Budget language includes a statement that "COLAs and trend factors increase State spending without any link to actual cost growth or performance outcomes" to which we take great exception. Tying COLAs to performance is actually counter intuitive. This is not about performance or outcome based contracts. COLAs are reflections of hard costs which have increased or which are needed to allow a provider to keep pace with inflation. Failure to cover these costs is in fact a funding reduction. This is different than, for example, cuts to state agencies' operating budgets, which we recognize are painful. However, state agencies' budgets do not include, for example, fringe benefits or retirement costs, so an individual state agency does not experience the increased costs at the same time they're implementing the budget cuts. However, our agencies experience both: increased fixed costs and simultaneous payment cuts, a double whammy that makes service provision ever more challenging.

I want to comment as well about the Governor's concern that administrative costs not be excessive; we agree. We are told by OCFS that the average administrative costs for nonprofit child welfare providers are around 17% and many are lower than that, which I would argue is a bargain for the state, compared with upwards of 50% rates for some public entities like SUNY.

As implementation of the Governor's Executive Order moves forward, it will be critical that there are consistent definitions of "administrative costs" across state agencies, since many providers deal with, and are regulated by, multiple state agencies. It will also be critical that areas currently counted as administrative in some state agencies' rate systems be removed from the administrative rate calculation. One example in the foster care rates is staff development and training costs, which are directly tied to program but are currently counted as administrative. We urge the state agencies to include the nonprofits and the CPA firms with expertise in our work in the redefining of these categories. And I cannot conclude this testimony without pointing out that a key driver of administrative work for nonprofits is state mandates: every time there is a new requirement - even if it's conceptually a good idea – the provider agencies' administrative workload increases. I also note that some of these mandates don't even pass the "it's a good idea" test.

We urge that Legislature to include time frames for actions required of state agencies in their dealing with nonprofits, from timely issuance of RFPs, contracts and payments, to timely inspections and follow-up reports. The lack of timeliness on the part of the state agencies costs nonprofit agencies money: an agency proposing a new program should know within one or two months, barring shortcomings in the proposal, whether the program is approved and start-up can begin. These delays also mean that money appropriated by the Legislature in a given year isn't actually awarded to providers for many months or even years, like the TANF prevention and post-adoption awards OCFS has just announced that involve money two or more years ago.

It's very clear from where we sit: as state agencies continue to be downsized, their business models need to be fundamentally reengineered so they can strategically add value in some areas and get out of the way in others. Our member agencies would welcome the opportunity to make recommendations and partner in such efforts

Protection of Vulnerable Persons

One final comment is to thank the Governor for his commitment to the protection of vulnerable people in the state's care and the work that Clarence Sundram, the Governor's Special Advisor on Vulnerable Persons, is doing. We look forward to seeing the Governor's recommendations in this regard and are very hopeful that will enhance safety, promote positive outcomes and support the vast majority of line staff who work so hard every day to care for vulnerable people.

Thank you for this opportunity to testify today. I am available, as always to answer your questions and discuss any of these issues further.

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