

The Foster Care Independence Act of 1999
and
The John H. Chafee Foster Care Independence Program
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I. Background

A. The Foster Care Independence Act of 1999

The Foster Care Independence Act of 1999 (H.R. 3443), signed into law by President Clinton on December 14, 1999, offers assistance to young adults transitioning out of foster care and into independent living. The Foster Care Independence Act contains provisions that:

- (1) establish an improved independent living program, known as the John H. Chafee Foster Care Independence Program;
- (2) allow states to provide Medicaid coverage to young adults between eighteen and twenty-one years of age who were in foster care on their eighteenth birthday;
- (3) increase the maximum amount of assets from \$1,000 to \$10,000 that a child in foster care may have and still be eligible for foster care funded under Title IV-E of the Social Security Act;
- (4) require states to ensure that foster parents are prepared, both initially and on a continuing basis, to care for children placed with them; and
- (5) authorizes increased funds for adoption incentive payments to the states to assist in finding permanent placements for children in foster care.

B. The John H. Chafee Foster Care Independence Program

A significant portion of the Foster Care Independence Act deals with the creation of the John H. Chafee Foster Care Independence Program (hereafter referred to as the Chafee Independence Program), which was named in honor of the late Senator John H. Chafee from Rhode Island--one of the original sponsors of the Act and a well-known advocate for abused and neglected children. The Chafee Independence Program replaces the former Independent Living Initiative under Title IV-E of the Social Security Act, which was established in 1986 and governed states' implementation of federally supported independent living services.

Congress was prompted to create an expanded and reformed independent living program by four major findings:

- Despite reasonable efforts by states to reunify children with their families or to place them with adoptive families, some children will never be reunified or adopted. These children should be enrolled in independent living programs to prepare them for employment, postsecondary education, and adult responsibilities.
- About 20,000 adolescents leave foster care each year because they reach eighteen years of age.
- Adolescents leaving foster care have significant difficulties transitioning into independent living. These adolescents typically have high rates of homelessness, nonmarital childbearing, poverty, and delinquent behavior and are targets of crime and physical assault.
- State and local governments, with funding from the Federal government, should offer a program of education, training, employment, and financial support to young adults leaving foster care, that would begin before graduation from high school and continue, as needed, until the age of twenty-one.

II. Purpose

Congress' main goal in enacting the Chafee Independence Program was the provision of more flexible funding to enable states to design and implement a variety of programs to assist children in the process of making the transition from foster care to independent living. Specifically, the Chafee Independence Program lays out five types of programs that states may implement with the appropriated funds:

(1) programs to identify children likely to remain in foster care until eighteen years of age and to provide them with services aimed at helping them obtain a high school diploma, vocational training, career exploration, job placement and retention skills, daily living skills, financial management skills, and preventive health training (including substance abuse prevention, nutrition skills, and pregnancy prevention);

(2) programs to assist children likely to remain in foster care until eighteen years of age with the education, training, and services necessary to obtain employment;

(3) programs to assist children likely to remain in foster care until eighteen years of age prepare for and enter post-secondary educational and training institutions (i.e. colleges, universities, technical schools, and vocational schools);

(4) programs to provide personal and emotional support, through mentors and the promotion of interactions with dedicated adults, to children aging out of foster care; and

(5) programs to provide financial, housing, counseling, employment, education, and other appropriate support and services to children between eighteen and twenty-one years of age who had formerly received foster care to enhance their own efforts to become self-sufficient and to accept personal responsibility for the transition from adolescence to adulthood.

III. Funding

The Foster Care Independence Act authorizes \$140 million a year in funding for the Chafee Independence Program. This amount is double the funding level approved for the former Independent Living Initiative.

A. State Allotments

The amount of funds distributed to each state under the Chafee Independence Program is based on the state's total number of children in foster care for the most recent fiscal year in relation to the total number of children in foster care in the United States for the same fiscal year. Thus, as the number of children in foster care changes each year, allotments may vary from year to year. However, there is a "hold harmless provision" and a state minimum under the Chafee Independence Program which ensure that states will receive at least the amount received under the former Independent Living Program in fiscal year 1998 or \$500,000, whichever amount is greater.

In making the allotment determinations, the Secretary of HHS is directed to set aside 1.5% of the total funding for evaluation, research, and technical assistance. The remaining amount is then divided among the states that have submitted applications for funds. To ensure that each state receives at least the amount it received in fiscal year 1998, but no less than \$500,000, allotments for other states are ratably reduced, if necessary.

States are required to make a 20% match on the total allocation received under the Chafee Independence Program. Under the former Independent Living Initiative, a 50% state match was required on allocations over \$45 million, but no state match was required for allocations less than that amount.

Once funds are received, states have two fiscal years to spend the funds received in a fiscal year under the Chafee Independence Program. Thus, if a state receives funds in fiscal year 2000, it will have until the end of fiscal year 2002 (September 30, 2002) to spend the funds. A state must use its allotment to supplement, not replace, any other funds available to the state for purposes similar to those of the Chafee Independence Program.

B. State Applications for Funding

The Foster Care Independence Act specifies that states applying for funding under the Chafee Independence Program should submit their requests to the Secretary of Health

and Human Services (HHS) for funding for a period of five consecutive fiscal years. Each state's application must include a five year plan describing how it will implement the new Chafee Independence Program. In order to be approved, state plans must address a number of specific requirements and contain certain certifications.

1. State Plan Requirements

State plans must include the name of the state agency or agencies that will administer, supervise, or oversee the programs carried out under the plan and a description of how the state intends to accomplish the following;

- design and deliver programs to achieve the purposes outlined under the Chafee Independence Program;
- ensure that all political subdivisions, i.e. counties, towns, cities, etc., in the state are served by the program, though not necessarily in a uniform manner;
- ensure that the programs serve children of various ages and at various stages of achieving independence;
- involve the public and private sectors in helping adolescents in foster care achieve independence;
- use objective criteria for determining eligibility for benefits and services under the programs and for ensuring fair and equitable treatment of benefit recipients; and
- cooperate in national evaluations of the effects of the programs in achieving the purposes outlined under the Chafee Independence Program.

2. Required Certifications

State plans must include the following assurances by the chief executive officer of the state:

- certification that the State will provide assistance and services to children who have left foster care because they have reached eighteen years of age, but have not yet reached twenty-one years of age;
- certification that not more than 30% of the amounts paid to the State from its allotment per fiscal year will be used to pay for room and board for children who have left foster care because they have reached eighteen years of age, but have not yet reached twenty-one years of age;
- certification that the none of the amounts paid to the State from its allotment will be spent on room and board for any child who has not attained eighteen years of age;

- certification that the State will use training funds provided under the program of Federal payments for foster care and adoption assistance to train foster parents, adoptive parents, workers in group homes, and case managers to understand and address the issues facing adolescents preparing for independent living and will, to the extent possible, coordinate the training with the independent living program for adolescents;
- certification that the State has consulted widely with public and private organizations in developing the state plan and has given all interested members of the public at least 30 days to comment on the plan;
- certification that the State will make every effort to coordinate programs funded by its allotment under the Chafee Independence Program with other Federal and State programs for youth (particularly transitional living youth projects funded under Part B of Title III of the Juvenile Justice and Delinquency Prevention Act of 1974), abstinence education programs, local housing programs, programs for disabled youth, and school to work programs offered by high schools or local workforce agencies;
- certification that the State has consulted each Indian tribe in the State about the programs to be carried out under the state plan, that efforts have been made to coordinate the programs with the tribes, and that benefits and services under the programs will be available to Indian children as well as other children in the State;
- certification that the State will ensure that adolescents participating in the Chafee Independence Program will participate directly in designing their own activities to prepare them for independent living and will accept personal responsibility for living up to their part of the program; and
- certification that the State has established and will enforce standards and procedures for the prevention of fraud and abuse in the programs carried out under the state plan.

C. Use of Funds

1. Services for young adults 18-21 years of age

States are required to use a portion of the funds allotted to provide benefits and services for young adults eighteen to twenty-one years of age who have aged out of foster care.

2. Room and Board

States may use up to 30% of their allotment under the Chafee Independence Program for room and board for young adults eighteen to twenty-one who have left foster care because they have reached eighteen years of age.

3. Training

States must use some of the funds to provide training to help adoptive and foster parents, staff in group homes, and case managers understand the issues facing adolescents preparing for independent living.

IV. Eligibility

Young adults up to twenty-one years of age who: 1) are likely to remain in foster care until the age of eighteen and 2) have aged out of foster care, without regard to their eligibility for foster care funded under Title IV-E of the Social Security Act, are eligible to receive assistance under the Chafee Independence Program. Under the former Independent Living Initiative, states were only obligated to assist young people sixteen to eighteen years of age in foster care funded under Title IV-E of the Social Security Act and had the option of whether or not to extend services to adolescents in state-funded foster care and to young adults up to age twenty-one.

States must make benefits and services under the Chafee Independence Program available to Indian children in the state on the same basis as other children.

V. Data Collection and Performance Measurement

The Foster Care Independence Act includes provisions that require the development of outcome measures and the tracking of certain information about the services provided under the Chafee Independence Program. The Act directs the Secretary of HHS, in consultation with state and local public officials responsible for the administration of independent living and other child welfare programs, child welfare advocates, Members of Congress, youth service providers, and researchers, to develop outcome measures to assess states' performance in operating independent living programs. These measures include:

- educational attainment;
- receipt of high school diploma;
- employment;
- avoidance of dependency;
- homelessness;
- nonmarital childbirth;
- incarceration; and
- high-risk behaviors.

The Act also requires states to collect the following data:

- the number and characteristics of children receiving services under the Chafee Independence Program;
- the type and quality of the services provided; and
- the State's performance on the outcome measures.

The Act directs the Secretary of HHS to submit a report to Congress by December 2000 on the plans and timetable for the development of outcome measures and collection of data from the states. The report must also contain a proposal for the imposition of penalties on States that do not report data.

VI. Evaluations

The Foster Care Independence Act directs the Secretary to conduct evaluations of state programs that are deemed innovative or of national significance. The evaluations of these programs must include information on the effects of the program on education, employment, and personal development. The evaluations, to the maximum extent possible, are to be based on rigorous scientific standards, including random assignment to treatment and control groups.

Funding for the evaluations as well as for technical assistance, performance measurement, and data collection comes from 1.5 % of the funds appropriated each fiscal year for the Chafee Independence Program.

VII. Penalties

Misuse of funds and failure to comply with the data reporting requirements under the Chafee Independence Program will result in the assessment of a fine against the state of 1%-5% of its annual allotment.

Answers to Some Common Questions about the John H. Chafee Foster Care Independence Program

1. How does the Chafee Foster Care Independence Program improve upon the former Independent Living Initiative ?

The Chafee Independence Program does the following:

- Increases funding for independent living activities;
- Offers increased assistance, including room and board, for young people ages 18 to 21 who are leaving foster care;
- Emphasizes the importance of securing permanent families for young people in foster care;
- Expands the opportunity for states to offer Medicaid to young people transitioning from care; and
- Increases state accountability for outcomes for young people transitioning from foster care.

2. Who is eligible for independent living services other than room and board ?

States have broad discretion to define eligibility requirements for services other than room and board. Children who are "likely to remain in foster care until age 18"¹ and those "aging out of foster care" are eligible for assistance under the Chafee Foster Care Independence Program regardless of whether or not they are eligible for foster care assistance under Title IV-E of the Social Security Act.

3. Who is eligible for room and board ?

Young people who have aged out of foster care because they have reached 18 years of age, but have not yet reached 21 years of age are eligible for room and board. Under these requirements, children who age out of foster care at 18 and go directly to independent living as well as those who have aged out and lose contact with child welfare agencies, but then return before age 21 for assistance, can receive funds to pay for room and board.

4. Who may provide independent living services funded by the Chafee Foster Care Independence Program ?

¹ Although it is up to states to define the phrase "likely to remain in foster care until age 18," it is clear that young adults do not have to be in foster care on their 18th birthday in order to meet this definition.

States have complete discretion to choose providers for independent living services under the Chafee Foster Care Independence Program. Providers may come from either the public or private sector.

5. Must states provide a match for the funds they receive under the Chafee Foster Care Independence Program ?

Yes. In order to receive their share of federal funds under the Chafee Foster Care Independence Program, states must provide a 20% non-federal match. Although the Foster Care Independence Act provides no guidance as to the nature of the match, general regulations governing federal funding of programs provides that matches may be in cash or in-kind and that federal monies cannot be used for the match.