



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

Vital Federal Aid to Nonprofits in the Midst of a Pandemic: Paycheck Protection Program, Other Federal COVID-19 Funding, and Preventing Negative Impact on Future State-set Rates

Purpose

The purpose of this paper is to address the unique circumstances child welfare agencies have faced since the COVID-19 pandemic began in March 2020 and continue to this day. We are requesting that OCFS treat assistance some agencies have received from various aspects of the federal stimulus package as unique to the pandemic response and to exclude such assistance from rate calculation.

Child Welfare Agency Response to COVID 19

Child Welfare agencies provide vital and essential services and have responded in an outstanding manner during the pandemic. Agency staff have left their own families at home each day, risking their health and their families' health, yet still are working every day to care for youth in residential settings and to support foster families. As essential workers, they have carried out their normal responsibilities throughout the pandemic while reassuring the children, their families and their staff that everything possible is being done to keep everyone safe.

Agencies have faced innumerable challenges, many unforeseen, and for the most part addressed using scarce and internal resources. Agencies and their workers quickly realized that in many cases the answer to a question: "what do you need?" – when asked of birth families, preventive services families, as well as foster families - was often met with answers of: we need rent support, groceries, diapers, cleaning supplies, Personal Protective Equipment, as well as tablets and internet to enable remote schooling and communication with children and workers. Agency staff went above and beyond in their efforts to address these needs.

State and County Response to COVID 19

We are grateful to public agencies for providing as much flexibility and information as they could during the pandemic. Yet, they were not able to provide all the additional funding to support enhanced pay for front line residential staff. In addition, no additional state financial support was provided for these nonprofits that took on extraordinary costs to meet vital needs.

Many provider agencies paid staff an enhanced wage of one and a half or twice their standard pay in recognition of their COVID-19 exposure risk and the necessary work they were doing to protect children's safety and health. In addition, agencies needed to provide extensive amounts of Personal Protective Equipment (PPE) and cleaning supplies, and to accommodate technology costs and meet many other needs.

Federal Assistance

The federal government, in the CARES ACT relief/stimulus package of 2020, offered businesses and nonprofits with fewer than 500 employees the opportunity to apply for Paycheck Protection Program (PPP) funding to alleviate the need to lay off staff during the pandemic. The PPP was intended to put

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cash in the hands of entities to protect jobs and to stimulate the economy. The unusual provision was that the funds came as loans (at 1% interest) with the proviso that if the funds were expended in accord with the requirements, the federal government would at some future date forgive the loans and the business or nonprofit would not be required to repay the loans.

In several ways this was a unique federal initiative. Upon forgiveness, the funds would be a grant with no specific target or program. Unlike typical government grants, the funds were meant to be used as outlined above, or to replace lost revenues, and not to fund a specific purpose (e.g. school lunches, or a caseworker for aftercare, etc.)

Other Forms of Federal COVID-19 Aid

There are several other ways the Federal government has offered assistance to nonprofits and other entities. Some agencies have sought to file for FEMA assistance. FEMA grants are very specific for itemized areas of spending.

Some agencies have been able to benefit from assistance for Medicaid/Medicare and CHIP providers. Funds granted by HHS have taken place in fiscal year 2020-2021, although administration of the program has been inconsistent, with child welfare agencies with similar programs and funding streams receiving widely varying awards.

Potential Impact on Maximum State Aid Rates (MSAR) and Other State-set Rates

We posit that in these ways the PPP funds, as well as other federal funding associated with pandemic relief for providers, should be treated as contributions. As such, they should not be used to offset foster care spending in the rate setting process. To do so would reduce agencies' allowable expenditures and would drive down rates when agencies are in need of the funding to support the very essence of their programs in the future.

The federal government does not view the PPP funds as "typical" federal grants:

- The funds are not subject to federal A-133 audit requirements.
- On the for-profit side, the federal government is not treating forgiveness as taxable income when forgiven and the expenses paid with the funds remain "business expenses" which are still deductible for tax purposes. See [this link](#) for a fuller discussion of this as reported by The Wall Street Journal. Accordingly, permitting agencies to keep these costs within their rate base and treating the PPP funds as a contribution is clearly consistent with the stated intent of Congress and IRS treatment.

We believe the actions taken by the federal government for the for-profit sector speak to the intention of the funding. **We strongly urge the State to follow the intention of the Paycheck Protection Program by treating these PPP funds and any other federal aid associated with the pandemic as contributions.** This would provide much needed support to a financially fragile sector.

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Due to financial constraints facing state and local government agencies, the foster care agencies are also faced with withholding of funding from the state and counties. This is putting further financial burden on an already overburdened sector. Allowing agencies to utilize the funding from the Paycheck Protection Program, without impacting future rates, provides the agencies the ability to manage the increased financial burdens placed on them during these unprecedented times. It also helps to ensure the agencies will continue to provide quality services to children placed in foster care and retain staff essential to providing these much needed services to an often underserved population.

Finally, we note that this same issue has the potential to impact other state-set rates in the same manner (special education tuition rates, OPWDD, OMH rates).

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