

Position Statement

2020

Title IV-E Payments and enhanced background check requirements for Child Care Institutions

Proposal

Issue:

The federal Families First Prevention Services Act (FFPSA) requires that all individuals working in congregate care settings complete enhanced background checks, which include fingerprint-based criminal records checks of national crime information databases and child abuse registry checks for any adult working in a Child Care Institution. Every employee must have enhanced background studies in order for a facility to be eligible for payment under Title IV-E. State law was amended in 2019 to comply with this requirement, effective July 1, 2019. State statute also gave March 1, 2020, as the date for facilities to come into compliance with this requirement.

The discrepancy between these two dates, combined with lack of clear and timely guidance from DHS to counties or providers to implement these changes in law, resulted in providers not coming into compliance with the background requirements. Counties are not able to be reimbursed for claims for Title IV-E payments after July 1 for facilities not in compliance. Thus, counties are placed into the financial hardship of not being reimbursed for services budgeted to have a 50% federal reimbursement for Title IV-E eligible CCI facility costs in 2019 and into 2020.

This issue is not just a one-time issue, it will be an ongoing tracking issue to ensure that facilities remain in compliance through turnover and staff changes. The requirements mean that every time a new staff is hired the facility will not be in compliance and IV-E reimbursable until their background check is done unless that person does not work at all until the background check is completed. That is not current practice and there is a workforce issue so any change in practice needs to be monitored and tracked by the licensor, DHS.

Implementation Strategy:

While licensing of these facilities is an authority and responsibility that lies with DHS and DOC, counties are willing to work with providers and the state to help expediate the process to make sure providers comply with the federal and state requirements for background checks. The current situation where counties are no longer eligible for Title IV-E reimbursement creates a tremendous hardship and it exists due to a lack of partnership, planning and impossible timelines and a failure to provide communication and guidance around the implementation of new laws to counties, tribes, and providers.

MACSSA seeks cooperation and collaboration with DHS and providers to bring providers into compliance with the background studies requirement as soon as possible, in order to avoid forgoing additional eligible Title IV-E reimbursements in 2019 and 2020.

MACSSA will also seek legislation to hold counties harmless for the lost reimbursements that resulted from a failure to synchronize compliance and reimbursement implementation dates. The negative impact of the passage of this federal compliance legislation brought forward by DHS on counties federal reimbursements was not communicated nor foreseen and financially impacts counties significantly. This is an unplanned for, unfair and ill-advised cost shift to counties.

MACSSA also seeks a bridging fund to cover the periods that a facility is not in compliance because of staff turnover or other licensing issues that are not within counties control to document or monitor, or ensure is completed. The State's responsibility should be clearly

outlined and a funding source should be set up to reimburse counties when or if a facility is not and/or cannot be in compliance with the background check requirements.

Systemic Priority Alignment (check all that apply and explain why)

Equity Service Integration Fiscal Framework

Comments:

Operational Priority Alignment (check all that apply and explain why)

Behavioral Health Case Management Child Well Being Community Based Settings & Services

Health Care Housing & Transportation Modernization Self Sufficiency

Comments:

Rationale/Background:

This issue demonstrates a failure in partnership within Minnesota's State Supervised, County administered system. Counties are left with the financial repercussions of failures to effectively manage the implementation of federal law by the licensing authorities. Counties are still required to find and pay for the proper placements for clients, without being able to access the financial resources that are designed to be available. For true partnership to be demonstrated, the state would own this problem and work collaboratively with counties and providers to remedy this funding issue as soon as possible and hold counties financially harmless. The State would also ensure that there was an ongoing process in place so counties, and Minnesota, are not constantly at risk of a federal payback in an audit because of periods of non-compliance that facilities may have for various reasons.

Additional Information:



Submitted by: [insert the name of the person who wrote the position]
Approved on: [insert date position was approved]