

**Taking Care of Kin Who Take Care of Our Children:  
A Child Welfare Reform Proposal that Promotes a Child-Centered Approach to  
Funding and Permanency through Increased Support of Relative Caregivers**

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Relative caregivers are the backbone of our child welfare system. Grandparents alone care for more than 2.5 million children, and in at least 1 million of those homes, neither parent is present.<sup>1</sup> Relative placements are also legally prioritized,<sup>2</sup> more cost effective,<sup>3</sup> tend to lead to longer term placement stability,<sup>4</sup> and offer better connections to community supports and lasting ties to caring adults.<sup>5</sup> Yet, counter-intuitively, child welfare systems provide the least amount of support and funding to relative caregivers. This creates a child welfare funding structure, which both fails to adequately support the preferred out-of-home placement, i.e., relatives, and struggles to fiscally respond to the specific needs of the children in its care. The result is a system that is forced to rely on expensive congregate care placements. The overuse of congregate care and the failure to appropriately support children with relatives can be ameliorated by moving away from a placement-based approach and toward a child-centered approach to child welfare funding.

This paper focuses on the child welfare funding system in California, which has the largest number of foster youth in the United States.<sup>6</sup> As a matter of policy, California does not pay state foster care benefits to children who are placed with relative caregivers.<sup>7</sup> This creates a two-tiered system of children who are eligible for foster care benefits under the federal program and children who are not. While California is the only state that does not pay relatives state foster care benefits even when the relatives meet the same licensing or approval standards applied to non-relatives, a two-tiered system, which provides less funding to relatives, is the norm in child welfare systems across the country. Further, it is perpetuated by a federal foster care funding system that makes more children ineligible for federal dollars each year. Consequently, our analysis of child welfare financing, while focused on California, has a wider relevance.

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<sup>1</sup> Judge Leonard Edwards, "Relative Placement in Child Protection Cases." *Juvenile and Family Court Journal*, Spring 2010 at 8. Also updated information available at Grandfacts via [www.aarp.org/relationships/friends-family/grandfacts-sheets/](http://www.aarp.org/relationships/friends-family/grandfacts-sheets/).

<sup>2</sup> 42 U.S.C. 671(19); Cal. Welf. & Inst. Code §§ 309 (relatives must be notified within 30 days of a child entering foster care), 361.2 (social workers have a duty to seek out relatives for placement and assessment), 361.3 (whenever it is safe to do so, a child should be placed with a relative); Cal. Family Code § 7950(a)(1).

<sup>3</sup> Compare Cal. Welf. & Inst. Code § 11461 (rates for foster family homes) with Cal. Welf. & Inst. Code § 11462 (rates for group homes).

<sup>4</sup> The Annie E. Casey Foundation "Stepping Up for Kids"; Berrick, Jill Duerr, Richard Barth, and Barbara Needell. 1994. "A Comparison of Kinship Foster Homes and Foster Family Homes: Implications for Kinship Foster Care as Family Preservation." *Children and Youth Services Review* 16(1-2): 33-63.

<sup>5</sup> The Annie E. Casey Foundation "Stepping Up for Kids".

<sup>6</sup> U.S. Department of Health and Human Services: Child Welfare Outcomes 2007-2010, Report to Congress

<sup>7</sup> Cal. Welf. & Inst. Code § 11402(a).

Part one of this paper provides a brief review of federal child welfare financing with an emphasis on how linking federal foster care funding to welfare standards of 1996 has resulted in the ongoing abandonment of more and more relative caregivers every year by the federal government.

Part two focuses on California's child welfare funding system; specifically on the creation of a two-tiered system for foster youth that are not federally eligible with the effect of the same child with the same needs receiving radically different supports depending solely on whether she is placed with a relative or non-relative.

Part three examines the specific needs of relative placements and new findings regarding adequate funding both youth in foster care and for seniors who frequently take in kin.

Part four proposes a child welfare model that prioritizes child well-being with a corresponding funding structure to incentivize community-based kinship placements. The proposal, though specific to California's child welfare financing system, is relevant to programs in other states as well as at the federal level where funding streams could and should be changed to better support relative care.

### **Part One: A Brief Review of Federal Child Welfare Funding**

One of the causes of the inadequate support of relative caregivers is the way that our child welfare system is financed at the federal level. The system prioritizes kinship care in theory but does not provide the funding and services that such caregivers need to succeed in practice. The goals of our child welfare system – preventing entries into foster care, maximizing relative placements, reunification, promoting long-term well-being, and permanency – are not supported by dedicated sources of federal funding which leave states and counties to cobble together federal, state and local funds to support these different ideals.<sup>8</sup>

The child welfare system strives to prevent the entry of children into foster care, and, yet, there is limited funding available for the preventative services necessary to achieve this goal. What is available must be pieced together by child protective agencies from several different sources of federal, state and county funds, many of which are not intended exclusively for child welfare. The only funding source dedicated to preventive child welfare services comes from Title IV-B of the Social Security Act. These funds can be utilized on behalf of any child or family, regardless of whether the child is formally placed in foster care. In addition, few eligibility requirements attach to Title IV-B funds. However, the tradeoff for this flexibility is that Title IV-B funds are capped and the annual appropriation is quite small, accounting for only five percent of child welfare

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<sup>8</sup> <http://www.gao.gov/assets/660/651667.pdf> (in state fiscal year 2010, 46 percent of all child welfare expenditures were from federal sources, while 43 percent and 11 percent were from state and local funds, respectively)

spending nationally.<sup>9</sup> The rest of the funding used to support preventative services comes from federal block grants like Temporary Assistance for Needy Families (TANF) or the Social Services Block Grant (SSBG), which are intended to serve a much broader population of individuals than children at risk of foster care. The result is “an inherent conflict between competing constituencies who rely on the funds for critical services and supports.”<sup>10</sup>

TANF replaced the Aid to Families with Dependent Children (AFDC) program, which provided cash assistance to families who met certain income and eligibility requirements. Prior to its elimination in 1996, AFDC complemented the child welfare system by providing a foundation of economic support to poor families that was critical to keeping families together without involvement of the system.<sup>11</sup> TANF, AFDC’s successor, is a block grant that provides states broad flexibility in how to spend funds previously earmarked for low-income children and families. In addition, Congress has limited how long a needy adult can receive assistance under the TANF program, which means that a parent can only receive assistance for a limited period of time before losing the foundation of support that is helping to keep the family intact.

The results have been dramatic. States have chosen not to use TANF solely for the purpose of providing cash assistance to support children in the homes of their biological parents. Nationally, seventy-one percent of TANF funds are used for purposes other than basic cash assistance, up from thirty percent when TANF was originally instituted.<sup>12</sup> Increasingly, states use TANF funds to pay for child welfare services for children living with kin caregivers. More specifically, TANF funding is used for children diverted away from foster care to a relative’s home as well as to support children placed into foster care with relatives.

In essence, TANF no longer provides funding to biological families to prevent entries into foster care. Rather, state’s use TANF “child-only” payments to support children who have left their biological parent’s home for the care of a relative. Researchers have found that “states that have a large share of their caseload in non-parent caregiver child-only TANF tend to provide TANF to relatively few parent-present families.”<sup>13</sup> They further speculate that “some parents confronted by sanctions or time limits shifted responsibility for their children to kin caregivers and encouraged them to apply for TANF on the children’s behalf.”<sup>14</sup> Although heralded as an important measure to end

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<sup>9</sup> Angie Schwartz and Amy Lemley, “Child Welfare Financing Reform: The Importance of Maintaining the Entitlement to Foster Care Funding.” Clearinghouse Review, Journal of Poverty law and Policy, Volume 44, Numbers 11-12, March-April 2011

<sup>10</sup> Id

<sup>11</sup> Id

<sup>12</sup> Mauldon, Speiglmán, Sogar and Stagner, *supra*

<sup>13</sup> Id

<sup>14</sup> Id

dependence on welfare, the elimination of AFDC also eliminated a major source of funding for states to prevent entries into foster care.

Further, though AFDC ceased to exist in 1996, income eligibility criteria for the child's home of removal for federal foster care funding (Title IV-E) continues to be linked to the old AFDC criteria, as they existed before the elimination of the AFDC program. This "look back" requires youth to be eligible for AFDC benefits under the 1996 eligibility rules, including 1996 household income limits, at the time the child was removed from home or within six months of the petition month.<sup>15</sup> The 1996 AFDC eligibility rules are therefore frozen in time without taking into account inflation. As a result fewer children are able to meet the qualifications for federal foster care funding each year. As we discuss below, because California only pays state foster care benefits to non-relatives but not to relatives, kinship caregivers are hardest hit by the restrictive effect of this archaic federal rule.

## **Part Two: California's Two-Tiered Child Welfare Funding System**

It is impossible to imagine that a child, who needs upwards of \$8,200 per month of care in one setting, can be adequately cared for in another placement while only receiving \$370 a month.<sup>16</sup> And yet, that is precisely what relative caregivers are expected to do in California, regardless of whether the child formally enters foster care. Just as states' have increasingly relied on the TANF block grant to divert children away from foster care, they also use TANF to pay for the cost of foster care placements with relatives. As discussed, this is partly due to the fact that the dedicated funding stream that is available to pay for the cost of the placements, Title IV-E of the Social Security Act, has arcane eligibility rules that result in fewer children being eligible every year. In addition, to receive federal foster care funding, relatives must be licensed or approved under the same standards as nonrelatives, which has led many states to utilize alternative licensing or approval standards for relatives in order to avoid paying them foster care benefits, even if the child would otherwise qualify for federal assistance.

Thus, California's current rate setting system penalizes the placements the system most prefers. Foster care maintenance payments are intended to cover the cost of items like food, clothing, shelter, and transportation that do not vary appreciably from one placement to another. However, in California as well as many other states, the rate setting has everything to do with the type of placement and little to do with the costs of the child's needs. The federal government does not set minimum or maximum foster care maintenance payment rates. States are permitted to set these rates and are only required

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<sup>15</sup> 42 U.S.C. 672(a)(4); WIC 11401(f); 45 C.F.R.1356.21.

<sup>16</sup> A child in a group home setting could receive almost \$9000 in AFDC-FC. The same child with a non-relative or a federally eligible relative could receive over \$3000 in AFDC-FC. With a relative who is not federally eligible, the same child would receive around \$230 in TANF funding.

by federal rules to review them periodically to ensure their continuing appropriateness.<sup>17</sup> As one would expect there are some cost savings associated with kinship care, as the administrative and overhead costs of residential care are eliminated, however, the child's needs are not demonstrably different when placed with a grandmother or placed in a group home.

### **Part Three: Relative Caregivers and the Search for Adequacy**

The preference for relative caregivers is deeply engrained in our child welfare system. Federal law requires that states place foster children in the “least restrictive and most appropriate setting available and in close proximity to the parental home, consistent with the best interests and special needs of the child.”<sup>18</sup> Every state must “consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards.”<sup>19</sup> Further, as a matter of policy, states strive whenever possible to avoid formal foster care placements altogether by diverting children away from foster care to the homes of relatives.

Every year, there are more than 675,000 substantiated cases of child abuse, maltreatment and neglect in the United States.<sup>20</sup> These are the most vulnerable members of our society with more than one-third of these children eventually entering the foster care system.<sup>21</sup> The children often come from families that face chronic poverty, lack of access to quality education, and have a dearth of resources, which in turn intensifies the risk for them.<sup>22</sup> Nationally, twenty-six percent of youth in foster care are placed with relatives.<sup>23</sup> California exceeds this average by 10% with thirty-six percent of children in foster care currently placed with kin.<sup>24</sup>

There are worthy reasons for promoting placement with relative caregivers. Relative caregivers assist in mitigating the trauma of removal by providing consistency, stability, preserving family ties, and maintaining cultural customs.<sup>25</sup> Research has shown that children in kinship care have fewer prior placements in foster care, more frequent and consistent contact with birth parents and siblings, and feel fewer negative emotions about being placed in foster care than children placed with non-relatives.<sup>26</sup> In addition to

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<sup>18</sup> 42 U.S.C. 675(5)(A)

<sup>19</sup> 42 U.S.C. 671(19)

<sup>20</sup> <http://www.gao.gov/assets/660/651667.pdf>

<sup>21</sup> U.S. Department of Health and Human Services: Child Welfare Outcomes 2007-2010, Report to Congress

<sup>22</sup> Harden, Brenda Jones “Safety and Stability for Foster Children: A Developmental Perspective.” Volume 14, Number 1 Winter 2004

<sup>23</sup> The Annie E. Casey Foundation “Stepping Up for Kids” *supra*

<sup>24</sup> *Id*

<sup>25</sup> *Id*

<sup>26</sup> Northern CA Training Academy, “Fostering Family Connections: Pursuing Permanence for Children and

promoting child well-being, “kinship care has often been seen as a potential solution to many of the broader concerns of the child welfare system ... such as growing [child welfare services] populations, addressing the shrinking number of qualified and available foster parents and providing culturally competent placements.”<sup>27</sup>

However, relative caregivers often face compounding challenges that impact their ability to care for their kin, including advanced age,<sup>28</sup> poverty,<sup>29</sup> and poor health.<sup>30</sup> Most kinship caregivers also provide support to multiple children, because relatives are more likely to take in siblings to keep the family together.<sup>31</sup> Taken together, a typical relative caregiver is in her late sixties, living below the federal poverty line, coping with one or more limiting health conditions, and caring for three of her grandchildren, who are themselves, dealing with the trauma of abuse and neglect.

This profile of a typical relative caregiver challenges the view that kinship placements require less support and supervision from the child welfare system. The pervading notion that kinship care should be given without system intervention or with limited involvement from the system seems to stem from inherited moral notions regarding familial responsibility, and not from concerns of child well-being or even the fiscally efficient delivery of services to children in state care.<sup>32</sup> This is further evidenced by the increasing number of children who are diverted to relative care where they receive no support or oversight from the child welfare system. Even in the case of children who are formally placed in a relative’s home through the foster care system, relatives generally receive far less support and fewer services than non-kin caregivers. Recognizing that this may not be beneficial to children, advocates recommend that child welfare workers consider these factors when making decisions about foster placements, because the “stress and anxiety that may stem from the caregiver’s poverty or marital status may compromise the level of care and attention that he/she can provide.”<sup>33</sup>

Though the ultimate success of any out-of-home placement depends on financial and other concrete supports for the child’s care, the demographic profile of the typical relative

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Youth in Foster Care” November 2009

<sup>27</sup> Id

<sup>28</sup> Geen, Rob *supra* “Between 15-20% of kinship foster parents are over age 60, while only 9% of non-kinship FP are over age 60”

<sup>29</sup> Geen, Rob *supra* at 135 “39% of children in kinship foster care live in households below federal poverty line, compared to 13% of children in non-kin foster care”

<sup>30</sup> Geen, Rob *supra* at 135 “38% of foster children living with kinship caregiver who has limiting condition or disability”

<sup>31</sup> Geen, Rob *supra* at 143

<sup>32</sup> Geen, Rob *supra* at 141 “[S]ome argue that kin should not be paid for caring for a related child since such care is part of familial responsibility.”; *See also* Schwartz, Ann. Societal Value and the Funding of Kinship Care. Social Service Review, Vol. 76, No. 3 (September 2002) 430 – 459 at 444, who articulates, but does not adopt, such a position. “[I]t is inappropriate for relatives to receives money for what is seen as a familial duty – caring for a family member in a time of need ... good relatives will care for children simply out of love and because of strong family values without concern about compensation.”

<sup>33</sup> Northern CA Training Academy, *supra*.

caregiver underscores that financial and other supports are *especially* important in the case of kinship placements. Instead of supporting kin less or avoiding placements with kin altogether, we should be supporting kin more.<sup>34</sup> It is irresponsible to place a child in a relative caregiver's home while ignoring the socio-economic reality that caregivers face. It is equally short-sighted to ignore the benefits that kin-care provides to children. Instead, relatives are placed in an impossible quandary by the assumption that a child placed with a relative does not need the same level of benefits and services as a child living with a non-relative.

While nearly every kinship caregiver is eligible for some type of support, the reality is that many of these caregivers do not even get the minimal support they are eligible to receive. Specifically, only thirty-three percent of all children in kinship care live in families that receive some type of financial benefit (whether from foster care benefits, TANF, Social Security, or Supplemental Security Income) to help cover the child's care.<sup>35</sup> Similarly, nearly all children in kinship care are eligible to receive Medicaid, but only fifty-two percent of these children do.<sup>36</sup> It appears that many kinship caregivers are not aware of available public benefits, and there is no one at the county or state level responsible for ensuring that the assistance is delivered. The consequence of this short-sighted effort at cost avoidance is the increase of long-term costs for caring for children and continued dismal child outcomes.

#### **Part Four: Moving Away from a System of Placement-Based Funding to One That is Child-Centered and that Supports Relative Placements**

The current child welfare system uses relatives with higher needs to care for children placed into foster care while giving them less supports than they would a non-relative foster parent. The failure of current policies to keep pace with the growing reliance on relative placements has left a two-tiered system in which relatives are often sought at the front end to care for youth but then abandoned by the provision of lower benefits and fewer services.

There are good reasons to maintain reliance on kinship care. From a child well-being standpoint, such placements are better in the sense that they propagate what the system prioritizes – long-term, caring homes with fewer placement disruptions that maintain ties with family, community, and culture. From an efficiency standpoint, kinship placements provide care for children without the additional administrative costs or staffing costs that accompany other placement options. From a fiscal standpoint, kinship care helps to

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<sup>34</sup>Schwartz *supra* at 431. “If child caregivers were compensated not on the basis of their relationship to a child but because of the service they provide to society, the particular benefits children experience in kinship care would demand greater compensation of kin caregivers over nonkin caregivers”

<sup>35</sup> Mauldon, Speigman, Sogar and Stagner, *supra*

<sup>36</sup> [http://www.urban.org/ANF\\_EightYearsLater/Section4\\_ChildWelfare.pdf](http://www.urban.org/ANF_EightYearsLater/Section4_ChildWelfare.pdf)

avoid costly residential settings, especially when we consider that statistically, youth in relative placements tend to be higher needs and difficult to place.<sup>37</sup>

Child welfare systems should support kinship placements to the same degree that they prioritize placing children with kin. The current system focuses on paying foster care providers based on the type of placement, rather than the needs of the child. If the child is diverted from foster care altogether, we often do not pay for them at all. For children taken into care, rates are not based on the child's needs, resulting in the same child receiving increased foster care rates based solely on the setting where he or she resides. Our proposal is a system that prioritizes kinship care while focusing on the needs of the child by providing responsible supports linked to that child's individual needs.

### **Responsible Supports**

“Kinship caregivers are often required to provide the same nurturance and support for children in their care that non-kin foster parents provide, with fewer resources, greater stressors, and limited preparation.”<sup>38</sup> Part of the problem is that our child welfare system does not have a needs-based foster care rate, linked to an assessment of the child. Thus, in a family placement, kinship caregivers receive a set dollar amount that is often quite low and not tied to the child's individual circumstances. When that same child moves to a residential setting, the monthly rate paid on behalf of the child balloons. Partly this is due to administrative and overhead costs, but in addition, that provider is also paid a much greater sum to care for the child. The core needs of the child do not change as the child travels from a family home to a group home, and yet the rate paid to meet those needs varies dramatically between the two placements.

Responsible supports would move away from this placement-based approach. Instead, there should be an assessment of the child's need and a needs-based-rate set that travels with the child, regardless of where he or she is placed. While institutional costs (e.g., overhead, staffing, insurance, etc.) should be considered additional costs over and above the costs of meeting the child's needs and included in the subsidy, the needs-based rate received for the child would remain consistent across placements. Additionally, the county child welfare worker can work to ensure that appropriate community-based supports, such as EPSDT services through Medicaid, are accessible to reduce the risk of further institutionalization. Under this model, if the child is placed with a relative, then the child would receive the same needs-based rate that they would if placed with a non-relative or in an institutional setting (although, the institution itself would receive additional dollars for administration and overhead). If the child is not federally eligible, the relative caregiver is paid in the same way he/she would be if placed with a non-relative – through state foster care funds (AFDC-FC). Placement stability is enhanced

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<sup>37</sup> Schwartz Ann, *supra* at 448 “Kin caregivers often care for difficult-to-place children, enabling states to avoid incurring the high costs of institutional placement.”

<sup>38</sup> Geen, Rob *supra* at 135



when kinship caregivers receive the full foster care subsidy.<sup>39</sup> This is a best-practice approach which avoids the two-tiered system of funding and better aligns our funding mechanisms with our placement principles.

### **What Does a Child-Centered System Look Like in Practice?**

To create this child-centered system, foster care maintenance payments must be based on the needs of the each child as determined by individual assessments conducted at the time of entry into the foster care system. In practice, this new system would treat a hypothetical case like this:

A ten-year-old boy is removed from his mother's home due to neglect and abandonment. A petition is filed and allegations sustained and the dependency court judge orders a foster care placement for the child while ongoing reunification services are provided to his mother. During this process, the child is residing with his grandmother. Within a set amount of days, a preliminary assessment of the boy is conducted by a team of professionals (e.g., public nurse, training child welfare worker, other service providers if applicable) to determine the child's special needs. It is determined that he has severe emotional and behavioral problems requiring a higher rate of foster care maintenance payment to cover the costs of caring for the child, including transportation costs to and from therapy and doctor's visits. In consultation with grandmother, the child's attorney, social worker and other supportive adults in the child's life, it is determined that at this time, the grandmother cannot handle the needs of her grandson and it would be in the best interest of this child to be placed in a group home for two months to help with his severe mental health issues. The group home would receive the special needs rate attached to this child plus a supplement for administrative costs. The grandmother would be referred to a Foster Family Agency (FFA) to get training on caring for her special needs grandson and be certified as a special needs caregiver. Once certified, she would be able to take her grandson into her in her home and the child's special needs rate would follow him to her home. The FFA would continue to oversee the home and provide ongoing support to the family and receive a stipend for providing those supports.

On a system level, the additional needs-based support to all youth in foster care will yield savings as more youth are maintained in least restrictive settings. The most expensive settings are congregate care placements, such as group homes, which are for children with significant emotional and/or behavioral problems requiring more restrictive environments.<sup>40</sup> Group homes currently cost three to five times more than family-based placements.<sup>41</sup> Savings from a reduction in the use of group homes could be diverted to community-based services to improve permanence and long-term outcomes for children. The group homes would still be entitled to receive a supplement to pay for administrative

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<sup>39</sup> Geen Rob *supra* at 142

<sup>40</sup> CDSS website, Foster Care Programs

<sup>41</sup> The Annie E. Casey Foundation "Rightsizing Congregate Care." 2009

costs but that would be a separate determination for each group home and not based on the child.

## **Conclusion**

Currently, the funding and services for children in foster care is not based on the child's needs, but rather on placement type. This creates great inequity among California's children and runs contrary to where the foster care system ultimately wants children to be, in permanent, caring homes in the community. As a consequence of this funding inequity, relative placements are used either to divert children away from the child welfare system or as low-cost, low-effort foster placements. In either case, children in the care of relatives receive more emotional support and less financial support. When a child is not diverted to, or placed with, a relative, the child is placed in an out-of-home care placement with a non-relative or in residential treatment facility if the child requires a higher level of care and support. This conundrum runs against the deeply engrained child welfare goal of placing children in the least restrictive environment that can meet their special needs and that is in their best interests.

Our convoluted and archaic funding structures have overemphasized these out-of-home placements instead of maintaining focus on what children need to thrive. This proposal is a step toward correcting that bias and creating a system that focuses on giving kinship providers the supports they need to do what they are already trying to do, raise children who cannot remain with their parents.