

THE NCCPR CHILD WELFARE WAIVER PROPOSAL REPORT CARD

August 28, 2012, Updated September 5, 2012

SUMMARY OF GRADES	
Arkansas	B+
Colorado	B-
Illinois	F
Massachusetts	B
Michigan	C-
Pennsylvania	B-
Utah	B+
Washington State	B+
Wisconsin	F

INTRODUCTION

The U.S. Department of Health and Human Services (HHS) is preparing to issue the first round of “waivers” from child welfare funding rules. Those rules restrict a huge proportion of federal child welfare money to funding foster care and only foster care.

The waivers allow this money to be used on safe, proven alternatives to foster care, as well as a variety of other child welfare services. The waivers, their potential benefits and the stakes for every state are discussed in detail in [our interactive database](#), so we will not repeat that discussion here.

HHS is allowed to issue ten waivers per year for the next three years. Thirteen states have applied for the first round of waivers. The Children’s Bureau, the division of HHS in charge of this process, promised to make all of the proposals public. Though nearly two months have passed since the proposals were submitted, the Bureau has managed to [post only nine of the proposals online](#). (If and when additional proposals become available, we will update this report card.)

[UPDATE, SEPTEMBER 5, 2012: In an email to NCCPR, Gail Collins, Director of the Division of Program Implementation in the Children’s Bureau now claims there were only 12 proposals, not 13. She writes that “Three were determined not to fully address minimum requirements, so were not posted and the dates were asked to revise prior to further consideration. This is consistent with what we wrote in the Information Memorandum.”

Collins does not name the states. She does not say if those states still are allowed to resubmit their proposals. Most important, she offers no excuse for failing to disclose

the contents of those proposals to the public. In public statements, Children’s Bureau officials previously promised to make the proposals public – period, without exception.

This means, of course, that for now, we simply have to take the word of the Children’s Bureau that three proposals were inadequate. The real problem might be that those proposals did not pander to the biases of Bryan Samuels, the Children’s Bureau commissioner, as is discussed below.]

Unfortunately, this basic failure typifies the performance of Bryan Samuels, the Children’s Bureau commissioner. Like most people in child welfare, Samuels has only the best of intentions. But, as is [described in detail on the NCCPR Child Welfare Blog](#), Samuels has tried to redirect the waivers. He’s tried to turn them from an innovative approach to reducing needless foster care, and [all of the harm that does to children](#), into a behavioral health program intended to make foster care “better.” In addition to the harm done by curbing the emphasis on reducing entries, the complex, burdensome and subjective criteria for evaluating success that Samuels seeks to add to the process encourage timid, small-scale proposals that will help relatively few children.

Samuels’ boss, George Sheldon, who runs the Administration for Children and Families, of which the Children’s Bureau is a part, has a far better understanding of the true purpose of waivers and how much good they can do. Indeed, he and his predecessor, Bob Butterworth, [implemented such a waiver](#) when they ran the Florida Department of Children and Families. They used the waiver as part of a comprehensive reform plan that cut entries into care in Florida by 35 percent. Independent evaluations found that child safety improved.

But publicly at least, Sheldon has yet to show Samuels who’s boss. This has complicated the process for the states, tempting states that really want to help children by curbing needless foster care to toss language into their proposals pandering to Samuels’ goals. Worse, some states have geared their proposals almost exclusively to those goals.

NCCPR has reviewed, and graded, the nine proposals that are available to the public. Higher grades went to states with waiver proposals that are comprehensive – that is, they target a large proportion of the state’s children – and focus intensively on actually keeping children safely out of foster care in the first place.

The highest possible grade was A-, because none of the states included any plan to use waiver funds to [improve due process protections for families](#). No proposal achieved an A-grade, but three received grades of B+. At the other extreme, two proposals actually will do more harm than good. They received Fs.

Some of the results are surprising. We would not have expected one of the best proposals to come from Washington State, which has a sad history of embracing a take-the-child-and-run approach to child welfare. On the other hand, we would not have expected one of the worst proposals to come from Illinois, which long had been a leader in reducing needless foster care.

Here, then, are NCCPR’s brief evaluations of each state’s proposal:

ARKANSAS

GRADE: B+

Arkansas proposes to concentrate waiver funds on keeping children out of foster care in the first place, something urgently needed in a state which takes away children at a rate 30 percent above the national average.

The proposal is commendably candid, as in this passage, for example:

“Twenty-nine percent of the children who entered care in SFY 2011 exited the system within 90 days. In fact, 15 percent of the children who entered care during that time exited in less than 30 days. **Arkansas believes that most of these children should have never come into care and should have instead been served in the family home.**” [Emphasis added].

The proposal is not as specific as some of the others about how it will fix the problems. And unlike, for example, Washington State, it does not emphasize concrete help to ameliorate the worst effects of poverty. Also, though Arkansas promises to implement its proposal statewide, there is no timetable, so it is not clear of the plan would require phased in implementation.

COLORADO

GRADE: B-

Of all the states with waiver proposals that have been made public, Colorado takes children from their parents at the highest rate. So it is disappointing that the waiver proposal puts far too much emphasis on making foster care “better” instead of curbing it. It also sends a message that the state wants to give up on reuniting older foster children with their families. Though the waiver includes all counties, it will be phased in. There is, however, a commendable focus on preventing short-term placements from occurring at all, and a brief discussion of “frontloading” services to keep children out of foster care.

ILLINOIS:

GRADE: F

The Illinois proposal is based on an appalling premise: The state essentially is saying that it already has done such a good job reducing the rate at which children are taken away that it does not need to lift a finger to do anything more.

While it is true that Illinois takes away children at one of the lowest rates in the nation (and independent court-appointed monitors have found that this is being done with no compromise of safety) the statewide figure hides two crucial facts: First, the figure is largely a result of reform taking hold in Cook County (metropolitan Chicago). The rate-of-removal in the rest of the state is significantly higher. Second, even in Cook County, groups like the [Family Defense Center](#) have cited case after case of wrongful removal. There is plenty more that could be done.

The Illinois waiver proposal does not include spending even one dime of waiver funds on this. Instead, all the money would be poured into shortening length of stay, largely, it appears, by

pushing a morally-reprehensible approach known as “concurrent planning.”

Under concurrent planning, children are supposed to be placed immediately with people who desperately want to adopt that child. The prospective adoptive parents, and the child welfare agencies that desperately want those people to adopt, are told, in effect: “Now remember, your first goal is to work with the birth parents and do everything you can to help them get the child back – but if, by some chance, you *fail* at this then you get what you really want – someone else’s child for your very own.”

One parent in another state was honest enough to tell *The New York Times* what she called “the mantra” of parents in this kind of program, which is: “I’m on the next plane to South America if they think they’re getting this baby back.”¹

Meanwhile, the caseworkers are supposed to work equally hard to get the child adopted by people they like and can identify with – typically, middle-class foster parents - as they do to try to reunite the child with people they often can’t identify with and sometimes can’t stand: overwhelmingly poor disproportionately minority birth parents.

Furthermore, the Illinois waiver proposal targets an extremely small group of children – only about 135 per year. Ironically, given how awful this proposal is, that’s actually a good thing. But it’s hard to see how HHS, which can award waivers to only ten states per year, could justify, in effect, wasting one of these scarce waivers on a plan aimed at such a small number of children.

The Illinois proposal has one useful component: some excellent data for the nation as a whole. These data show that states with unusually long lengths of stay also tend to take away proportionately fewer children. That is why it is unfair to judge a state based on average length of stay without considering entry rates as well. The proposal also includes a great graphic aptly illustrating the impact of a classic [foster-care panic](#) – the huge surge in foster care numbers following the death of Joseph Wallace in 1993.

Unfortunately, both because this waiver proposal is geared to what Bryan Samuels wants and because Illinois is his home state, this waiver may be particularly difficult to stop.

MASSACHUSETTS:

GRADE: B

The Massachusetts waiver takes dead aim at the most harmful form of placement – group homes and institutions; what is referred to in child welfare as “congregate care.” And the plan is relatively ambitious, targeting 730 children during the first year alone and promising that more children will be included in each succeeding year. (In comparison, Michigan, with a child population 60 percent larger than Massachusetts, is targeting only about 570 children per year.²) Spending also is relatively ambitious: Total funding will be at least \$20 million per year. That’s nearly three times the amount Wisconsin proposes to spend in its *final year* of the waiver – Wisconsin will spend even less in earlier years.

On the other hand, the majority of the targeted children already are institutionalized; the plan aims to help them after discharge in order to avoid reentry. That’s a worthy goal, but the plan should involve at least an equal effort to prevent entry in the first place.

Also, the plan is aimed at preventing entry into *congregate* care; that's not necessarily the same thing as preventing entry into any form of substitute care.

MICHIGAN:

GRADE: C-

Call this one the waiver for wimps. The goals are excellent – the waiver specifically targets keeping children out of foster care in the first place. And the proposal, from the Michigan Department of Human Services (DHS) is remarkably candid about the slash-and-burn budget cuts to such programs in past years – by the Michigan Department of Human Services. These cuts first were discussed in NCCPR's [reports on Michigan child welfare](#).

So what's the problem? In one of the largest states in the nation, a state where 445,000 children live in poverty – making them prime targets for being removed when that poverty is confused with “neglect” - the waiver would be used in only three counties and serve only about 300 families per year.

As with Illinois (see above) it's hard to see how the federal government could justify giving one of only ten waivers to a program this small.

This proposal is so pathetic that one wonders if DHS even was serious. Given the agency's profound hostility to family preservation under several leaders, [including the current head of the agency, Marua Corrigan](#), it seems more likely this proposal was slapped together to DHS could pretend that it tried to get a waiver and really cares about families.

This is, in fact, the second time Michigan has wimped out on waivers. Michigan was one of two states to receive a big, bold comprehensive waiver in 2006. But at the last minute, after DHS already had issued a press release bragging about the waiver, the agency changed its mind and turned it down.

PENNSYLVANIA:

GRADE: B-

Although this waiver would cover only five counties, two of those counties are Philadelphia and Allegheny (metropolitan Pittsburgh). As a result, this waiver would cover 45 percent of the state's foster children.

There is too much pandering to Bryan Samuels' efforts to misdirect waivers from their original intent, but at least the proposal includes some discussion of reducing entries into foster care. There also is some discussion of Wraparound programs, an excellent alternative to “residential treatment.” And nothing in the proposal actually would do harm.

UTAH:

GRADE: B+

The Utah proposal is refreshingly candid. The proposal acknowledges that Utah is one of the

few states in which the number of children trapped in foster care on any given day actually increased in recent years. And the proposal acknowledges that efforts to keep families together were generally neglected and suffered budget cuts. So the proposal zeros in on what should be the primary purpose of waivers – helping to reduce needless entries into foster care.

The proposal loses points for being slow to take full effect – if approved in its current form it would not be implemented statewide until year four – and the waivers are good for only five years. The proposal also loses points for a plan to implement “Structured Decision Making.” There is strong evidence that SDM is racially biased and actually may increase entries into care. (For a full discussion of the failures of SDM, see Page 19 of [NCCPR’s report on Nebraska child welfare](#).)

WASHINGTON STATE: GRADE: B+

This proposal takes an aggressive stance in favor of using waiver funds specifically to prevent entries into care. And it is the only waiver proposal to emphasize the urgent need to provide concrete help to families to ameliorate the worst harms of poverty. In particular, the proposal discusses aid to prevent children from being taken because their parents lack adequate housing. The proposal even calls for expanding Homebuilders, the pioneering, highly-successful [Intensive Family Preservation Services](#) program that has long been neglected in its home state.

All of this suggests a remarkable turnaround for a system in which decades of mediocre leaders embraced a take-the-child-and-run approach to child welfare.

The only problem with this proposal is it directs all waiver funding into one innovation – [“differential response.”](#) This is a good program, tested and proven across the country. But it would have been better had Washington State not proposed to put all of its eggs in one basket, even a well-woven basket.

WISCONSIN: GRADE: F

This proposal is really little more than a subterfuge – a way to divert child welfare funds from Milwaukee to the rest of the state. It is discussed in detail in this post to the [NCCPR Child Welfare Blog](#).

¹ Laura Mansnarus: “Take Good Care of My Baby; In Tipping the Balance Toward Adoption, Those Closest to Foster Care Are Pleased,” *The New York Times*, April 4, 1999.

² Michigan proposes to serve 300 families per year. According to the Census Bureau, among families with children, the average in Michigan is 1.9 children per family: <http://www.census.gov/population/socdemo/hh-fam/tabST-F1-2000.pdf>