



## PUBLIC BENEFITS & CHILD WELFARE FINANCING

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A critical role of a child welfare social worker is to untangle and address the reasons why a child may enter the child welfare system. There is a need to assess family strengths and how to support the family's ability to protect a child or reunify with the child if they are in out of home care. The child welfare system is difficult to comprehend and navigate, even for the general English-speaking, U.S. citizen population. Immigrant parents, caretakers or relatives are at an even greater disadvantage when their immigration status prevents them from accessing critical public resources, court-mandated reunification services, or permanency options. This policy brief provides an overview of public benefits, placement, and financing issues within the child welfare system.

### **Demographics of Immigrants and Mixed Status Families**

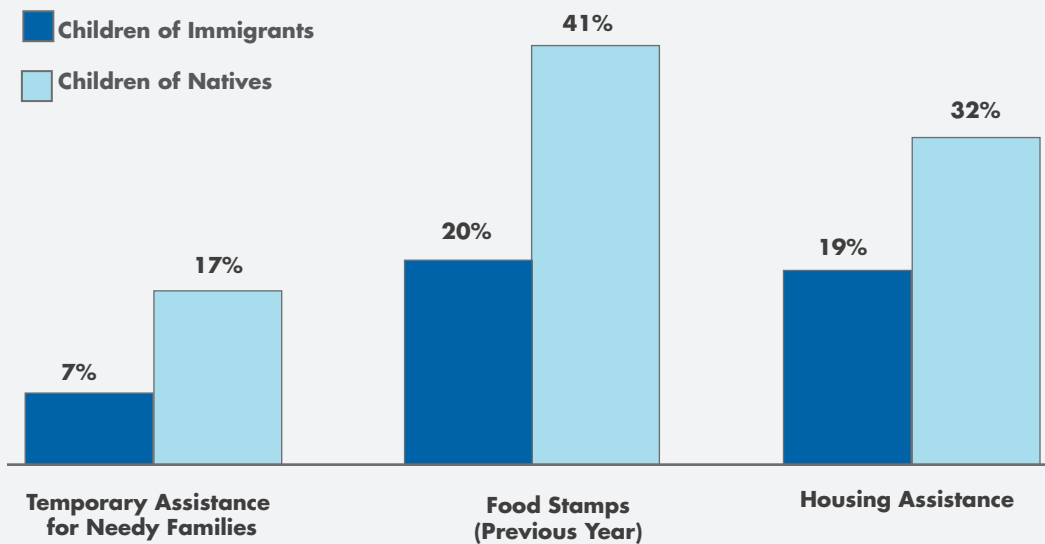
About 23% of the children in the United States have at least one foreign-born parent.<sup>1</sup> Children of immigrants are more likely to live in families with low incomes and to experience higher levels of economic hardship.<sup>2</sup> They are also less likely to utilize public benefit programs than children of natives. For example, children of natives are more than twice

as likely to receive Food Stamps as children of immigrants.<sup>3</sup>

Research from the National Survey of Child and Adolescent Well-Being (NSCA) found 8.6% of all children who come to the attention of the child welfare system are children of immigrants.<sup>4</sup> Among children of immigrants, more than 4 out of 5 are U.S.-born citizens.<sup>5</sup> These "mixed immigration status" households may include citizens, legal permanent residents, and undocumented immigrants. In these families, while the children may be eligible for public benefits and services, their parents may not and may be fearful of the immigration-related consequences of accessing government services.

While a child is within the child welfare system, services and support are generally covered by the state or federal government. Problems may arise when the social worker has reunified the child with his or her family or is placed with relatives, and these services are discontinued because the child welfare agency is no

## Share of Low-Income Children under 6 Receiving Public Benefits, 2002



Source: Urban Institute analysis of 2002 National Survey of America's Families.  
 Note: Low-income is income below 200 percent of the federal poverty level.

longer providing them. The family may not be eligible for supportive services, and the placement may be in jeopardy as a result of the loss of benefits.

### Obstacles to Public Benefits

One of the biggest obstacles facing social workers is the restrictions barring certain classes of immigrants from receiving publicly funded services. Undocumented immigrants and persons in the U.S. on temporary visas have always been prevented from securing assistance from the major federal public benefits programs such as food stamps, nonemergency Medicaid, Supplement Security Income (SSI), and Temporary Assistance for Needy Families (TANF).<sup>6</sup> With the passage of the 1996 federal welfare and immigration laws, the federal government greatly limited access to major federal benefits to lawful permanent resident immigrants by barring them from receiving assistance for five years or longer. Even when eligibility for some programs was restored by

subsequent legislation or by states attempting to fill some of the gaps through noncitizen coverage, many immigrant families were hesitant to enroll due to fear and confusion over the law. Thus, research shows a sharp reduction in the participation of lawfully present immigrants in public benefit programs following the passage of the 1996 law.<sup>7</sup>

The 1996 welfare laws created two categories of immigrants for benefits purposes. "Qualified aliens" include certain legal permanent residents, humanitarian immigrants and certain classes of abused immigrants, their children and/or their parents under approved immigration relief options.<sup>8</sup> In 2000, Congress established a new category of non-U.S. citizens for victims of trafficking who, while not listed among the qualified immigrants, are eligible for federal benefits to the same extent as refugees.<sup>9</sup> All other immigrants, including undocumented immigrants are considered "not qualified."

The federal government left it largely up to states to define to what extent undocumented immigrants were eligible for state benefits.<sup>10</sup> Some states with traditionally large immigrant populations, such as New York and California, have taken steps to support services for a subset of their immigrant families, even undocumented immigrants, through supplemental state programs such as children's health care and prenatal services.<sup>11</sup> The federal reauthorization of the Children's Health Insurance Program (CHIP) in 2009 granted states with the option to remove the five-year waiting period for children under 18 and pregnant women, which many states have opted to do. Other states, like Nebraska, have adopted formal rules barring prenatal services for undocumented immigrant women as the result of federal rulings about the state's improper Medicaid billing.<sup>12</sup>

There are some support programs where immigration status is not considered for eligibility, such as some subsidized childcare (i.e. Migrant Head Start), Victim Witness or Violence of Crime Assistance (VOCA), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), immunization and/or treatment of communicable disease, and the Early Periodic Screening, Diagnosis, and Treatment (EPSTD) program. However, most child welfare workers are unfamiliar with the eligibility criteria and immigration relief options associated with these programs. Furthermore, their immigrant clients, intimidated by interaction with public agencies in addition to language and cultural difficulties, are unlikely to push for access to these benefits.

For mixed immigration status families, regardless of their status or eligibility, an immigrant's access to

### Barriers to Services

"When they took me in front of the judge, he asked me if I was illegal and I replied yes. Then [CPS] required a drug test, they asked for a psychological evaluation, parent training and domestic violence counseling. After two months, they came back and they said that they were not going to pay for any of this because I was illegal. Why didn't they tell me this at the beginning? I don't have the money to pay for this. It seems that because I am an immigrant, because I don't have papers, they want to rob me of my children."

*SOURCE: Earner, I., (November 2004). "Immigrant Families and Public Child Welfare: Barriers to Services and Approaches for Change." The Journal of Child Welfare. Washington DC: Child Welfare League of America.*

benefits is constrained by many factors. This would include the lack of bilingual staff assisting them in the application process and confusion about eligibility and the application process. Many fear that accessing public benefits will result in future denials of a "green card" if they are deemed "a public charge" or hurt their ability to sponsor family members in the future. There are eligibility restrictions and liabilities on immigrants who have family sponsors. Under enforceable affidavit, the sponsor promises to support the sponsored immigrant and to repay certain benefits the sponsored immigrant may use.<sup>13</sup> Finally, there is the justifiable fear of cross-reporting to immigration officials leading to deportation. For example, a state law from Arizona requires public workers to alert Immigration and Customs Enforcement when illegal immigrants apply for benefits that they are not legally entitled.<sup>14</sup>

Social workers may misinterpret an immigrant client as "non-compliant" or label them unwilling to engage in a preventative services plan if they are unfamiliar

with these immigration dynamics. By demonstrating an awareness of their client's fears and realities, the agency may eliminate a major obstacle to engaging the family. Likewise, the ability of the child welfare agency to connect and refer clients to supportive service such as a community free health clinic can help reduce the factors that brought the child to the child welfare agency in the first place and likewise reduce costly placement and intervention cost.

### Obstacles to Placement with Relative Caregivers

The goal of the U.S. child welfare system is to protect and prevent children from abuse and neglect from their parents or caregivers. Prevention services are provided at the lowest level of intervention whenever possible while not compromising the child's safety.

When prevention services are not possible, permanent alternative caregiver arrangements are arranged, ideally with relative placement. For immigrant children who may have vastly different cultural background and language, placement in non-relative foster homes or institutional care may be particularly difficult and traumatic.

Becoming a licensed foster care placement is often difficult for immigrant relatives and individuals who are not related by blood or marriage but have important emotional ties to the family, such as a godparent. In most child welfare jurisdictions, the licensing process requires applicants to produce a social security number and to become fingerprinted, often at a police station in order to preform a criminal background check. Many potential immigrant families hesitate to become licensed placement options for fear of exposure to immigration authorities or that the foster care payment will result in a public charge

### Finding Culturally-Appropriate Homes

Shifting demographics have left [foster home' recruiters] struggling to keep up with the need to find new foster parents, especially ones willing to take teenagers and siblings and ones who speak Spanish and understand Latino culture. "While many children may be bilingual and have a comfort level in English, their parents may not. And the cultural context is important," said Rosie Ratto (foster parent) ... Spanish-speaking foster parents not only help children adjust to out-of-home placement, they also are better able to communicate with birth parents, an important step toward reunifying families. No single Spanish phrase translates neatly the concept of licensed foster care, a system that doesn't exist in many Latin American countries ... so it's important to have people who can communicate the complexities.

*SOURCE: Sara Steffens (August 5, 2007). "Foster mom offers hope." Contra Costa Times.*

denial for their own citizenship application. They may have difficulties meeting foster care regulations due to fingerprint clearances without government-issued identification. Due to poverty, the household may be deemed ineligible for placement because of minimum space per occupant requirements, or minimum family income qualifications. In addition, searches for relative placement out of country and cross-border are often skipped, to expedite permanency and avoid costly overseas home studies.<sup>15</sup>

According to a study in Texas, Latin American children in out-of-home care were placed with relatives less often than other children in care.<sup>16</sup> In addition, the study found fewer Latin American immigrants have case goals associated with relatives – reunification and relative adoption – than other children in care, and more have case plan outcomes of long-term foster family care and independent living.<sup>17</sup> Possible explanations by the researchers included differences

associated with the number of available relatives in the country, the legal status of the potential relative placement, and the age associated with the placement.<sup>18</sup>

### Federal Reimbursement to Child Welfare Agencies

The U.S. Department of Health and Human Services (DHHS) is the primary federal agency that regulates and provides partial funding for services to maltreated children and their families. The majority of federal child welfare financing comes through Title IV-B and Title IV-E of the Social Security Act.<sup>19</sup> Federal, state, and local government funding supports the full array of services provided by public child welfare agencies. However, the amount of funding coming from these sources varies greatly by state and can be affected by both national and state-specific activities.

Some of these federal funds are uncapped (unlimited) entitlements (like Title IV-E), while others like Title IV-B are capped (limited) allocations given to states to support a wide range of prevention, early intervention, and permanency-related services.<sup>20</sup> Because many children in the child welfare system have extensive

physical and mental health issues, Title XIX of the Social Security Act is another important funding stream which provides coverage for the physical and mental health services to foster children through the federal Medicaid program and other health-related social services.

An undocumented immigrant is not eligible for federally funded Title IV-E foster care and has limited eligibility for Title XIX and public health benefits.<sup>21</sup> Child welfare services, such as interpretation, visiting the child's native country for evaluation for potential placement or hiring immigration legal counsel can be supported by Title IV-B funds. However, Title IV-B is capped and relatively small in comparison to Title IV-E funds. Thus most child welfare agencies must depend on scarce, discretionary local funds to support these cases. In interviews, child welfare agencies have universally voiced their need for federal reimbursements and increased access to specialized staff and services to assist them with their immigrant clients.<sup>22</sup>

### Fostering Connections to Success and Increasing Adoptions Act

In October 2008, an important new federal legislation was enacted, the "Fostering Connections to Success and Increasing Adoptions Act" (Public Law 110-351). This law tied Federal Title IV-E funding to states (currently over \$6 billion annually) to requirements that are relevant to immigrant children who have been abused, neglected, trafficked, or abandoned and who are in foster care. The following are the seven key issues impacting immigrant families through the Fostering Connections legislation.<sup>23</sup>

### Consequences of Immigration Status

A social worker is trying to place a child with an aunt or uncle. The uncle's brother lives with the family and is undocumented. In the process of doing a license clearance, the uncle's brother is found to be undocumented and is placed in immigration removal proceedings. Had there been a [family meeting] conducted prior to placement, this issue may have been identified and evaluated to the benefit of all parties concerned.

*SOURCE: Lincroft, Y., Borelli, K. (2010). A Social Worker's Toolkit for Working with Immigrant Families. Denver, CO: Migration and Child Welfare National Network – American Humane Association. <http://www.americanhumane.org/assets/docs/protecting-children/PC-migration-sw-toolkit-status-relief.pdf>*



1. The law requires that within 30 days of all children entering foster care, relatives must be notified, and that notice must explain their options to participate in the care and placement of the child.
2. The law permits states to waive normal foster care licensing standards in order to approve a child's placement with a relative, but only on a case-by-case basis and only for non-safety standards (as determined by the State).
3. The law gives states the option in 2010 to extend federally subsidized (IV-E payments) foster care and other child welfare services up to a child's twenty-first birthday.
4. The law requires that a youth transitioning to adulthood from foster care is provided with assistance and support in developing a personalized "transition plan prepared at the direction of the child" which includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services.
5. The law requires that every child in foster care remain in, and regularly attend, the school they were enrolled in at the time of foster care placement, and that they be regularly attending an appropriate school program, with federally supported transportation funds to help assure this.
6. The law requires a plan for ongoing oversight and coordination of health care services for every child in foster care, including mental health and dental health needs .
7. The law mandates that siblings be placed in the same placement, unless the State documents such a joint placement would be contrary to the safety or well-being of any sibling. If not jointly placed, the State must provide frequent visitation or ongoing interaction between the siblings, unless documented that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.

The principle elements of this new federal law have important application to the provision of child welfare services to children from immigrant families, documented or not. Some examples include the need for international relative notifications, extending foster care to age 21 particularly for those applying for immigration relief options, and keeping immigrant siblings together to maintain cultural and linguistic support. Educational challenges facing immigrant foster youth include difficulties enrolling and attending school with missing documentation as well as identification of Limited English Proficient (LEP) or English Language Learners (ELL) for eligibility for specialized services.

### Conclusion

Barriers to benefits and services should not determine the outcome of a child welfare case. Immigrant parents who are under court-mandate to fulfill certain requirements in order to regain custody of their children must be afforded the ability to meet those requirements. And, while immigrant children who are in state child welfare custody have their housing, medical treatment and other array of services generally covered while in care, the state agency has limited access to federal reimbursement of these services.

While it may initially appear costly to provide the essential services to help an immigrant family reunify, there is no greater cost than negative outcomes to a child or family or the cost of a child growing up in foster care.

### Recommendations

- Title IV-E of the Social Security Act should be amended to allow foster care funding for non-citizen children of immigrants, regardless of their legal status.** If this is not possible, once a court dependent child's immigration status is resolved positively, the child should then be deemed eligible for federal reimbursement for child welfare service. There should be waivers by the Department of Health and Human Services of certain requirements of the Titles IV-B and IV-E of the Social Security Act to facilitate the demonstration of new models of service delivery to immigrant children and families, such as specialized units, which would use a dedicated federal funding stream.<sup>24</sup>
- Parents and adult caretakers of children in the foster care system should be able to lawfully access all necessary services which will facilitate their child's safety, permanency, and well-being.** These should include child abuse and neglect prevention services, drug and alcohol abuse treatment, mental health services, special education, case and food assistance programs and housing subsidies.<sup>25</sup>
- Resources should be available for training child welfare agency staff on the needs of specific ethnic and cultural groups regarding their eligibility and access to support services.** These trainings may help children of immigrants, most of whom are U.S. citizens and are eligible for programs that would alleviate some of the hardship that brought their families to the attention of child welfare agencies.
- Federal incentives should be created to encourage child welfare agencies to develop linguistically and culturally appropriate foster homes.** Creating new incentives (or penalties) under the Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provision of 1996 (MEPA-IEP) will bring greater attention to these issues and may help institutionalize mechanisms for culturally and linguistically appropriate recruitment and placement practices.<sup>26</sup>
- States should review their policies in regards to the "Fostering Connections to Success and Increasing Adoptions Act" as they relate to immigrant children and families.** Technical assistance and additional resources should be provided to assist states in the implementation of the Fostering Connections Act.

## Endnotes

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