

March 2, 2021

JooYeun Chang, Principal Deputy Assistant Secretary  
& Acting Assistant Secretary  
Administration for Children & Families  
U.S. Department of Health & Human Services  
330 C Street, S.W.  
Washington, D.C. 20201

Dear Assistant Secretary Chang,

Thank you for returning to the U.S. Department of Health and Human Services (HHS) to improve the lives of America's most vulnerable youth and families. I look forward to an exciting year for HHS and the entire portfolio under your purview. In your absence, we were fortunate to continue to benefit from the work of dedicated career staff, Joe Bock and Catherine Heath, both of whom responded graciously and swiftly to questions directly from foster youth about the implementation of the older youth provisions of the *Consolidated Appropriations Act of 2020*.

I am writing on a different matter, family preservation. We would like to offer this recommend that the Biden Administration use the authority granted by the Stafford Act to temporarily dispense with the protracted rating and ranking system through which states must pass to gain access to emergency prevention funds through the Family First Prevention Services Act (FFPSA). The Administration for Children and Families issued 87 flexibilities under the Stafford Act to respond to Covid-19. This included streamlined funding for "virtual prevention services" but the Administration stopped short of easing access for "concrete" or "instrumental" prevention resources.

In 2019, 25,658 children entered out of home care because their families lacked adequate housing<sup>i</sup>. This number is far too high and yet in the face of Covid-19, the figure is expected to double as eviction moratoria and landlords' patience expire. In fact, just today, the Washington Post Editorial Board reminded readers that in August 2020, the Aspen Institute warned that as many as 17 million households are at risk of eviction<sup>ii</sup> - nearly five times the average annual number of 3.6 million evictions.

For a variety of reasons almost entirely attributable to systemic racism, Black and Latino families are over-represented in eviction proceedings and on the caseloads of child welfare agencies. Thus, we predict that the longstanding interaction of eviction court and family court<sup>iii</sup> that leads to the disproportionate removal of minority children from their parents will be exacerbated by the pandemic.

Foster care placement will be an undesirable and costly remedy to this imminent

Covid-19 housing crisis – both in terms of the cost to the state and the emotional toll levied upon the children and parents. FFPSA was passed precisely because there is widespread agreement that children must be kept with their biological parents whenever possible. FFPSA emphasizes that evidence-based, in-home services are preferable to family separation. Obviously, with this impending pandemic-related eviction tsunami, FFPSA prevention funding must be available to preserve the home, or the provision of in-home services will be impossible.

Meeting housing needs to prevent family separation is not only the right thing to do it is the fiscally prudent approach to keeping children safe. If the number of children who enter care due to housing problems doubles due to the pandemic-related economic shutdown, then nearly 54,000 children would enter out-of-home care.

One will never calculate the emotional toll, but the cost to the American taxpayer will be severe, and misplaced. With an average annual cost of \$18,000<sup>iv</sup> per child in out-of-home care the government will expend \$972 million on foster care. With an average child welfare family size of 2.7 children assuming fair market rent for a two-bedroom unit (\$1,149/month or \$13,788/year) and assuming no contribution from the family towards the rent (and an estimated \$5,000 annually for evidence-based in-home services) the cost of housing and providing FFPSA in-home services to keep our neighbors' families together in the face of this pandemic would be \$276 million. An annual savings to the American taxpayer of \$696 million.

### **Arming Frontline Staff with Housing Assistance is the Obvious Solution**

As such, I write to urge you to tap title III section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to temporarily dispense with the cumbersome rating and ranking system regulated by the Title IV-E Prevention Services Clearinghouse through which states must pass to access approval from the U.S. Children's Bureau to use FFPSA funding. Instead, during the Covid-19 Emergency Declaration, allow states to use FFPSA to pay rent and arrears to keep families housed for the purpose of facilitating in-home services to prevent "candidates for foster care" from entering out of home care.

The FFPSA amends parts B and E of title IV of the Social Security Act "to invest in funding prevention and family services to help keep children safe and supported at home." Yet, the FFPSA approval process called for by Congress and put into place by the Children's Bureau fails to offer the agility called for during a crisis.

Only ten states have successfully navigated the Children's Bureau onerous vetting process to offer "concrete" or "instrumental" assistance under FFPSA. Children in the rest of the country and the workers desperately trying to keep them with their parents were not so fortunate. According to the Children's Bureau's [database](#), most states have not submitted plans or attempted to navigate the necessary layers of "subregulatory" guidance.

This means that when states exhaust the \$85 million available for flexible prevention resources through the MaryLee Allen Promoting Safe and Stable Families (PSSF) Program, child welfare workers will be unable to prevent separation of families due to housing problems.

Bureaucratic delays are endemic to the American social policy process. The impact of this “red tape” falls disproportionately upon poor, minority, and marginalized communities – a phenomenon that was lamented at length by Lisbeth Schorr of the Center for the Study of Social Policy in her 1997 book, *Common Purpose*. Eliminating such hurdles in times of crisis is exactly why Congress passed The Stafford Act. More specifically, title III sec. 301 (42 U.S.C. 5141) emphasizes the importance of waiving these burdens:

Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

Tapping the Stafford Act to keep children safe is in keeping with the recommendations of *The National Commission on Children and Disasters: Overview and Issues in American Federalism and Emergency Management Policy*.<sup>v</sup> The Commission’s report published on February 22, 2010 specifically calls on states to act swiftly to minimize housing disruptions for children to prevent the “physical and mental burdens placed on children due to frequent housing transitions.”

Of course, this recommendation is also aligned with the passionate appeal by former Children’s Bureau Associate Commissioner Jerry Milner to preserve families in the wake of Covid-19 published on April 6, 2020 “The Imprint.” Commissioner Milner called on child welfare professionals, and, indeed the nation, to “demand the flexibility in funding and the array of responses we need to serve children and families. This is a defining moment for us as a system; it has laid threadbare our lack of agility to meet family needs. We cannot allow our shortcomings to be held against families — to do so is the height of injustice and compromises the legitimacy of our system in our own eyes and those of the families we are privileged to serve.”<sup>vi</sup>

The confluence of the FFPSA and the Stafford Act offer the Administration for Children and Families the opportunity – indeed the mandate – to protect over 54,000 children from homelessness and avoid family separation.

### **FFPSA Housing Assistance as A Tool to Prevent Family Separation**

Child welfare professionals must have access to immediate and flexible funding to pay arrears and rental assistance to protect families from covid-19-related

evictions. Evictions or other housing disruptions will prevent child welfare professionals from meeting the goals of the FFPSA – providing in-home services to keep families together and safe. While rental assistance is not specifically listed as an allowable expense in any of the voluminous FFPSA prevention reimbursement rubric(s) (see for example Program Instruction Log Number: ACYF-CB-PI-18-09), it is a feature of recently approved interventions such as the nationally-renown Homebuilders Model<sup>vii</sup>. Again, under your leadership, the state of Michigan saw so much value in this 50-year-old model that state funds were used to expand the Homebuilder’s Model to the children of the state.

A Stafford Act waiver allowing states to access FFPSA for this purpose would not preclude child welfare agencies from tapping the [\\$25 billion supplemental Emergency Rental Assistance Program](#) through the Department of Treasury. In fact, NCHCW staff spends a considerable amount of time training child welfare workers how to access these and other housing resources. Child welfare workers may also help families access emergency shelter assistance through the U.S. Department of Housing and Urban Development’s (HUD) Emergency Solutions Grant and the Community Services Block Grant.

However, it is important to understand that families are not currently prioritized for assistance under HUD’s Homeless Assistance Programs directed by local Continuum of Care (CoC) entities. It is also the case that the coordinated entry systems through which all community members in need must pass are overtaxed.

The funding available through the public child welfare agency would only be offered by agency staff within the context of a child or children who are defined as “candidates” for foster care and at imminent risk of separation due to a covid-19 related housing problem; and who could not otherwise be served by the CoC or ERAP programs. Furthermore, the SSFP funding remains available for the purpose of providing housing assistance.

We merely encourage HHS leadership under the Biden Administration to issue a waiver for FFPSA under the Stafford Act so that if other resources are not available to stave off housing problems, child welfare workers can tap FFPSA to prevent family separation.

It would be irresponsible of me to close this letter without acknowledging that families should never be referred to child protective services (CPS) to access housing assistance or other poverty-related resources. We hope to work closely with the Children’s Bureau in the coming year to reimagine the training of mandated reporters so that families in need are not referred to CPS for reasons of poverty and are instead served by Community Action Agencies and other appropriate human services organizations.

That said, at this time in American history, we must be honest and proactive on behalf of the children and families who are already entangled with child welfare

and meet their housing needs accordingly. Together we can tap the Stafford Act to arm frontline child welfare workers, the unsung heroes of the pandemic, with what they need to truly keep families together and safe.

Again, I am indebted to you for your willingness to return to Washington to extend the gains you posted for the children of Michigan to children throughout the US. I look forward to meeting with your staff at their convenience regarding this recommendation. I can be reached at [rwhite@nchcw.org](mailto:rwhite@nchcw.org) or 202-270-7336.

With admiration and appreciation,



Ruth White, MSSA  
Executive Director

cc: Jennifer Cannistra, Deputy Assistant Secretary for Policy, ACF  
Aysha E. Schomburg, Associate Commissioner, US Children's Bureau  
Joe Bock, Deputy Associate Commissioner, US Children's Bureau  
David Kelly, Special Assistant to the Associate Commissioner of the US Children's Bureau  
Sherry Lachman, Associate Director for Education, Income Maintenance and Labor, Office of Management and Budget

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<sup>i</sup> U.S. Department of Health and Human Services, Children's Bureau. (2020). Adoption and Foster Care Analysis and Reporting System (AFCARS) report 27. Retrieved from <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport27.pdf>

<sup>ii</sup> Aspen Institute. (2021). **The COVID-19 Eviction Crisis: an Estimated 30-40 Million People in America Are at Risk**

Retrieved: <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>

<sup>iii</sup> Clifford, S. and Silver-Greenberg, J. (2017, July 21). "Foster care as punishment: The new reality of "Jane Crow." *The New York Times*. <https://www.nytimes.com/2017/07/21/nyregion/foster-care-nyc-jane-crow.html>; Washington Post Editorial Board. (2021, March 1). You can lose your kids, home, and freedom without ever seeing a lawyer. It's a profound injustice. *The Washington Post*.

<https://www.washingtonpost.com/opinions/2021/02/26/noncriminal-cases-right-to-lawyer-representation/?arc404=true>

<sup>iv</sup> NCHCW Cost Analysis (2021)

<sup>v</sup> National Commission on Children and Disasters. (2010). *Report to the President and Congress* <https://archive.ahrq.gov/prep/nccdreport/nccdreport.pdf>

<sup>vi</sup> <https://chronicleofsocialchange.org/child-welfare-2/family-is-a-compelling-reason/42119>

<sup>vii</sup> <https://preventionservices.abtsites.com/programs/181/show>