



CHILDREN'S MONITOR

Monday, 28 SEPTEMBER 2020

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ICYMI: [Last Week's Monitor](#)

SEPTEMBER is Kinship Care Month

CWLA Mourns the Loss of the Justice Ruth Bader Ginsburg

The Child Welfare League of America is saddened by the loss of a great leader with the passing Supreme Court Justice Ruth Bader Ginsburg on Friday, September 18, 2020.

Justice Ruth Bader Ginsburg was an icon, a trailblazer for women, and a true champion of gender justice, voting rights, abortion access, and so many of the issues we hold dear.

Justice Ginsburg was the second female justice of the U.S. Supreme Court, appointed in 1993 by President Bill Clinton. She grew up in Brooklyn, New York. She graduated from Cornell University in 1954, finishing first in her class, and Harvard Law School. In 1980, President Jimmy Carter picked her for the U.S. Court of Appeals for the D.C. Circuit. Thirteen years later, with the retirement of Justice Byron White, Clinton had the opportunity to appoint a Supreme Court justice for the first time and selected Ginsburg.

Before taking the bench on the high court, Justice Ginsburg served as an advocate for the American Civil Liberties Union (ACLU), co-founding the Women' Rights Project. She became the architect of a legal strategy to bring cases to the courts to ensure that the 14th Amendment's guarantee of equal protection was applied to gender.

Long before becoming a Supreme Court Justice, Ginsburg was a champion for equality, where she was a visionary who revolutionized the gender equality movement—and the law. Justice Ginsburg served on the high court for 27 years. She will forever be remembered as a legal, cultural, and feminist icon, also known as the Notorious R.B.G.

District of Columbia Receives Family First Approval to Broadly Implement and Claim for Motivational Interviewing

Written by: Natalie Craver, Community Partnerships Administrator, District of Columbia's Child and Family Services Agency and Katie Rollins, Senior Policy Analyst, Chapin Hall.

In September 2020, the District of Columbia's Child and Family Services Agency (CFSA) received approval from the Children's Bureau for its amended Title IV-E Prevention Plan proposing the use of Motivational Interviewing (MI). This approval is particularly notable because while MI was approved by the Title IV-E Clearinghouse for Family First reimbursement only as a substance abuse service, DC received approval to implement and claim for it as an integral component of CFSA's case management practice for all families.

MI is a method of counselling that is designed to clarify goals, address barriers, and facilitate personal change processes. As such, MI will be carried out by CFSA case managers in partnership with families to advance diverse case goals identified in the child-specific prevention plan. When additional EBP services are warranted, CFSA posits that MI will help to improve EBP selection, uptake, and sustained participation in the service—thereby boosting the reach and the impact of other EBPs and preventive services. CFSA's approved prevention plan cites empirical evidence of MI's effectiveness with diverse populations to bring about a range personal and family change—well beyond narrow use as a substance abuse service. The plan also cites passages from MI's program manual (Miller & Rollnick, 2012), indicating that MI is appropriate for use outside of substance abuse.

DC's use of MI confers numerous potential benefits. Above all, CFSA believes that integrating MI within case management across the child welfare continuum will lead to better outcomes for children and families. Moreover, MI has proven popular with CFSA workers who have been trained, suggesting that investment in the model has promise to increase worker satisfaction and retention. Also, because MI possesses the highest level of evidence of effectiveness (“well-supported”), DC can easily achieve the Family First requirement that half or more of Family First funds be invested in “well-supported” services—a rule that many jurisdictions struggle with. Last, CFSA anticipates a significant and sustainable increase in federal revenue via the use of MI, which can be reinvested in prevention services and supports to children and families.

Although CFSA just received approval for Title IV-E funding this month, MI training and implementation began early in 2020, and fidelity monitoring is underway. Follow CWLA future [e-learning and webinars schedule](#) for a future presentation on how states can use this new tool.

WEBINARS & E-LEARNING

Congress Acts on Continuing Resolution But No COVID-19

Last week, Tuesday, September 22, 2020, the House of Representatives passed (HR 8337) and sent to the Senate a continuing resolution or CR that will keep the government from shutting down at the start of the fiscal year. The Senate leadership has indicated they hope to approve the CR by Tuesday of this week, a few days before the end of the year. Fiscal year 2021 starts on October 1, and the required 12 appropriations bills have not been enacted. The CR will provide funding through December 11, 2020, which means a lame-duck Congress will have to revisit the issue after the November election. The House has passed 10 of the 12 appropriations bills while the Senate has not acted on its versions of the legislation.

The CR provides level funding (FY 2020 funding levels) with some slight adjustments to address formulas and some program changes. The CR does extend some expiring programs such as TANF and the transportation trust fund and funding.

The one significant exception that was allowed is a continuation of some pandemic provisions for nutrition programs. The Pandemic Electronic Benefit Transfer Program (P-EBT) was included in earlier COVID-19 relief measures and allows families to receive an EBT card to purchase food to replace the school meals. With schools conducting remote learning, children are missing the benefit of school meals. The CR extends this provision and in fact continues it through the end of FY 2021, next September 30, 2021. State Supplemental Nutrition Assistance Program (SNAP) agencies will also be allowed to use some of the pandemic waiver provisions. Agencies can use waivers on deadlines for SNAP interviews, participant reporting, and eligibility recertifications.

The CR also made some fixes to the earlier relief. Perhaps most significant, it allows Puerto Rico and other territories to implement P-EBT, a shortfall in the earlier relief. In addition, the CR extends the temporary changes to the Women, Infants, and Children (WIC) nutrition program by extending it and allowing greater flexibility for eligibility determination and the food products that can be purchased.

According to the Food Research and Action Center (FRAC), the P-EBT “has lifted the burden of choosing between feeding their families and paying the bills. Already, the program has lifted at least 2.7-3.9 million children out of hunger.”

Treasury Secretary Stephen Mnuchin and Speaker Nancy Pelosi (D-CA) have continued to talk despite public comments back and forth. Last Thursday, Pelosi directed various House Committee chairs to begin to assemble a new House relief package. It is expected to total approximately \$2.2 trillion compared to the May 15 version of \$3.4 trillion. Despite the intent of the Senate to vote on a Supreme Court nominee in the next month, senators may leave this week after they approve the CR. If a deal can be reached between the White House and the Speaker, the Senate could be back to approve such a deal. Adding to some members' urgency is the continuing high level of weekly unemployment claims, some industries, such as the airlines, sounding the alarm of substantial layoffs, and the declining stock market.

Senators Introduce Bill to Rebuild Child Care Infrastructure

On Thursday, September 24, Senate Finance Committee Ranking Member Ron Wyden (D-OR), and Senators Bob Casey (D-PA) and Sherrod Brown (D-OH) introduced, [Rebuilding a Better Child Care Infrastructure Act](#), a bill to make child care more affordable and accessible for families, as well as helping to rebuild a more robust child care system. The COVID-19 pandemic has further proved the need for a stronger, affordable, and good quality child care system for families across the country. The goal of the bill is to address the child care gap by providing new, long-term funding so that states, tribes, and territories have the resources they need to reconstruct a child care infrastructure that better serves all families.

The Rebuilding a Better Child Care Infrastructure Act would expand mandatory child care funding by appropriating \$3 billion to the Child Care Entitlement to States (CCES) for fiscal years 2021-2025, which doubles the current yearly amount of funding. It would also appropriate \$10 billion in additional funding to the CCES for FY 2021 to address child care needs exacerbated by COVID-19. Lastly, it would provide grants to improve child care supply, quality, and affordability. \$15 billion in funding to the CCES for FY 2022 would be appropriated to improve the child care supply, quality, and affordability in areas where the options of child care are slim to none. A more in-depth summary and breakdown of funding for the bill can be found [here](#).

“CWLA is pleased to support Senators Wyden, Casey and Brown's *Rebuilding a Better Child Care Infrastructure Act*. The impact of the pandemic has demonstrated that child care is vital to our economy and to children and families,” stated Christine James-Brown, President and CEO, CWLA. “We have seen the impact of the lack of child care on essential and frontline workers and on the thousands of families trying to find child care in communities that were already struggling to maintain the family-strengthening services that became even more essential during the pandemic. It is clear we need to step up our efforts to support and then increase child care across this country.”

This bill has been endorsed by CWLA, as well as the National Women's Law Center, Center for Law and Social Policy (CLASP), National Association for the Education of Young Children (NAEYC), Child Care Aware of America, Children's Defense Fund, First Focus Campaign for Children, ZERO TO THREE, Save the Children Action Network and Family Forward. CWLA has seen the impact of the pandemic on communities already struggling to maintain quality and accessible child care and the lack of child care for essential and frontline workers. The Rebuilding a Better Child Care Infrastructure Act would help families during the current crisis and in the coming years as child care continues to be a much-needed service for working families across the country.

National Foster Care Youth & Alumni Policy Council Release New Recommendations on Child Welfare Reform

The National Foster Care Youth and Alumni Policy Council released a brief this month titled [“A Historic Opportunity to Reform the Child Welfare System: Youth & Alumni Priorities on Special Populations.”](#) This brief was meant to discuss provisions in the Family First Prevention Services Act, Family First Act, for youth considered to be a part of the special populations and to elevate policy changes that would better support those in the special populations.

According to the Family First Act, those in the special population include young people at risk of sex-trafficking, young people who have experienced sex-trafficking, expectant and parenting youth who themselves are in foster care, and homeless youth. These populations are less likely to be served, and they face a higher risk of adverse health and well-being outcomes. The Family First Act has included special provisions for these populations, but the Council also considers other special populations at risk and in need of assistance such as youth who age out of care without permanency are at risk of homelessness and sexual exploitation; youth dually involved in child welfare and juvenile justice; LGBTQIA2-S youth, particularly, transgender youth and most notably Black transgendered youth; unaccompanied youth from other countries; and youth who lack social capital. The Council has identified six areas of priority for special populations that need to be addressed. Those areas of priorities are:

1. Train staff, caregivers, and youth themselves on how to protect youth from sex trafficking.
2. Prioritize gender-equitable policies that ensure all expecting and/or parenting youth receive access to legal, prevention, and independent living services.
3. Youth who have been abused or neglected are not automatically delinquents; youth who enter juvenile justice should maintain support from child welfare.
4. Promote inclusive spaces and mandate training on LGBTQIA2-S so that youth who identify as LGBTQIA2-S feel comfortable, safe, and supported.
5. When states and jurisdictions are considering Family First Act candidacy for prevention services, youth with diminished social capital should not be overlooked as candidates for services.
6. Acknowledge and Implement Cultural Awareness and Inclusivity.

For more information, or to view other Council priorities, visit NationalPolicyCouncil.org.

2019 Census Child Poverty Data and What COVID-19 Means for Kids

Earlier this week, First Focus on Children co-hosted a webinar with the Children’s Defense Fund, and the Child Poverty Action Group on the topic of the 2019 Census Data released this month on child poverty. The collection and publication of this data are incredibly useful because they capture families’ socio-economic realities with children. This acts as a point of reference for advocacy work, policy change, allocation of public services, and local and state funding. Further, it can highlight positive trends in the economic health of American families. For example, the

data shows that between 2018 and 2019, median household income increased by 6.8 percent, and child poverty rates decreased by 1.8 percent.

There are, however, important limitations to this data. The official poverty measure (OPM) and the supplemental poverty measure (SPM) often do not humanize the lived experiences of those living in poverty and fail to account for families' socio-economic needs with children. Another striking limitation is the poverty threshold: in 2019, poverty was defined as annual income below \$25,926 for a family of four with two children, while extreme poverty was defined as less than \$12,963 per year. Families earning above \$26,000 might not be defined as "impoverished" but are nonetheless struggling—although the extent of this certainly depends on location. Secondly, and most importantly, the 2019 data does not capture the devastating impact of COVID-19 and the resulting economic downturn. Our economy and our society have shifted massively in the past six months, and although this data was released this month, it is unfortunately outdated. The panelists agreed that COVID-19 has completely reversed any progress made in reducing child poverty over the past few years. We know families are struggling now more than ever with income, access to food, access to healthcare, and access to reliable housing. This has devastating effects on America's most impoverished families and, specifically, on families of color. Timely, effective, and equitable solutions are needed to address these problems as our country recovers from the pandemic.

A critical piece of child poverty issues relates to hunger and food insecurity rates. About 14 to 17 million children and young adults are food insecure, meaning that they go to bed without eating enough food during the day. Black and Latino families experience higher rates of food insecurity, and we know that COVID-19 has exasperated these concerns. Many families living in poverty rely on free school meals for their children, and virtual learning has meant many children are going hungry. A lot of great work has been done to respond to this challenge and ensure that children are being fed, but there remains a gap. Some families still have reduced access and have to rely on other benefits—but other benefits (e.g., SNAP) are often not enough to feed a family three meals per day. It is clear that policy change is needed in this realm. Child nutrition waivers (which have allowed for delivery models and grab 'n go hubs to provide school meals) and SNAP benefits need to be extended beyond the calendar year and made more generous. One panelist commented: "we need to find a way to make sure kids are not going hungry this school year."

Moreover, food insecurity intersects with the overall well-being of families with children. A caregiver's inability to provide food and other resources significantly increases their stress levels, and this is absorbed by the young children around them. High rates of economic difficulty and emotional trauma within a family hinders the growth and development of children, which reveals a "crisis within a crisis." Durable policy solutions are needed to solve the health, social and economic challenges of these families—including affordable child care, pandemic unemployment, medical leave, and emergency services.

Supreme Court Appointee Looms Large on Future of ACA

The Supreme Court, with either 8 or 9 members, has scheduled oral arguments on the constitutionality of the Affordable Care Act for November 10, 2020. This is a Supreme Court case that could strike down the entire ACA. May 13 was the deadline to file amici briefs on the case of the State of California, ET AL. v. the State of Texas, ET AL. In June, the [Trump Administration urged](#) the Court to side with Texas and told the Court, “the entire ACA must fall.”

Dozens of briefs were filed led by a collection of sometimes unusual alliances that sought to uphold the ACA. The Supreme Court will decide the fate of the health insurance law that is providing coverage to more than 20 million people; has made the requirement that insurance policies cannot deny you insurance if you have a pre-existing health condition; created an “essential benefits” package of coverages that policies must include; and a popular requirement that policies allow you to keep your adult child on your policy until the age of 25.

Last year, [as described in the Children’s Monitor](#), the U.S. Fifth Circuit of Appeals agreed with Judge Reed O’Connor of the Federal District Court in Fort Worth when he ruled that “the keystone” of the law was the individual mandate and, when Congress eliminated the individual mandate tax penalty, that it could not be severed from the entire ACA. That would mean that the whole law should be thrown out. Congress eliminated the tax as part of the December 2017 tax cut package. On December 18, 2019, the U.S. Fifth Circuit Court of Appeals in New Orleans agreed to strike down part of the Affordable Care Act provision, ruling that the requirement that people have health insurance was unconstitutional on a 2-1 decision and sent the case back to the lower court in Texas for further analysis. As a result, the U.S. Supreme Court decided to take up the case in October.

The repeal of the ACA has been led by several Republican state attorneys general spearheaded by the Texas Attorney General Ken Paxton. That action has been countered by several Democratic attorneys general led by the California Attorney General Xavier Becerra. Based on the briefs, supporters of the ACA include AARP, the American Medical Association, and the Service Employees International Union, longtime supporters of the Act. Some of the other supporters of keeping the ACA in place include unusual parties. The Montana Attorney General Timothy Fox and Ohio Attorney General Dave Yost, both Republicans. A brief that was filed on behalf of economists who described themselves as “53 distinguished professors and internationally recognized scholars of economics and health policy and law...[from] the Johnson, Nixon, Ford, Carter, Bush, Clinton, Bush and Obama administrations.

Data from [CMS in June](#) indicated that 487,000 people obtained health care coverage after losing it due to the COVID-19 spread this early spring. The ACA allows for a special enrollment period (SEP) after job loss.

An analysis by the [Kaiser Family Foundation released on Wednesday, May 13, 2020](#), showed that, because of the unemployment caused by the pandemic, “Among people who become uninsured after job loss, we estimate that nearly half (12.7 million) are eligible for Medicaid, and

an additional 8.4 million are eligible for marketplace subsidies [ACA marketplace], as of May 2020.”

The Court has many options, they could strike down the entire law, they could strike it down in a period of time that would allow lawmakers under the next Congress and presidential term to pass a fix or a replacement, or they could narrowly deal with the mandate. They could also uphold the law, but the original ruling upholding the law in the summer of 2012 was a 5 to 4 ruling with Justice Ruth Bader Ginsberg, a part of the Chief Justice John Roberts majority opinion.

Supreme Court Appointee Looms Large on Future of Gender Discrimination

CWLA joined dozens of children’s groups and other advocates in filing an amicus brief in support of the City of Philadelphia in upholding their non-discrimination requirements in child placements. The case will be heard at the Supreme Court the day after the election.

In 2018 a report in the Philadelphia Inquirer had determined that some faith-based agencies were violating the non-discrimination requirements the City had in place when it came to the placement of children. Catholic Charities had not been initially covered in the reporting, but in a review of the child welfare agency’s practices, the City determined that the agencies were not in compliance with non-discrimination requirements and pulled their contract. Catholic Charities of Philadelphia said it was religious discrimination arguing they were entitled to enter into such contracts using the 2017 Supreme Court ruling, *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, in claiming that it too had been subjected to hostility based on anti-religious prejudice. The 2017 Supreme Court ruling had dealt with whether a cake shop had to sell wedding cakes to same-sex couples. This court case will deal with the placement of children in foster care and adoptions from foster care.

A three-judge panel of the United States Court of Appeals for the Third Circuit, in Philadelphia, [ruled against the Catholic Charities agency](#). As part of that legal dispute, CWLA was part of an Amicus Brief along with Voice for Adoption, The North American Council on Adoptable Children, American Professional Society on the Abuse of Children, and the National Association of Social Workers in support of the City of Philadelphia. CWLA has also been an active supporter of the Every Child Deserves A Family Act (HR 3114, S. 1791) to ban discrimination in the placement of children and youth; and to ban discrimination in the recruitment of parents who want to adopt from foster care and parents who want to provide foster care.

According to the legal brief filed by the City of Philadelphia, “For many years, the City’s standard foster-care contracts have prohibited discrimination based on characteristics enumerated in the Philadelphia Fair Practices Ordinance, including race and sexual orientation. The City has never allowed contractors to turn away potential foster parents based on a protected characteristic. Although this longstanding policy applies to all City contractors—and although the City has long contracted with Catholic Social Services and continues to do so for a range of

other child-welfare services—CSS contends that the City’s decision to enforce this policy against it reflects religious hostility.”

After the Philadelphia Inquirer story, Bethany Christian Services, which had been the original focus of the article, came to a mutual agreement with Philadelphia, and they continue in their child welfare services in the city.

Catholic Charities has argued, “The mayor, city council, Department of Human Services, and other city officials have targeted CSS and attempted to coerce it into changing its religious practices in order to make such endorsements. The City’s actions are a direct and open violation of the First Amendment. Yet the lower courts have upheld them.” To read the most recent amicus brief filed by CWLA and other groups, [go here](#).

ACA Repeal: What We Told Congress

When CWLA joined hundreds of organizations in defense of the Affordable Care Act in 2017 and 2018, we explained to Congress, and our members, why the ACA is vital to any efforts to reduce the number of children coming into foster care and in preventing instances of child neglect.

In a June 2017 letter to senators, we said, “As a country, we have taken significant strides in reducing the nation’s foster care numbers in this century. Foster care caseloads stood at 568,000 in 1999. During these past two decades, in part because of congressional support, the number of children and youth in foster care decreased to 397,000 by 2012. As you know from your own states, this progress has been threatened by the increased use of opioids and other substances. To counter this, we need to continue to expand access to both drug treatment and basic health care coverage.

As the President has said, health care is a complex issue. The same is true of child welfare. The child welfare system must support child safety, permanence, and well-being. This includes a focus on the mental and physical health of children and their families and communities, which is essential to reducing the need for children to enter the child welfare system.

The expanded health care coverage through the ACA, including the expansion of Medicaid, has strengthened millions of families by improving their access to health care—especially those provisions that have increased substance use treatment and mental health services. CWLA, in our many legislative agendas delivered to Congress over the years, has highlighted just how much mental health and substance use plays in cases where children are maltreated or placed into foster care.

Last fall, the Department of Health and Human Services released the latest child welfare data. Officials at the Administration on Children, Youth, and Families (ACYF) interviewed child welfare directors in states experiencing the highest increase in foster care numbers. State officials informed ACYF on what the data suggest: “A rise in parental substance use is likely a major factor driving up the number of children in foster homes. Citing opioid and methamphetamine

use as the most debilitating and prevalent substances used, some state officials expressed concern that the problem of substance use is straining their child welfare agencies.”

The Affordable Care Act has provided more than \$5.5 billion in substance use and mental health services, according to recent research by Dr. Richard Frank and Dr. Sherry Glied of Harvard Medical School and the Wagner School of Public Service at NYU. It is critical that we keep these services in place.

Last year's foster care numbers released by HHS indicated that in 2015, 427,910 children were in foster care, an eight-percent increase since 2012. New data suggests that drug abuse by the parent was the primary reason for the child's removal in 32 percent of cases, and a parent's inability to cope was a factor in a child's removal in 14 percent of cases. The reduction or elimination of this expanded behavioral health coverage would no doubt increase these numbers.

According to Dr. Frank and Dr. Glied, a full repeal of the ACA would result in a loss of coverage for 2.8 million people with a substance use disorder, including 220,000 people who have an opioid addiction. Additionally, it would eliminate mental health coverage to 1.2 million people with a serious mental health disorder.

According to the National Center on Behavioral Health, many states with the highest opioid overdose death rates have used Medicaid to expand access to medication-assisted treatment. This includes 49.5 percent of medication-assisted treatment in Ohio, 44.7 percent in West Virginia, 44 percent in Kentucky, 34.2 percent in Alaska, and 29 percent in Pennsylvania. Imagine the impact on foster care caseloads, child maltreatment, and other areas of child welfare if the expanded behavioral health and substance use treatment is...repealed...”

Just as in 2017, in 2020, CWLA continues to oppose the repeal of the ACA, even if replaced by a non-existent substitute.

<p>UPCOMING CAPITOL HILL BRIEFINGS/EVENTS</p>
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- **Tuesday, September 29, 2020 from 1:00 pm to 2:30 pm (ET).** Preventing Child Abuse and Neglect: Lesson's Learned from Washington State's Kinship Navigator Program. [Click Here to Register.](#)
- **Wednesday, September 30, 2020 from 2:00 pm to 3:00 pm (ET).** Children's Budget Summit. [Register Today](#) *Space will be limited*
- **Thursday, October 1, 2020 from 1:00 pm to 2:30 pm (ET).** One Roof: Housing and Child Welfare Partnerships Supporting Families in Crisis. [Click Here to Register.](#)
- **Tuesday, October 6, 2020 from 3:00 pm to 4:00 pm (ET).** Get Out the Vote: Opportunities to Mobilize People. [Click Here to Register.](#)
- **Tuesday, October 6, 2020 from 3:00 pm to 4:00 pm (ET).** Foster Youth Financial Stability and Empowerment Town Hall. **RSVP to Kristen Pisani-Jacques at Kristen.pisani-jacques@NACCchildlaw.org.**
- *CWLA Virtual Summit Advancing Racial Justice, Equity, and Inclusion for Children and Families, October 6 – 8, 2020, for more information go to www.cwla.org/virtual-summit/.*
- **Wednesday, November 18, 2020 from 2:00 pm to 3:00 pm (ET).** Voice for Adoption's Annual Adoptive Family Portrait Project. **Stay tuned for more information.**