Research Report
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Ensuring the Long-Term Success of Florida's Community-Based Child Welfare System

In April 2005, Florida TaxWatch released a report on the Department of Children and Families' system for monitoring the contracts it has with private providers of child welfare services. The Legislature was examining the issue and the Chair of the Children and Families Committee asked Florida TaxWatch for input.

That report concluded that although it is imperative that the state closely monitor the financial viability of the providers and their performance in achieving desired outcomes, the Legislature and the department must be careful not to add processes and requirements to an already complex and burdensome system. The report recommended that steps be taken to streamline the system, better integrating the various functions and entities to help eliminate duplication and ultimately provide better services to children.

We also concluded that the outsourcing of child welfare services by the Department of Children and Families (DCF) is showing good results, as many outcome measures are improving. Florida TaxWatch views community-based care as a very important undertaking with vast potential for a better system. It should be encouraged and steps should be taken to help this effort reach that full potential.

As part of this effort Florida TaxWatch has undertaken another report. Although the focus is still on contract monitoring, the scope has been expanded to include other issues that impact the long-term success of community-based care. This includes funding issues, increased flexibility for providers, and mitigating risk. We have found that DCF is taking positive steps towards improving the system, but much more needs to be done.

Background

Florida Has Shifted Child Welfare Services to Private, Local Providers

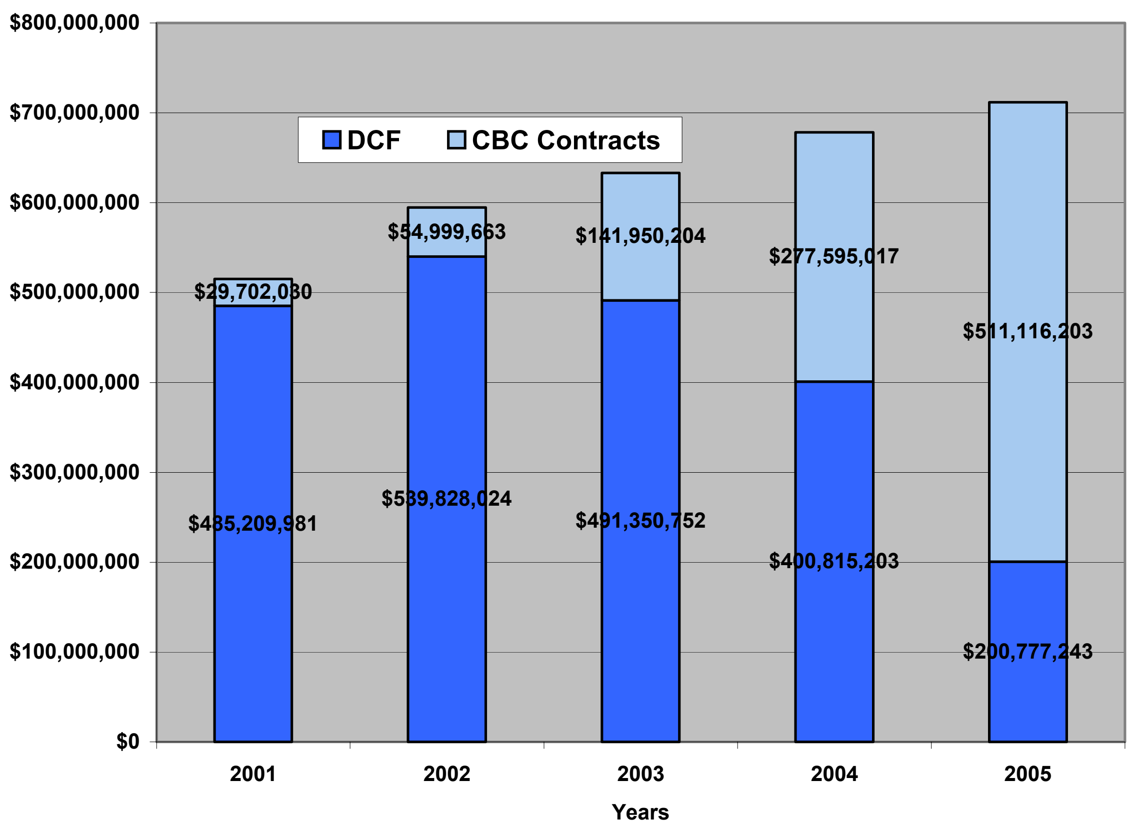
Florida is the second state in the nation to fully outsource its child welfare services (after Kansas), and the first large, diverse state to do so. Following a pilot program in 1996, the Legislature mandated in 1998 that the Department of Children and Family Services contract with private, non-profit, community-based care organizations (CBCs, also known as lead agencies) to provide virtually all child protective services. These include family preservation, emergency shelter, foster care, and adoption. Although these private organizations provide the services, the state is still responsible for these children and the services they receive.

Implementation of this change took time. But the state now has contracts covering the entire state. There are 22 contracts with 20 lead agencies, and the value of these contracts is approximately $625 million, in FY 2006. As of June 2005, the lead agencies were serving 44,000 children.

The transition to community-based care acknowledges that communities differ across the state, and "one size fits all" was not the best approach. Instead, the care of dependent children and assistance to their families is now a community responsibility involving partners such as foster parents, the public school system, the courts, law enforcement, the faith community, and other community organizations—with the state providing oversight. The idea is to couple local control and flexibility with state assurance that children are provided with a quality system that offers both equal protection and equal access to quality, cost-effective intervention, and assistance.

The Legislature also created Community Alliances to be a central point for broad-based community input, collaboration, and governance. These alliances are groups of stakeholders, community leaders, client representatives, and human service funders. An alliance may serve one or more counties.

Figure 1. CBC Contracts and DCF Child Welfare Service Budget (2001-2005)



Source: Florida TaxWatch and the Department of Children and Families, January 2006.

Community-Based Care Is Improving the Child Welfare System

The transition of children from state care to community care was a major undertaking. Although the pre-privatization child welfare system was facing serious problems, there was concern about the quality of care during the transition as the new system became established and the lead agencies solidified their infrastructure and processes. There have been some problems, including the financial failure of two CBCs that have since been replaced. However, although performance varies across the state, data show that the new system is already showing benefits and improving outcomes.

As we reported in our last report, information from the Department of Children and Families and the CBCs shows that improvement is being made in these areas:

- ✓ *more children visited each month*
- ✓ *fewer children in care*
- ✓ *fewer children in out-of-home care*
- ✓ *fewer children re-entering foster care*
- ✓ *more children adopted*
- ✓ *more available foster families*
- ✓ *less foster home crowding*

A new study by the University of South Florida (USF), which performs an annual evaluation of community-based care under contract with DCF, also reports positive results. The report states that although "there has been insufficient longitudinal data to determine definitively whether Community-Based Care is more effective than the former state-operated system, this report offers the first indication that CBC has impacted child-level outcomes in a positive direction."

USF examined the new system's effectiveness in achieving safety and permanency outcomes for children and families. It found that as community-based care was implemented across the state, the portion of children exiting care increased and the length of stay in care decreased. While this was happening, the maltreatment recurrence rate remained stable and re-entry into out-of-home care increased only slightly. This indicates that safety is not being further compromised as the goal of reducing children in care is achieved.

Concurrently, the rate of re-unification with parents has decreased slightly, while placement with relatives and adoptions have increased. The report concludes that children are safer and are achieving more permanent placements.

Recent Developments

Since our last report, the Department of Children and Families have taken several positive steps to improve community-based care, including the monitoring of contracts.

The department has created three new offices:

> ***Program Support*** *– Provides support for program offices in the face of changing roles and responsibilities*
> ***Quality Management*** *– Provides an integrated approach to quality management, contract monitoring, and performance improvement*
> ***Provider Relations*** *– Goal of improving communication and interaction with CBCs (also contains a Contract Management Unit)*

The department also established five work groups to address transition issues. Each team was led by a DCF District Administrator and a CBC Lead Agency CEO. There were work groups on Provider Relations, Financial Management, Monitoring, Title IV-E Funding, and Training.

Each workgroup has produced a report with promising recommendations. Implementation has begun on some of them. One of the most promising is in the monitoring area, where the department is planning on shifting the responsibility for daily, on-going quality assurance and quality improvement activities to the CBCs (see Quality Assurance section).

The department also hired a respected former lead agency CEO as its Assistant Secretary for Administration. Bringing this perspective and knowledge of the day-to-day operations of CBCs was a good move and bodes well for the future refinement of the system as true public/private partnership.

Contract Resource Teams

The department has taken steps to provide better training for contract managers, who are statutorily required to enforce contract terms but have also been responsible for procurement, negotiations, contract drafting, and monitoring activities.

To further help contract managers by providing greater expertise and technical assistance for contracting activities, DCF is planning to create Contract Resource Teams at the zone level. These "self-empowered teams" will do procurement, contract writing, and negotiating. Each team will be staffed with a contract procurement and negotiation specialist, financial specialist, and performance and training specialist. The aim is to produce better contract documents and take some administrative pressures off contract managers.

The department originally estimated the staffing requirement for these teams at 34 FTEs, but are now looking for the existing resources to fund 20 positions. Finding those resources for those positions and finding qualified people to fill them may delay implementation of these Contract Resource Teams.

Avoiding One-Size Fits All Policy Making

The Provider Relations Workgroup addressed an issue that is central to the idea of allowing private providers the flexibility to tailor their operations to suit their local area and client population.

The workgroup acknowledged that the CBC's "ability to manage and maintain their unique Systems of Care is weakened each time the department prescribes a state-wide response to an issue. Although the CBC contract allows the development of policies and procedures consistent with the Systems of Care, the department continues to behave as it did prior to the outsourcing of child welfare programs."

Although the department's need to respond to requests and direction from the Legislature and other stakeholders must be recognized, the workgroup recommends that the department limit its policy development role to global policies that are essential to govern the system. The CBCs should be responsible for developing procedures to implement those policies.

While providing necessary technical assistance, quality assurance, quality improvement, monitoring, and other services, the workgroup recommends the department should "continually advocate for the elimination of policies and processes that are inconsistent with Community-Based Care and hamper the providers' ability to effectively manage resources and programs."

Monitoring of Community-Based Care

Increased Focus on Oversight of State Contracting

There has been much discussion of state contracting, not just within DCF but across Florida government. The Legislature understandably wants to ensure that providers are complying with contract provisions and providing the quality of services they are paid for.

Effective contracting by all state agencies was a focus of the 2005 Legislature as a result of extensive hearings on contract management and critical findings by a high-level team of state inspector generals. It passed major legislation revamping the overall state contracting process. The Governor vetoed that legislation, and, although he had concerns with the details, he applauded the concept and said he hoped the Legislature would try again.

Legislation focusing on DCF contracting did pass and was approved by the Governor. In addition to requiring competition when DCF contracts with colleges and universities, the legislation also set requirements and processes for contract managers and contract monitoring units.

CBCs Are Subject to Extensive Oversight Systems

The Community-Based Care lead agencies (CBCs) are subject to a variety of review and oversight activities. Within the Department of Children and Families (DCF), a number of different oversight functions are performed by a variety of headquarters and district level staff. In addition to DCF's oversight, the lead agencies go through a number of other internal and external reviews. The current contract monitoring system is complex and duplicative. Many CBCs contend that the system is onerous, over-reaching, and wasteful.

The major oversight effort by DCF is the annual monitoring by the Contract Oversight Unit under the department's Office of Quality Management. This consists of DCF staff doing an onsite visit that can last 20 days. The team does an in-depth review of financial matters, policies and procedures, and internal controls. This is in addition to the monthly monitoring by the contract manager, who reviews things such as spending plans, invoices, staffing reports, and performance. The Contract Oversight Unit does not rely on the contract managers' findings, but instead reviews the manager's work by redoing much of it.

Each CBC is subject to two Child Welfare Quality Assurance (CWIQA) reviews a year in which a representative sample of case files is reviewed. DCF also conducts an annual re-licensing review of the CBCs, in which many administrative and personnel matters are examined.

DCF is also planning to contract with private fiscal monitors to provide financial oversight of CBCs. The fiscal monitors are to ensure the fiscal integrity of lead agencies by reviewing each one, identify weaknesses, and developing corrective actions. DCF's contract managers will do day-to-day fiscal oversight (such as approving invoices), and contract monitoring staff will still do contract compliance.

The Florida Mental Health Institute (FMHI) at the University of South Florida has been under contract with the DCF since September 2002 to conduct an annual state-wide evaluation of Community-Based Care.

In addition, CBCs have an independent audit performed by a licensed Certified Public Accountant (CPA), which includes an audit of financial statements, federal compliance, and state compliance. Some CBCs report that the work of the CPA is virtually ignored by the Contract Oversight Unit's review, although DCF staff expressed to Florida TaxWatch staff that this is not the case. This issue was raised again by CBCs in a meeting with the DCF Secretary subsequent to the release our first report.

The CBCs also daily update HomeSafenet, Florida's state-wide automated child welfare information system. This system provides DCF with immediate and continual updates of CBC performance.

There is annual monitoring associated with other funding that a CBC might receive, such as Alcohol, Drug Abuse, and Mental Health monitoring. DCF may also require a Children and Families Services Review.

CBCs also must go through an accreditation process, as required by their contracts. This is a comprehensive and time-consuming review by a national accreditation organization, including on-site visits by trained peer reviewers, to ensure that they comply with nationally recognized standards of best practice. This review could result in other areas of oversight duplication. Instead, the accreditation process should be integrated into the state monitoring system so that it can be a tool for DCF monitoring.

The state's Office of Program Policy Analysis and Government Accountability (OPPAGA) has done five reports since February 2004 on community-based care. The initial focus was on the readiness assessment process, but OPPAGA has also made recommendations concerning the budget allocation, contract monitoring, and oversight systems.

Recent OPPAGA Report Critical of DCF Oversight

The DCF contracting legislation passed last year directed OPPAGA to examine oversight of lead agencies. That report was released in January 2006.

The report acknowledged promising changes the department is undertaking but cited "critical weaknesses" in its oversight of CBCs and the CBCs subcontractors. Among the criticisms:

- *need for improved training, especially for contract managers;*
- *delays in implementing HomeSafenet;*
- *lack of a method for monitoring the long-term vitality of lead agencies;*
- *monitoring not timely;*
- *not ensuring that CBCs have effectively monitored their subcontractors;*
- *a need for better definition of responsibilities for fiscal monitors; and*
- *more preparation needed for the planned shift of some quality assurance responsibilities to CBCs.*

In the department's responses to the report, it agreed with most of the findings but asserted that it was already in the process of addressing most of the concerns.

Balancing Effectiveness and Efficiency

The OPPAGA report highlights the problem of balancing the need for effective oversight with the need to not overburden CBCs with unnecessary requirements, processes, and restrictions. As discussed earlier, there are numerous oversight systems used to monitor CBCs, and they appear to be inefficient and duplicative. If this substantial system is also ineffective, there is a real problem that must be addressed.

The department and the Legislature need to use caution and not respond to justified criticism, such as the OPPAGA report, by simply adding more monitoring staff, requirements, restrictions, and requests for information without certainty that they are essential for effective oversight and accountability.

Not all CBCs need to be subject to the same level of scrutiny. Both the QA redesign and the department's Assistant Secretary for Administration acknowledge this and promote a risk-based oversight system. The key is early intervention. Leading indicators such as CBCs not sharing recent financial statements with board members, accessing lines of credit, or repeated late payments of invoices should be identified and used to help better target monitoring and oversight resources. This can help DCF recognize the need for enhanced scrutiny of certain providers and avoid unnecessary detail in the review of others.

Current System Needs a Thorough Review

In 2003, under a previous department administration, the Department of Children and Family Services formed a CBC Oversight and Accountability Workgroup to review the monitoring process with the goal of "well thought-out and clearly articulated contracts with private service providers coupled with an integrated programmatic and financial oversight system that is minimally intrusive to service providers and non-duplicative." *(Draft Workgroup Report, October 2003)*

The draft report highlighted some problems with the system including "information is not routinely shared among oversight groups and coordination of efforts is non-existent." It cited a chain of command and oversight structure that was unclear and duplicative and acknowledged tensions between various units of the department.

After the group produced its draft report, momentum slowed and a final report was not issued. Although the group cited areas where duplication existed and improvement was needed, and even drafted some recommendations, they were not pursued

Review Should Include Best Business Practices

The department has continued this sort of review through the aforementioned workgroups, but there is a need to bring best business practices and business processes into the system.

The Legislature should establish a Task Force to assess the efficiency and effectiveness of the current contract monitoring system, with a focus on integration of the current functions to eliminate duplicative or unnecessary efforts. It should have a best business practices focus, so the group should be lead by a neutral private sector organization or individual with that expertise. It should also include representatives from DCF, lead agencies, community alliances, and other stakeholders. The group would report to the Governor and the Legislature its findings and recommendations to improve the process.

The Task Force should also determine what information is truly needed for the state to ensure good stewardship of public funds and quality service delivery. The focus should be on what is needed to achieve the desired outcome measures.

Giving CBCs Responsibility for the First Level of Quality Assurance Is a Promising Idea

The new DCF initiative with perhaps the most promise in the contract monitoring area is the redesign of DCF's quality assurance (QA) program. The department established a new Office of Quality Management that took over QA responsibilities from the Inspector General on October 1, 2005. That office is now working to re-design the department's current "three-tier monitoring structure" so that the responsibility for daily, on-going quality assurance and quality improvement activities is placed with the CBCs.

In the three-tier system, Tier 1 will be the responsibility of the CBCs. First, they must each develop a comprehensive Quality Management Plan, including a Quality Improvement provision. The CBCs will be responsibile for collecting data and transmitting it to DCF, including validation of HomeSafenet data and producing data not available through HomeSafenent. The CBCs will be responsible for doing ongoing case file reviews, with a complete sampling (90% confidence) of case file reviews done no less that semi-annually.

At Tier 2, DCF Districts/Zones will first be responsible for validating the Quality Management Plans. They will also verify the on-going QM activities and accuracy of the data collected by the CBCs, looking for 98% accuracy. The District/Zones will provide feedback and quality improvement assistance to Tier 1 and report its findings to Tier 3.

At Tier 3, the overall review of state-wide performance will remain the responsibility of the DCF Central Office. DCF will still perform the annual CFSRs and reviews of federal funding requirements. The Central Office will also provide technical assistance, as needed, to Tiers 1 and 2.

This more modern approach will shift the everyday aspects of quality management to the local level. Instead of being a look back, this can result in an ongoing, current QA assessment to better integrate local activities with the department's mission.

Changing DCF's role to one of verifying and validating performance can help alleviate the perception of CBCs that the current quality assurance system is too burdensome and focuses on the wrong details. This will require a change in thinking and focus by both DCF and the CBCs. The department will have to focus more on outcomes as performance measures, and the CBCs must incorporate some standardization into their QA plans facilitate federal and state assessment.

Under the current QA system, each CBC is reviewed twice per year, using the Child Welfare Integrated Quality Assurance (CWIQA) tool. This process is viewed by lead agencies as disruptive and burdensome. It also produces results that make it difficult to judge and compare performance, and those results are often not timely enough to lead to meaningful improvement measures.

The new plan looks to reduce the time DCF spends on-site, not just by giving the CBCs more QM responsibility, but also by combining other Tier 2 reviews. An Integrated Review Team will do quality assurance, contract oversight, licensure, and federal funding reviews at one time, with a goal of five days on site and a timely, integrated report within 30 days. CWIQA reviews will cease, and when a CBC has successfully implemented a QM plan, the DCF's Contract Oversight Unit will not duplicate the monitoring activities.

Moreover, the goal is development of risk-based reviews, which would reward high performers with reduced oversight.

Make Sure Everything Is in Place to Ensure Pilots' Success

The department plans to select three pilot areas and assess them from April through June of this year. The new QA system would then be fully deployed in July. This may be too soon.

The pilot programs for this very promising initiative need to be given every opportunity to be successful. Resources, training, and providing CBCs with definitive direction are issues that need to be addressed.

The department is planning to shift some resources to the CBCs to meet their new QM responsibilities. DCF's QM office has 88 positions. Including Central Office staff, there are about 100 people doing QM for the department. The resource plan needs to provide adequate QM personnel for the CBCs.

Training is also needed for all tiers in the process, especially locally. DCF is formulating a training plan that has a proposed completion date of February 17. It is essential that adequate training be provided before the pilots begin in April.

In addition, CBC representatives—including some closely involved in the development of this initiative—have indicated that definitive guidance is lacking. This includes clearly defined roles and exactly what they will have to report. The January OPPAGA report also raised similar concerns.

DCF must make sure that the pilots have everything in place to help ensure success and a timely state-wide implementation of this process.

Although It May Be Unnecessarily Detailed, the Monitoring System Should Be Broadened in Scope and Perspective

Review and assessment of CBCs must acknowledge that other parts of the system impact lead agency performance. Child welfare system partners, including DCF administration, the court system, the protective investigation function, guardian ad litem coverage and services, and child welfare legal services all effect a CBC's ability to meet contract requirements. Reasons for increasing caseloads, such as exceptional and unexpected numbers of children brought into the system from increased investigations, must be considered during the monitoring process. Similarly, DCF responsibilities such as timeliness of payments and budget completion, availability and effectiveness of technical assistance, and frequency of requests outside of the contract terms can seriously impact CBC performance.

To add perspective and further increase local participation, the monitoring process should include input from community alliance members and lead agency representatives. To help ensure successful implementation of the privatization effort, the Legislature established a "readiness assessment" process to assess the operational readiness of each DCF district and lead agency. The process included on-site reviews by a team made up of representatives from DCF, the lead agencies and community alliance members—all serving as equal members.

Using that model, the on-site annual Contract Performance Unit review could be expanded to include community alliance members and people from other CBCs.

Mitigating Risk

A Viable Risk Pool Is Needed

Florida's child welfare system is a complicated organization of services and funding. The move to community-based care magnified aspects of risk. When the state provided the services, it could administer funding on a state-wide basis, responding to problems that might occur in various areas of the state. It is different now with 22 separate contracts, and funding cannot be shifted between CBCs when unforeseen developments occur.

The department recognized this, and in 2004 the Legislature authorized the development of a "risk pool" through a public/private partnership with the CBCs. This important safeguard has not been implemented as yet and some issues need to be addressed.

Although the plan contemplates a separate self-insurance plan, the risk pool is designed to mitigate risks beyond the types covered by traditional liability insurance. Many of these risks are beyond the control of the lead agencies. These include significant changes in the size or composition of the population they serve, changes in the eligibility of children or services, or changes in federal or state policies. It could also cover cash flow or other financial management issues, technical or other assistance to lead agencies in the event of serious problems, or even CBC failure or disruption of service. The key is to provide for continuation of care.

The legislation also authorizes the use of the risk pool for federal grant opportunities or appropriate incentive structures for lead agencies.

Integrate Quality Management With Risk Mitigation

The statute directs that the pool be operated by the Florida Coalition for Children (FCC), a non-profit organization that serves the lead agencies and other child caring agencies in Florida and requires the FCC to develop an implementation plan. The FCC hired an independent actuary and has completed a draft of the plan.

The plan wisely integrates quality management and improvement into risk mitigation and creates a Risk Management Group to provide technical assistance to CBCs that are having financial, management, or other problems. Early identification of potential problems is essential, and this fits in well with the proposed changes in the quality management program described in this report.

Authorizing Statute Needs to Be Addressed

Discussions with representatives of the CBCs and DCF staff indicate that the authorizing statute may have to be rewritten before the plan can be finalized and implemented. The statute does not differentiate between the risk pool and the traditional insurance plan.

Also, the funds to set up the risk pool are currently required to be a loan, which the CBCs would have to pay back to the state. The Legislature has appropriated $7.5 million for the risk pool and $3.0 million for the self-insurance program. Premiums for the insurance fund could facilitate the payback of the $3.0 million, but the Legislature should remove the loan requirement from the risk pool funding. Ensuring the long-term stability and security of the child welfare system is an appropriate and prudent use of state dollars. The repayment of the loan would create a real burden on the lead agencies and could create the kind of problems the risk pool is intended to address. This is even more important when we consider that a larger investment is probably needed.

The actuarial study examined scenarios that addressed the types of risks discussed above. It forecast that $20 million, though not enough to cover severe situations, would cover a substantial portion of each scenario. It then shows that an additional $20 million investment in each of the next two years would result in a $60 million risk pool that would cover 95% of most severe scenarios.

Dollars Are Available to Invest in Risk Pool

Although a $60 million investment may not be practical initially, a $7.5 million risk pool does not seem sufficient. The Legislature should consider an increased investment. A recent Florida TaxWatch report highlights the record-setting surplus of available funds the state has available for the next budget. The state has $5.6 billion more in general revenue for 2006-07 than it is spending on recurring programs this year. A large portion ($3.8 billion) of this money is non-recurring—or one-time—revenue. We always caution the Legislature about the use of non-recurring dollars, warning against using it for recurring expenses. Instead, it should be used in ways that focus on the long-term health of the state, providing tax relief, paying down state debt, or investing in needed infrastructure. Funding a viable risk pool would be a prudent use of a small portion of these funds. Making this investment now can help ensure the stability, health, and long-term success of community-based care.

The Governor and the Legislature should also support and continue the self-insurance program. It is difficult for these programs to get and retain insurance, and this would provide stability and predictability in the system and allow for a more comprehensive management of risk. Again, any state investment in self-insurance can be structured as a loan to be paid back through premiums.

The creation of the Risk Management Group to provide technical assistance to CBCs is also very important. Funding could be provided through the risk pool to contract with an entity with sufficient expertise to provide this assistance.

Increasing Fiscal Flexibility

Cost-Reimbursement Contracts Should Be Reconsidered

The state currently uses cost-reimbursement contracts with the lead agencies. To receive the contracted amount, CBCs must submit invoices, and if approved, funding is delivered. In addition to being burdensome to administer, such contracts do not promote innovation and efficiency. As is the case with most government funding, there is a "use it or lose it" mindset. If you do not spend it, you do not get to keep it, and you may not get it next time. Under cost reimbursement contract, a CBC cannot have retained earnings. That makes it difficult to invest in improving their operations.

The provision of child welfare services may lend itself to unit of service contracts, since those units are easily defined and tracked. This would cover the most important part of the contract and ensure that CBCs provide the services they are paid for. At a minimum, CBCs' administrative expenses should not be part of a cost-reimbursement contract.

The department and lead agencies are currently working with the Department of Financial Services to attempt to move away from cost reimbursement contracts.

Intra- and Inter-CBC Transfers

CBCs are currently paid from a schedule of more than 20 funds. Each fund has its allowed uses and attendant requirements. This makes it difficult for CBCs to react to changing circumstances that could result in increased need in one area. It is hard to move money to meet such needs, even if there is available money in other areas.

The department should look to increase fiscal flexibility for lead agencies, both within and between CBCs. Workgroups comprised on DCF and CBCs staff have developed some proposals in this area. One would allow CBCs to move dollars between five different fund sources without a contract amendment. Another would allow for the transfer between CBCs, in effect trading surpluses and deficits. Such transfers would have to be approved with care taken that they are equitable and beneficial to both individual CBCs and the state as a whole.

DCF should actively refine and implement these ideas and continue to explore sound and reasonable ways to move more flexibility.

One example is an idea recently developed within DCF that merits further consideration. It involves the creation of a Primary Child Welfare Trust Fund (PCWTF) from which all CBC contract payments would be made, including both state and federal funding. Under the current system, CBCs are given advances totaling $154 million in the first quarter. These advances are artificially allocated to various funds and do not represent actual expenditures. This results in improperly claimed federal funds and subsequent adjustments throughout the year, creating significant cash flow fluctuations. Creation of a PCWTF would ensure sufficient operating cash is available throughout the year and remove the constraints placed on CBCs by numerous fund streams. This not only requires legislative creation of the trust fund and authorization to advance funds, but it would also require a substantial one-time state investment to "seed" the trust fund.

Legislature Should Consider Authorizing the Use of Contract Dollars for Development

Another area that could use some flexibility is the ability for CBCs to use state funds for fundraising efforts. One of the ideas behind community-based care was using the ability of these local organizations to raise additional non-government funds to enhance the state's child welfare system. CBCs are encouraged to seek private funding and do grant development, but they are not allowed to use state funds in this effort.

The Florida Attorney General has ruled before that unless it is expressly authorized in statues, organizations cannot use general revenue for fundraising efforts.

The state should provide that authorization. With proper controls and accountability, the 2006 Legislature should enact legislation to provide that a limited amount of the CBC contracts may be used for fund and grant development. The state funds should not be used to lobby the Legislature or other state agencies or institutions for increased state funding or to indirectly finance lobbying efforts by other organizations.

Federal Foster Care Funding Waiver

One example of how funding for community-based care is overly complex and inflexible is the federal Title IV-E program, which funds foster care. Florida expects to receive more than $140 million of this funding in 2006.

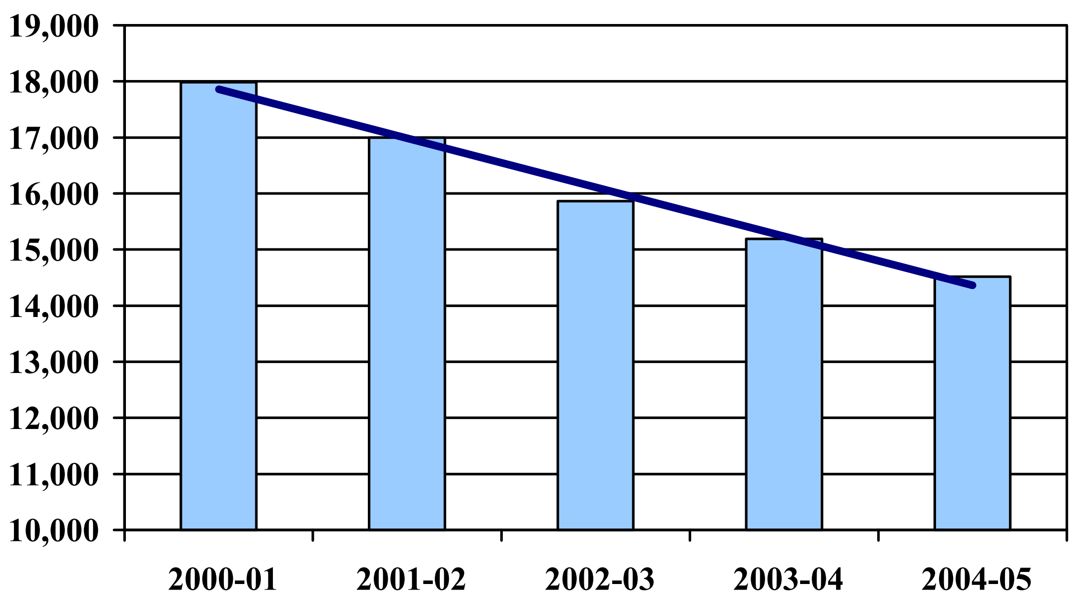
The goal of children's welfare funding should be to strengthen families to prevent the need for removal of children and placement in foster care. Then, when removal is necessary, the focus should shift to timely and safely reuniting the family. Unfortunately, the current process for Title IV-E funding conflicts with those goals by actually rewarding more time spent in foster care. Relatively little funding is provided for prevention, family preservation, and reunification.

The requirements for this funding are basically the same that were used for the old, discontinued Aid to Families with Dependent Children (AFDC) program. The result is funding that is complex and burdensome, inconsistent with program goals, and does not provide states and providers with the flexibility to design more effective services.

Florida has achieved success in reducing the number of children in out-of-home care, as that number has steadily decreased since 2001 (see chart on next page). In effect, this actually hurts Florida in terms of federal funding. By emphasizing out-of-home care and process instead of outcomes, the current process provides no incentives for this performance. Instead, Title IV-E funding is provided for removing children and keeping them in government-subsidized care, providing a counter-productive incentive for this care. A report by the Pew Commission states, "Because funding for safe alternatives to foster care is so limited, states use placement in foster care more than they might otherwise. Foster care is often seen as the only available way to respond to children at risk, both in terms of the numbers of children placed in care and the length of time they stay there."

To help remedy this situation, DCF is proposing to seek a federal waiver that would allow spending of Title IV-E funds on other child welfare purposes in addition to out-of-home care, including prevention, diversion from out-of-home care, intensive in-home services, reunification, and permanency.

Children In Licensed Out-of-Home Care



Source: Florida Department of Children and Families, January 2006.

States would receive a set amount of funds over five years equal to what is now expected to be received under current rules. This would total approximately $846 million in foster care funds.

There are risks to moving from an uncapped funding source that pays on eligibility to one that provides a set amount. If foster care caseloads increase faster than projected, Florida could receive less money than it needs. There is also the possibility of congressional action to change the program. At least one CBC had expressed reluctance to the plan because of the capping of dollars. But the waiver does include some risk mitigation measures. Wisely, it includes a one-time option for the state to terminate the project if continuation is contrary to the interest of the state and an option to terminate the demonstration if federal legislation is enacted.

The effectiveness and efficiency of increasing flexibility has already been shown in smaller scale demonstrations in several states.

The waiver can allow Florida to better align funding incentives with program goals and wise service decisions. Reductions in high-cost out-of-home care can then be invested in services. The program can also help the state and the CBCs save money in administration. One lead agency CEO estimates that they spend $1 million a year on managing federal eligibilities.

As a result, more children would stay with their families and placement and service decisions would not be based on funding source. More appropriate service mixes could be provided to families.

This proposal was presented to a legislative committee, and, although not rejected, it was certainly not embraced. This was largely due to the capping of funding and the committee's understandable desire to be cautious with a proposal affecting such a large funding source for child welfare. Florida TaxWatch concludes that the opt-out provisions adequately address the risks and that Florida should actively seek this Title IV-E funding waiver. Care should be taken to reasonably address any concerns CBCs might have and allow for legislative oversight. The waiver should be subject to legislative approval, such as was done with the Medicaid reform waiver.

Recommendations

The Department of Children and Families is taking numerous positive steps to improve the community-based care system, including oversight and monitoring. There is still much that can be done to improve both the efficiency and effectiveness of its oversight. Steps should also be taken to increase fiscal flexibility and mitigate system risk.

Florida TaxWatch encourages the Governor, the Legislature, the Department of Children and Families, and the community-based care lead agencies to work together to take these steps to ensure the long-term success of the state's child welfare system.

Monitoring and Oversight

- The Legislature should establish a Task Force to assess the efficiency and effectiveness of the current contract monitoring system, with a focus on integration of the current functions to eliminate duplicative or unnecessary efforts. The Task Force should also determine what information is truly needed for the state to ensure good stewardship of public funds and quality service delivery. It should have a best business practices focus, so the group should be lead by a neutral private sector organization or individual with that expertise. It should also include representatives from DCF, lead agencies, community alliances, and other stakeholders.

- To add perspective and further increase local participation, the monitoring process should include input from community alliances and lead agencies. Using the "readiness assessment" model, the on-site annual Contract Performance Unit review could be expanded to include community alliance members and people from other CBCs.

- Reviews must acknowledge that other parts of the system impact lead agency performance, including DCF administration, the court system, the protective investigation function, guardian ad litem coverage and services, and child welfare legal services.

- DCF should adopt and take to heart the Provider Relations Workgroup's recommended role statements that say the department should limit its policy development role to global policies that are essential to govern the system and CBCs should be responsible for developing procedures to implement those policies. The department should work to eliminate policies and processes that hamper the providers' ability to effectively manage resources and programs.

- Steps must be taken to ensure that the department's promising plan of shifting the responsibility for daily, on-going quality assurance and quality improvement activities to the CBCs will be a success. Before the pilots begin, adequate QM personnel and resources must be provided to the CBCs. Moreover, clear written guidance and training needs to be provided to both CBCs and DCF staff.

- DCF should adequately address the concerns raised in the January 2006 OPPAGA report. However, the department and the Legislature should not respond to this type of justified criticism by simply adding more monitoring staff, requirements, restrictions, and requests for information without certainty that they are essential for effective oversight and accountability.

Mitigating System Risk

- A viable risk pool to mitigate system risk is essential. The 2006 Legislature should make necessary changes to the law authorizing the risk pool so that it can be implemented. The funds for the pool should not be structured as a loan to the CBCs, but instead should be a state investment. The Legislature should consider additional investment in the pool. With the abundance of available non-recurring general revenue, this budget year is a perfect time to invest in the long-term stability of community-based care.

- The Governor and the Legislature should also support and continue the self-insurance program. It is difficult for these programs to get and retain insurance, and this would provide stability and predictability in the system and allow for a more comprehensive management of risk. For this, any state investment can be structured as a loan to be paid back through premiums.

- The creation of the Risk Management Group to provide technical assistance to CBCs is also very important. Funding could be provided through the risk pool to contract with an entity with sufficient expertise to provide this assistance.

Fiscal Flexibility

- The state should move away from cost-reimbursement contracts with CBCs. In addition to being burdensome to administer, such contracts do not promote innovation and efficiency. Contracts should allow for CBCs to have retained earnings.

- The 2006 Legislature should enact legislation to authorize that a limited amount of CBC contracts may be used for fund and grant development but not for state lobbying directly or indirectly.

- The department should look to increase fiscal flexibility for lead agencies. Current proposals allow CBCs to move dollars between five different fund sources without a contract amendment and allowing for the transfer of funds between CBCs, in effect trading surpluses and deficits. These proposals should be implemented.

- Florida should actively seek a Title IV-E funding waiver to remove the counter-productive incentive for providing out-of-home care. The waiver should be subject to legislative approval, such as was done with the Medicaid reform waiver.

- Prevention is the key to reducing caseloads and improving performance. Two years ago, the Legislature shifted prevention funding to the CBCs and this resulted in several big successes. This policy should be continued.

The Governor and Legislature are to be commended for the courage and vision to take on this unique approach to providing child welfare services. This system is built on an infrastructure of established local programs, some of which have been in existence for 100 years. The Secretary and professional staff of the Department of Children and Family Services should also be commended for their commitment to helping children and for implementing this major undertaking and going through a difficult transition in this new role of the department.

Since 2000, Florida's child population has grown at a rate that is more than six times faster than that of the nation. More than one-third of the new children in the U.S. are in Florida. The new system has vast potential to improve the quality of life for Florida's children and their families, as well increasing value for Florida taxpayers. The positive results that have already occurred are encouraging.

The state must balance the need to ensure that lead agencies are healthy and providing the best possible return on taxpayer investment with the need to allow them to do the work they are paid to do with true local and private sector focus, flexibility, and accountability.

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Access and download the report at:
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About Florida TaxWatch

Florida TaxWatch is a private, non-profit, non-partisan research institute that over its 25 year history has become widely recognized as the watchdog of citizens' hard-earned tax dollars. Its mission is to provide the citizens of Florida and public officials with high quality, independent research and education on government revenues, expenditures, taxation, public policies and programs and to increase the productivity and accountability of Florida Government.

Florida TaxWatch's research recommends productivity enhancements and explains the statewide impact of economic and tax and spend policies and practices on citizens and businesses. Florida TaxWatch has worked diligently and effectively to help state government shape responsible fiscal and public policy that adds value and benefit to taxpayers.

This diligence has yielded impressive results: since 1979, policy makers and government employees have implemented three-fourths of Florida TaxWatch's cost-saving recommendations, saving the taxpayers of Florida more than $6.2 billion--approximately $1,067 in added value for every Florida family.

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