



County Administrative Office
Governmental & Legislative Affairs

Bradley A. Jensen
Director

August 27, 2021

The Honorable Richard Burr
United States Senate
217 Russell Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

RE: S. 2689 - The Ensuring Medicaid Continuity for Children in Foster Care Act of 2021 - SUPPORT

Dear Senators Burr and Feinstein:

On behalf of San Bernardino County, I write in support of S. 2689 - The Ensuring Medicaid Continuity for Children in Foster Care Act of 2021 – legislation that will ensure that children in foster care who are placed in a Qualified Residential Treatment Program (QRTP) are eligible for Medicaid. This legislation will guarantee that counties executing reforms under the Family First Prevention Services Act of 2018 (FFPSA; PL 115-123) do not lose federal healthcare funding for children who need special services.

Slated to take full effect on October 1st, 2021, the FFPSA enacts significant reforms to curtail the use of congregate care in the foster care system. Under the law, very few residential settings for children in foster care are eligible for federal reimbursement. Those that qualify for reimbursement must serve children who are evaluated to have serious emotional or behavioral disorders and also meet rigorous qualifications for licensing, length of stay, and treatment. These facilities, designated as Qualified Residential Treatment Programs (QRTPs), should provide safe, therapeutic, effective care to children recovering from trauma.

Ambiguity in the language of the FFPSA may lead states and counties to lose Medicaid funding for QRTPs. Guidance from the Center for Medicaid and Medicare Services (CMS) suggests that QRTPs with more than 16 beds may fall under the Institutions for Mental Disease (IMD) exclusion, a law that prohibits Medicaid from covering mental health and residential care facilities. Without a clarification that QRTPs are not IMDs, children who require residential interventions will lose federal Medicaid coverage while placed in some QRTPs. The entire cost of their medical, dental, behavioral, and mental health care will then fall to states and counties.

This fiscal burden would be devastating and will prolong, or even eliminate, the implementation of key provisions of the FFPSA. Further, a lack of QRTP options could push children in foster care into more restrictive placements, the opposite intent of the FFPSA.

S. 2689 clarifies the IMD rule for QRTPs and will ensure that all foster children receive the right care at the right time with the support of Title IV-E and Medicaid to pay for their needs.

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For these reasons, San Bernardino County supports S. 2689 - The Ensuring Medicaid Continuity for Children in Foster Care Act of 2021. If you have any questions about the County's position, please contact Brad Jensen, Governmental and Legislative Affairs Director, at 909 387-4821 or Bradley.Jensen@cao.sbcounty.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Curt Hagman", with a long horizontal flourish extending to the right.

Curt Hagman
Fourth District Supervisor
Chairman, San Bernardino County Board of Supervisors

cc: San Bernardino County Federal Legislative Delegation