



Adoption Subsidies: Statement of Position on S6518/A8313

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BACKGROUND

The Adoptive and Foster Family Coalition of New York (AFFCNY) provides support, information and advocacy to foster, adoptive and kinship families and the professionals that serve them. Our goal is to ensure that families and professionals have the tools to knowledgeably and fully support the children they care about.

Subsidies for families adopting children from foster care have been part of our system in one form or another since the creation of the federal Adoption Assistance Program in 1980. The subsidies, which are drawn from federal Title IV-E funding or alternative state funding, have allowed and continue to allow thousands of families to provide permanent, loving and supportive homes for children formerly in care.

Adoptive families take on the considerable and unpredictable challenge of nurturing their children through the fallout of trauma, neglect and abuse that occurred years before adoption. Parents who adopt children from foster care must be flexible and committed to support their child as they heal. The path toward healing and adulthood looks different for each child. It is hard to predict. Subsidies are essential in helping families manage these realities in the best interest of themselves and their child.

Recently, a small number of egregious abuses of subsidies by adoptive parents have come to light. In reaction to these abuses, New York State legislators have introduced legislation (S6518/A8313) to amend the social services law, in relation to the adoption subsidies provided for disabled or hard to place children. This has raised concern about the provision of these subsidies and the manner in which they are monitored to ensure that the ultimate goal of these subsidies – permanent, loving and supportive homes for children formerly in foster care – is met.

OUR POSITION

The abuses that have come to light are tragic. No child, once given the promise of a loving forever family, should have that taken away from them – especially not those children who have already been traumatized by events in their biological families and in the foster care system. Nor should any parent enrich themselves at the expense of their adoptive child. This is just plain wrong. These abuses alone indicate that there is a need for greater monitoring, guidance and enforcement. We understand that goal of this proposed legislation is to remedy the tragic circumstance of young adopted people being cast out of their homes and families without support while their parent or parents continue to receive adoption subsidy support from the state.

This said, AFFCNY urges all involved to remember that adoption subsidies have an overwhelmingly positive impact on children and families. We realize that these cases are a fraction of the overall numbers of subsidized adoptions in the state. We are concerned that any legislation proposed to remedy this tragic but rare problem not place an unfair burden on the overwhelming majority of adoptive parents who are doing precisely what they should be doing with the subsidy they receive.

As initiatives for greater monitoring, guidance and enforcement are considered, caution and thought must be paid so that any proposed changes do not negatively impact the many well-intended families who use subsidies precisely how they are intended.

There are a few of overarching concerns with this proposed legislation, specifically:

- **Provisions regarding the suspension or termination of subsidies should be predicated on the long-term plan for the child and the family's commitment to their child.** This is especially true in cases where placement in residential care and/or placed temporarily in foster care (sometimes as a means to obtaining residential care). For example, if a family maintains a supportive and nurturing role to a child and if the family's long-term goal is reunification, subsidies should not be impacted. The test should be the family's commitment, their normal parental engagement – not the child's "in the moment" placement. +
- **Generally, subsidies should not be renegotiated after adoption.** Recertification is not part of the adoption subsidy process in New York. An adoption subsidy is not an entitlement analogous to Temporary Assistance or SNAP benefits, which are income-dependent and have other criteria which must be met to continue eligibility. When and how a child will require greater services and support post adoption is hard to predict and different for every child. A family who is doing well for their child should not be penalized, nor should a family in throes of a crisis with their child have the additional burden of having to renegotiate a subsidy for their child.
- **In considering whether or not a youth has the ability to "claim" their adoption subsidy at age 18, and barring substantiated abuse or neglect by the family, caution and deliberation are key.** We are concerned that the lack of consideration of parental intent will have the consequence of further harming children by unnecessarily penalizing parents and effectively dissolving the parent/child relationship. Young people, who at times can make rash decisions, may find themselves dealing with consequences they had not intended. There are a few of reasons for this:
 - Young people at the age of 18, even those raised in the very best of circumstances and with consistent care and nurturing since birth, may be challenged to independently manage their finances at this age. They may be victimized or taken advantage of by others.
 - For children of adoption, this is often a time of great searching and confusion about identity. Youth may temporarily distance themselves from their adoptive family or rebel against their adoptive parents. Rash decisions may result, only to have the youth subsequently return to the fold of the family.
 - In New York, parents are legally responsible for the financial support of a child in their custody until the age of 21 unless the child has become emancipated (by court order, marriage or military service). Despite the common belief that children can emancipate themselves from their parents, there is no such legal mechanism in New York.
- As currently written, **there appears to be too much allowance for an individual caseworker's judgment.** Decisions typically made by judges in similar situations are left to the caseworker to decide. This opens the door to potential abuse, unnecessary subjectivity and inconsistency from one case to the next.
- **Any and all changes should incorporate flexibility and should be predicated on supporting and encouraging the family and the child,** especially in evitable times of crisis.

CONCLUSION

Parental intent should be a key component or consideration in this legislation. If parents are committed to their children, even when the relationship temporarily breaks down during the turbulent adolescent years, it does not seem fair to penalize them unnecessarily. It is our feeling that parental intent should be in the forefront of any and all revisions to this legislation.

Changes in the provision of adoption subsidies may be needed to offer greater monitoring and enforcement to ensure that rare but egregious abuses do not occur. In considering these changes, flexibility and common sense should be guiding principles. Furthermore, it should be remembered that the recently highlighted failings in the adoption subsidy program point to insufficient screening of prospective adoptive parents as much as they point to problems with the administration of subsidies.

Rather than enacting overreaching legislation such as S6518/A8313, the solutions are already available, funded and at hand:

- 1) We already have an opportunity for the state and local departments of social services to understand the family situation better and to provide support to families and children in crisis; the recently funded **Regional Permanency Resource Centers (RPRC)**. NYS Office of Children and Family Services has contacted with various agencies in almost every county with the purpose of "keeping adoptive and relative families together."
- 2) When there are concerns of subsidy abuses on a local level, that family should be referred to the county RPRC. The RPRC can work with the family to either elevate the crisis that is causing the related subsidy issue and ensure that the family has the tools, support and services needed to be successful.
- 3) If it is determined that indeed, the parental intent is to discontinue providing support for the youth, then the case should be referred to OCFS offices in Albany for a final determination. The "fair hearing" model that is currently utilized in foster placement removals could easily be implemented for a question of subsidy misappropriation.

QUESTIONS OR FOR FURTHER INFORMATION

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