



Leadership, voice and vision for child welfare in New York State

Council of Family and Child Caring Agencies

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Joint Legislative Budget Hearing on:

Health

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The Council of Family and Child Caring Agencies (COFCCA) is a strong, statewide network of nonprofit child and family serving organizations that collectively advances practices and policies to secure the wellbeing of children, youth, families, and communities. COFCCA is the principal representative for nearly all the not-for-profit organizations providing foster care, adoption, family preservation, and juvenile justice services in New York State. COFCCA is comprised of over 100 member organizations, ranging in size from small community-based programs to the nation's largest multi-services agencies — all of which share the mission of serving children and families. COFCCA works with its members and government to ensure quality services for children and their families.

As we engage in a dialogue about the investments needed in our state budget this year, I urge careful consideration of the needs of the thousands of children and families our programs serve through the child welfare system.

COFCCA recommends the following additional state actions and investments to ensure access to and enhance interventions that support families' needs, strengthen neighborhoods, and prevent entry into or escalation within the child welfare system:

COFCCA Budget Request Summary

The Council of Family and Child Caring Agencies (COFCCA) Supports:

- Stabilizing liability Insurance for foster care providers as proposed in A.9646 (Hevesi) which would:
 - Establish a Foster Care Liability Insurance Risk Pool;
 - Provide \$20 million in direct state support to address significant liability insurance cost increases; and
 - Provide for timely updating of MSAR Rates that fully capture liability costs for VFCA's.
- Ensuring Access to a robust continuum of care through:
 - Committing state dollars to cover Medicaid costs associated with services provided by Qualified Residential Treatment Programs (QRTPs) as a result of the Federal Institutions for Mental Disease (IMD) Exclusion;
 - Updating rates for Article 29-I Health Facilities to reflect actual nurse salary trends (From the \$17M annual OCFS ATL appropriation)
 - Establishing "Intensive Services Programs" to meet the high acuity needs of young people in foster care;
 - Expanding populations served under Article 29-I Health Facilities as proposed in A.2726-A (Paulin);
 - Authorizing Voluntary Foster Care Agencies to use to community dentists and pay them at community rates; and
 - Investing \$200m to implement rate enhancements and reforms across the children's behavioral health continuum.

Council of Family and Child Caring Agencies

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COFCCA Budget Request Detail

Stabilizing the Liability Insurance Market for Foster Care Providers

New York operates a state supervised, county administered, foster care system whereby most of the state's approximately 14,500 children and youth in foster care are placed with private non-profit Voluntary Foster Care Agencies (VFCAs)¹. Counties contract with VFCAs for foster care placements. VFCAs are required per their contracts with counties to carry certain levels of commercial general liability insurance, professional liability insurance, and, depending on the county requirements—potentially excess umbrella liability coverage. Due to social inflation and increasing pressures in the insurance market, specifically related to foster care, agencies in NYS and nationwide are experiencing significant challenges in accessing and affording liability insurance coverage.

Some of the contributing factors to this challenge in securing liability insurance are “social inflation,” referring to a trend of higher jury awards and higher claims payouts due to high-profile cases covered in the media. “Social inflation” is causing insurance companies in many instances to assess and drop their risk—and it is happening across the country, not just in NYS. Other contributing factors include insurers’ concerns about VFCAs’ unabated staff turnover, vulnerability to cyber-attacks, and a newer trend in the market called litigation financing.

There are very few insurance providers in this sector already, and we have very recently begun to see the field get even smaller. This is becoming an increasingly dire issue.

The state must intervene to ensure access to this mandated coverage. Failure to act could lead to nonprofits being forced out of the field, leaving government responsible for the provision of these services. We must learn from the experience in California, where 19 foster care service agencies now [are unable to find](#) coverage since the insurer of 90% of the foster family agencies (FFAs) in the state halted renewals of coverage for all FFAs in the state. This has created a crisis in the sector in California - disruption for foster care parents and youth- and has left the counties struggling to either provide services directly or transfer youth and services other organizations who were able to obtain alternate means of insurance coverage.

Furthermore, in January 2025, the Nonprofits Insurance Alliance (the same company, NIAC, going by a different name outside of California), wrote an update to all of their insured agencies nationwide, stating that effective April 1, 2025 (though reserving the right to do so beforehand) they would not renew umbrella coverage including Improper Sexual Conduct & Physical Abuse (ISCPA), and Social Services Professional coverage for any of their insured foster family agencies nationwide.

There is very limited infrastructure and capacity in NY for counties to directly provide foster care services should VFCAs swiftly lose coverage as happened in California. In New York, VFCAs currently provide care for more than 75% of children and youth in foster care statewide, and 100% in New York City. Without state action to ensure adequate coverage options, children and youth, ultimately in the care and custody of the state, and their families will experience significant disruptions in their care. In order to avoid this same outcome in New York, COFCCA recommends the state proactively act with urgency to establish a risk pool for foster care programs to ensure continued access to insurance.

When foster care agencies are able to obtain continued insurance coverage, they are often forced to accept lower coverage levels at higher premiums, all while counties continue to maintain, and/or may continue to increase, their required coverage limits. Our COFCCA member foster care agencies reported rate hikes of between 20 to 40% in 2022-2023.² A recent report on the Financial Health of Child Welfare Nonprofits in New York State³ demonstrates that the majority of COFCCA members operate on very thin margins, have little Cash on Hand (an average of 40 days of cash on hand for NYC nonprofit COFCCA agencies, and an average of 45 days of cash on hand for rest of state

¹ <https://ocfs.ny.gov/main/sppd/docs/ffpsa-reports/outcome/2025-Q3-FFPSA-Outcome-Monitoring-Report.xlsx>

² <https://www.aei.org/op-eds/justice-at-any-cost/>

³ https://cofcca.wildapricot.org/resources/COFCCA_Final%20General%20Report%20Jan2025.pdf (Enclosed)

nonprofit COFCCA agencies), and have no significant endowments or reserves. Agencies do not have the resources to pay for these increased costs.

The current administrative rate set by the state for VFCA's (the Maximum State Aid Rate) must be modified to capture the full scope of the rapidly increasing liability insurance costs and reimburse VFCA's for related expenses in the same fiscal year as they occur. MSAR rates currently use data from two years prior which don't capture these increased costs when providers are experiencing them. Moreover, by including liability insurance costs in a capped general administrative parameter, many of our agencies are experiencing growth in costs that are excluded from rate calculations.

Lastly, the state must provide bridge funding to support VFCA's in addressing liability cost increases absorbing that have not yet been captured in their rates, until changes to those calculations moving forward are in place.

- **COFCCA urges the state to assist the foster care agencies in these insurance access/affordability issues by passing legislation (A.9646 (Hevesi)) which would:**
 - **Establish an insurance risk pool in state statute** (such as has been done for auto insurance) which would ensure foster care service agencies have access to coverage, by requiring insurance companies providing general liability insurance in New York to cover a share of foster care providers, inclusive of professional liability and abuse coverage.
 - **Provide \$20 million in direct state support to address significant liability insurance cost increases** as a holdover for longer-term solutions. A similar step was taken in the California State Budget this past year to provide [\\$31.5M in funding to be distributed directly to foster care agencies](#) to offset costs for obtaining coverage. We recommend additional, immediate support be provided for providers who can demonstrate hardship, to help cover increased premiums foster care agencies are experiencing in their mandated liability insurance coverage.
 - **Provide for the timely updating of MSAR Rates:** Foster care agency insurance costs have increased 27% since 2023 on average, but MSAR rates use data from 2 years prior which don't capture these increased costs as providers are experiencing them. Additionally, many of our agencies are experiencing growth in costs that well exceed state provided parameter increases, meaning that the MSAR calculation could exclude much of the cost in future rate calculations. We request that that the MSAR calculation be modified to capture the rapidly increasing costs liability insurance cost increases in the same fiscal year as they occur, and that the state also work with providers to adjust parameters upward to capture the full scope of the costs.

Ensuring Access to a Robust Continuum of Care

As a result of the federal Family First Act, implemented in New York State in September 2021, most residential programs that serve children and youth in foster care are now designated as Qualified Residential Treatment Programs (QRTPs). According to the Centers for Medicare and Medicaid Services (CMS), QRTPs may be classified as "Institutions for Mental Disease" (IMDs) if they serve more than 16 children. As a result, children and youth placed in a QRTP that is designated an IMD will not be able to access Federal Financial Participation (FFP) in Medicaid for their medical care (even though children and youth in foster care are categorically eligible for Medicaid).

Barring a federal solution, we urge New York State to cover the medical care costs of youth in foster care in QRTPs that are IMDs with State dollars, as Wisconsin, Minnesota, and Indiana have chosen to do. New York's investment in the health care needs of children and youth in foster care is essential, and necessary to prevent unnecessary disruption and diminishment of an already-fragile residential care system.

As the state moves toward issuing determinations for QRTPs as to their IMD status, it is imperative that they also commit to funding the services provided in those settings with state monies.

- **COFCCA maintains the position that the state must dedicate state-only Medicaid funding to continue supporting the needs of children and youth in residential foster care settings.** This will ensure continuity of care for thousands of the state’s children and youth who have been determined to need residential care through the assessment process set up through Family First.

We appreciate the legislature’s support in requiring that the state create an advisory council to collaboratively review the QRTP/IMD issue and provide recommendations. COFCCA staff and member agencies were active participants on the resulting Medicaid Child Welfare Residential Advisory Committee, though we note that the group has not been convened since December 2024, and recommendations resulting from the work of the participants have not been shared with committee to date.

Additionally, for several years now, the Governor has included \$17 million to address system transformation within the residential foster care system as a result of the IMD issue. We have been requesting information as to what this funding has been and will be used for, but do not have a clear sense of this. We note that the appropriation specifically states that the funds are:

“To assist foster care congregate care programs licensed by OCFS meeting the definition of IMD - funds may be used for support including supporting medical staffing needs, services to Medicaid enrolled children in foster care (60588)”

However, our members have not seen an investment in the clinical workforce, and in the meantime our foster care programs experienced almost a third of their nursing staff turnover in 2024.

Quality in the workforce supporting children and youth in child welfare is directly tied to the quality of care and overall experience children and families have. High worker turnover negatively impacts children and youth in foster care, and it impacts outcomes.

- **COFCCA strongly supports updating rates for Article 29-I Health Facilities to reflect actual nurse salary trends, ensuring agencies can recruit and retain qualified nursing staff (\$17M annual OCFS ATL appropriation).**

We know that accessing appropriate and timely care for families has been difficult due to the fragmented State systems and limited availability of services in the community at any given time.

In late 2025, the Council of Family and Child Caring Agencies (COFCCA) and the New York State Coalition for Children’s Behavioral Health (CCBH) partnered to produce a comprehensive statewide analysis of children and youth with complex behavioral health needs⁴. Together, we retained Health Management Associates (HMA) to examine trends, service access, and system gaps using Medicaid claims data from 2019 through 2023 for New York youth ages 0–21.

As two statewide coalitions representing nonprofit providers serving children, youth, and families across New York, we were proud to jointly issue the data to our government and stakeholder partners. While many of the findings mirror the daily experiences of providers, this data now gives us a factual foundation to drive urgent systems change.

Youth with complex needs are distributed across all ages, underscoring the need for strong, developmentally responsive supports from early childhood through young adulthood, and a strong emphasis on supporting families’ needs from the beginning.

The data show regions with high emergency department (ED) utilization show lower utilization of outpatient behavioral health services, while areas with robust outpatient care utilization show lower ED use — a clear indication

⁴ Analysis of Service Utilization for New York Youth with Complex Needs (Enclosed)

that community-based treatment reduces crisis-driven care. Lower-income communities show higher concentrations of youth with complex behavioral health needs, highlighting deep inequities and the critical importance of accessible and comprehensive support statewide.

These are the young people who are falling through the cracks, who are stuck in hospitals for weeks and months after they are ready for discharge, and whose caregivers cannot access the support they need to safely and effectively manage symptoms, support healthy development, and thrive in their communities.

The state must ensure a NYS Budget that invests in a robust continuum of care by providing greater investment in workforce to ensure that youth with complex needs have access to care and creates the systems flexibility needed to offer families the support they need when they need it, regardless of which state agency may or may not take responsibility for their needs.

COFCCA and CCBH have been highlighting for a number of years that New York State does not currently have the system of care required to support the acuity of young people's needs. We lack in-state capacity to support the highest level of needs for children and youth in the child welfare system, leaving us at risk of increasing out of state placements which are both inappropriate for the needs of children, placing them at a distance from their families, and incredibly costly.

There is an urgent need for creation of intensive services models for Residential Treatment Centers and to adjust MSAR rates to reflect the true cost of care. We continue to offer our support to focus on solution-based approaches to ensuring that New York has the appropriate continuum of care for supporting its young people needing clinically appropriate treatment and care. COFCCA and our member agencies appreciate ongoing discussion with OCFS to engage in creative thinking about how to address the needs of youth with complex needs, in particular through the creation "Intensive Services Programs." However, the development of these programs have long been in the pipeline and have yet to come to fruition.

- **COFCCA strongly urges the state to continue to work with providers to establish "Intensive Services Programs" that includes sufficient rates to support enhanced staffing and the high acuity needs of young people which provide appropriate mechanisms to ensure the safety of those in crisis.**

Voluntary Authorized Agencies are charged with addressing the complex needs of the families and children as they become known to them through child welfare system involvement. These organizations provide a wide variety of services, including trauma informed medical and behavioral care to children and youth in foster care in Article 29-I clinic settings, CFTSS and HCBS services to families in the community, and prevention services for families to access needed care and services that address parents' and caregivers' identified needs and assist them in getting the resources to keep their families safe, healthy, and together.

Article 29-I Health Facilities, one aspect of these services, are a specialized health care model established under the federal Medicaid State Plan Amendment specific to New York State, created in the Public Health Law (hence the name) and Social Services Law, that are designed to provide comprehensive healthcare services to children in foster care. Voluntary Foster Care Agencies (VFCA's) receive a license authorizing them to provide limited health-related services and contract with and bill Medicaid Managed Care Plans only for services for children and youth placed in their care as a result of educational need (Committee on Special Education (CSE) placement through the School District) and through LDSS or county Foster Care placement.⁵ In providing services to these children and youth, staff often become aware of the clinical needs of the entire family, but are unable to enroll them in services due to this limitation.

Prevention programs serve families referred to them from the county LDSS, many of whom either have previously been placed into foster care or are at risk of placement without intervention. However, prevention programs, even in

⁵ <https://ocfs.ny.gov/programs/managed-care/about-a29-i.php#purpose>

organizations with Article 29-I facilities, often must refer individuals who in need of medical, developmental, and/or behavioral health services, to community providers for treatment, where there exist significant shortages and delays in service provision.

Expansion of Article 29-I VFCA's authority to provide clinical services to families connected to the child welfare system will help enhance family supports by addressing conditions that may be affecting the safety and well-being of those in the home, preventing out-of-home placement, reducing out-of-home lengths of stay, and strengthening the overall wellness of the family unit through coordination and provision of clinical services through the Article 29-I health facility.

- **COFCCA Strongly Supports expanding the populations served under Article 29-I Health Facilities as proposed in A.2726-A (Paulin).**

Our member agencies are charged with taking care of children's holistic needs. For the period of time they are in foster care, they assess and address their mental, physical, dental, and behavioral healthcare needs. However, our Article 29-I providers indicate significant issues in obtaining dental care and nursing services for children and youth in foster care.

COFCCA has been raising issues regarding accessing dental care for children and youth in foster care since the onset of our transition to Managed Care in July of 2021, now over 4 years ago. We have not seen the situation improve for the children and youth in our care and we are asking the state for action, with urgency.

Prior to the transition to managed care, agencies addressed the dental needs of their children - and are no longer able to do that. Agencies had relationships with community dentists and paid them directly. Access was not a problem. We understand that this is an issue for the general Medicaid population and that this is an issue not restricted to NYS. When a child is in pain and cannot be seen by a dentist or pedodontist, periodontist, endodontist or oral surgeon, it is extremely difficult - in fact it is gut wrenching to watch as a child waits for care.

- **COFCCA strongly encourages the state to create a mechanism to reimburse agencies to take their children to community dentists and pay them at community rates while efforts to resolve the access issues are under review.**

We understand that the general Medicaid population has access to dental care issues, and this is an issue not restricted to New York State. But there is an urgent need for an interim solution for children in foster care who are suffering without access to dental providers.

We know that there is a shortage in the availability of services to support child and youth mental health, which creates wait lists for treatment. The Healthy Minds Healthy Kids Campaign (HMHK), a collaboration between 19 of New York's leading children's and behavioral health advocacy groups, commissioned a study that found what our providers have said for years: the rates in children's outpatient services are inadequate to cover costs, let alone support a sustainable system for the future.

- **COFCCA supports a \$200 million investment to implement rate enhancements and reforms across the children's continuum of care – including but not limited to Article 31, Article 32 (822), CFTSS, and HCBS programs – to create a sustainable children's behavioral health system that enhances quality and access to services across the state.**

In closing, we must ensure that the final state budget includes investments in our child welfare workforce, community-based supports and services to provide every opportunity for children, youth and families to have access to what they need to be well and to thrive.

Thank you for the opportunity to provide testimony.