WEST VIRGINIA CODE: §49-2-111A

§49-2-111a. Performance based contracting for child placing agencies.

(a) For purposes of this section:

(1) “Child” means:

(A) A person of less than 18 years of age; or

(B) A person 18 to 21 years of age who is eligible to receive the extended foster care services.

(2) “Child-placing agency” means an agency licensed by the department to place a child in a foster care home.

(3) “Department” means the Department Human Services.

(4) “Evidence-based” means a program or practice that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for its intended population.

(5) “Performance-based contracting” means structuring all aspects of the service contract around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes and linking payment for services to contractor performance.

(6) “Promising practice” means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(7) “Research-based” means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(b) No later than July 1, 2021, the department shall enter into performance-based contracts with child placing agencies.

(c) The department shall actively consult with other state agencies and other entities with expertise in performance-based contracting with child placing agencies to develop the requirements of the performance-based contract.

(d) The performance-based contract shall be developed and implemented in a manner that complies with applicable provisions of this code. Contracts for child placing agencies are exempt from §5A-3-1 of this code.

(e) The resulting contracts shall include, but are not limited to, the following:

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(1) Adequate capacity to meet the anticipated service needs in the contracted service area of the child placing agency;

(2) The use of evidence-based, research-based, and promising practices, where appropriate, including fidelity and quality assurance provisions;

(3) Child placing agency data reporting, including data on performance and service outcomes, including, but not limited to:

(A) Safety outcomes;

(B) Permanency outcomes;

(C) Well-being outcomes;

(D) Incentives earned;

(E) Placement of older children;

(F) Placement of children with special needs; and

(G) Recruitment and retention of foster parents; and

(4) A hold harmless period to determine a baseline for evaluation.

(f) Performance-based payment methodologies must be used in child placing agency contracting. Performance measures should relate to successful engagement by a child or parent in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the first year of implementation of performance-based contracting, the department may transfer financial risk for the provision of services to the child placing agency only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the department may develop a shared savings methodology through which the child placing agency will receive a defined share of any savings that result from improved performance. If the department receives a Title IV-E waiver, the shared savings methodology must be consistent with the terms of the waiver. If a shared savings methodology is adopted, the child placing agency shall reinvest the savings in enhanced services to better meet the needs of the families and children they serve.

(g) The department shall actively monitor the child placing agency’s compliance with the terms of contracts executed under this section.

(h) The use of performance-based contracts under this section shall be done in a manner that does not adversely affect the state’s ability to continue to obtain federal funding for child welfare-related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such

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funds, including use for preventive and in-home child welfare services.

(i) The department shall pay child placing agencies contracted to provide adoption services to foster families a minimum of $1,000 per child for each adoption finalized.

(j) The rate of payment to foster parents and child placing agencies shall be reviewed by the department, at a minimum of every two years, to determine whether the level of foster care payments facilitates or hinders the efficient placement of foster children with West Virginia families. The department shall remit payments to foster parents on the same week each month to facilitate foster parents' ability to budget and appropriately expend payments for the benefit of the children in their custody.

(k) The department shall report the performance of the child placing agency to the Legislative Oversight Commission on Health and Human Resources Accountability by December 31, annually.

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