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PLACEMENTS SPECIFIC TO FAMILY FIRST REQUIREMENTS

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PLACEMENTS SPECIFIC TO FAMILY FIRST REQUIREMENTS

6B.1 Introduction

The Family First Prevention Services Act (Family First) was enacted by Congress on February 9, 2018 as part of the larger Bipartisan Budget Act (BBA), and represents the most significant re-write of title IV of the Social Security Act since 1981. Family First enables states to use federal funds under parts B and E of title IV of the Social Security Act to provide enhanced support to children and families and prevent foster care placements by providing the following: i) mental health and treatment for a substance use disorder, (ii) prevention and treatment services, (iii) in-home parent skill-based programs, and (iv) kinship navigator services. Additionally, Family First provides the tools and resources necessary to allow Virginia's social services system to focus on prevention in order to keep children safely with their families and not enter foster care so that they have a better chance of growing-up in the least restrictive setting.

While Family First focused mostly on prevention efforts, there were several key impacts to foster care programs specifically in regards to payment for congregate care placements for children in foster care. Family First emphasizes that children in foster care should be placed in the least restrictive, most family-like setting, such as a foster home. In Virginia beginning July 1, 2021, when a child in foster care needs to be placed in a setting that is not a foster family home, the child's placement must be in placement settings outlined in Family First in order to be eligible for title IV-E funding. These settings include:

- *Qualified residential treatment programs (QRTP)*
- *Placements for youth who are victims or at risk of sex trafficking (as outlined in Section 12.5.1.2)*

- *Placements specializing in providing prenatal, post-partum, or parenting supports for youth (as outlined in Section 3.9.4)*
- *Residential family-based treatment facility for substance use disorders and,*
- *Supervised independent living settings for youth ages 18 and up (as outlined in Section 14.4.4.3)*

If a congregate care placement does not meet these requirements, other funding streams need to be explored. For the first 14 days of congregate care placements, IV-E can be used, regardless of whether the facility meets the requirements above, as long as the child is IV-E eligible and the facility meets the title IV-E federal safety requirements for an approved placement, as outlined in Section 1.6.2 of title IV-E guidance. Supporting children's placement stability is critical and LDSS should not use the 14 day provision as a measure to temporarily place children in placements that are not appropriate for them.

As of July 1, due to requirements established by the federal government, Medicaid funding must be used for congregate care placements that are Medicaid eligible. The Medicaid rate for psychiatric residential treatment facilities (PRTF) covers room and board and daily supervision and no IV-E funding can be used for these placements, regardless of whether the placement is designated as a QRTP. The Medicaid rate for therapeutic group homes covers daily supervision and thus IV-E may cover the room and board for that placement, if the child is eligible, and if that placement was designated as a QRTP. Regardless of the funding source or what placement costs IV-E will cover, if the child is placed in a QRTP, the requirements in Section 6B.3 must be followed.

For children who were placed in congregate settings prior to July 1, 2021, their placements are exempt from the Family First requirements and IV-E funding may still be used under the prior title IV-E requirements. These placements must still use Medicaid funding as described above. This exemption only applies to the requirements of Family First, not Medicaid funding. If the child is placed in a different congregate care placement on or after July 1, 2021, the new Family First requirements apply.

6B.2 Framework

When out-of-home placements are necessary to meet the best interests of the child, local departments of social services (LDSS) must meet federal and state legal requirements and should use sound practice principles to achieve desired outcomes and to guide decision-making in pursuing permanency for the child.

6B.2.1 Legal authority

The legal framework and specific requirements for placing children in placements specific to Family First requirements are delineated in federal and state law. Key citations are provided below:

6B.2.1.1 Qualified residential treatment programs

- **Assessment requirements**
 - [42 USC § 675a\(c\)\(1\)](#)
 - [§ 63.2-100](#)
- **Family and permanency team involvement**
 - [42 USC § 675a\(c\)\(1\)\(B\)](#)
 - [§§ 63.2-906.1 and 63.2-100](#)
- **Case plan requirements**
 - [42 USC § 675a\(c\)\(1\)\(B\)\(iii\)](#)
 - [§ 63.2-906.1](#)
- **Assessment deadlines**
 - [42 USC § 672 \(k\)\(3\)](#)
 - [§ 63.2-100](#)
- **Facility requirements**
 - [42 USC § 672 \(k\)](#)
 - [§ 63.2-100](#)
- **Court approval of the placement within 60 days**
 - [42 USC § 675a\(c\)\(2\)](#)
 - [§ 16.1-281 \(E\)\(1\)](#)
- **Ongoing court approval**
 - [42 USC § 675\(c\)\(4\)](#)

- [§ 16.1-281 \(E\)\(2\)](#)
- **Approval of continued long-term placement by Commissioner**
 - [42 USC § 675a\(c\)\(5\)](#)
 - [§ 63.2-906.1](#)

6B.2.1.2 Placement in a family-based residential treatment facility for substance use disorder

- **Recommendation in case plan before placement**
 - [42 USC 672 \(j\)\(1\)\(A\)](#)
- **Requirements for provision of services through trauma-informed framework**
 - [42 USC 672 \(j\)\(1\)\(B\) & \(C\)](#)
- **Length of stay less than 12 months and eligibility requirements**
 - [42 USC 672 \(j\)\(1\)](#)

6B.2.1.3 Other Family First specific placement requirements

- **Types of congregate care settings allowed for title IV-E funding**
 - [42 USC 672 \(k\)\(2\)](#)

6B.3 Qualified Residential Treatment Programs (QRTPs)

A Qualified Residential Treatment Program (QRTP) is a facility that:

- *Provides 24-hour residential placement services for children in foster care;*
- *Utilizes a trauma-informed treatment model that meets the needs of children with severe emotional and/or behavioral disorders;*
- *Employs nursing and other clinical staff who provide care on site and are available 24 hours a day, 7 days a week;*
- *Engages the child's family members, including efforts to maintain connections between the child and their siblings and other family members, documents those efforts, and maintains contact information for any known relatives or fictive kin of the child;*

- *Facilitates family participation in the child's treatment program before and after discharge, whenever it is appropriate and in the best interest of the child;*
- *Provides discharge planning and family-based aftercare support for at least six months post-discharge;*
- *Is licensed and accredited; and*
- *Requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual (as outlined in Section 6B.3.1).*

6B.3.1 Assessment

*When a child is placed in a QRTP, they must have an assessment completed by a qualified individual (Section 6B.3.1.1) **within 30 days** of the placement. If the assessment is not completed within the 30 days, then IV-E funding cannot be used for the entirety of the QRTP placement, including the first 14 days.*

If the assessment determines that placement in the QRTP is not appropriate, IV-E funding can continue for up to 30 days after the assessment for a transitional period to move the child to another placement.

The assessment must be done in conjunction with the family and permanency team procedures outlined in Section 6B.3.1.2.

When a child is eligible for Medicaid funding for their residential placement, they must also be referred to IACCT (Independent Assessment, Certification, and Coordination Team) for an assessment to obtain Medicaid funding for their placement (Section 6.16.7.1). The IACCT assessor is a licensed mental health practitioner, not associated with the LDSS or the placement, who will complete a CANS and submit a recommendation based on the residential facility designations recognized by Medicaid (psychiatric residential treatment facilities, therapeutic group homes, and community based services).

6B.3.1.1 Qualified Individual

The qualified individual completing the assessment must be a trained professional or licensed clinician who is not an employee of the local department or affiliated with any placement setting in which the child has been placed. A VDSS employee will fill the role of the qualified assessor; their contact information is available on FUSION.

The qualified individual will assess the strengths and needs of the child within 30 days of the start of each placement using an age-appropriate, evidence-based, validated, functional assessment tool. In order to avoid duplication of

services, the qualified assessor will review the IACCT assessment including the CANS completed by the IACCT assessor for all placements subject to IACCT or will complete a new CANS on the child for placements not subject to IACCT or if the IACCT assessment is not available. The qualified individual will:

- Determine whether or not the needs of the child can be met with family members or through placement in a foster family home;
- Determine which setting would provide the most effective and appropriate level of care for the child in the least restrictive environment that is consistent with their goals, if their needs cannot be met with a family placement; and
- Develop a list of child-specific short and long-term mental and behavioral health goals.

The QRTP Assessment will be completed utilizing feedback and input from the family and permanency team meeting (See Section 6B.3.1.2). If the assessment recommends a placement setting different than the recommendation from the family and permanency team meeting, the QRTP assessment will detail the reasons why the assessment differs from the family's recommendation.

The referral for assessment must be made **within 21 days of the LDSS decision to place or seek placement in a QRTP**. The LDSS must submit the following to the state qualified assessor:

- Referral for QRTP Assessment,
- IACCT Assessment (if Medicaid eligible),
- CANS completed by IACCT assessor (if Medicaid eligible),
- FPM Court Reporting Form – QRTP Version,
- Individual and Family Services Plan (IFSP) from FAPT, and
- FAPT notes.

The state qualified assessor must complete the assessment within 30 days of the placement. **If the LDSS does not submit the required paperwork in its entirety or complete the required steps within 21 days of the placement, the placement may be determined IV-E ineligible due to the assessor's inability to complete the assessment within 30 days of placement.**

6B.3.1.2 Family and permanency team meetings

The assessment must be completed in conjunction with the family and permanency team. The family and permanency team is a team that consists of all appropriate family, relatives, and fictive kin of the child, and service providers and other community supports as appropriate (e.g. teachers, medical or mental health providers who have treated the child, or clergy). In the case of a child who is 12 years of age or older, the family and permanency team must include members that are selected by the child.

As Family Partnership Meetings (FPM) are required prior to placement changes, the family and permanency team requirements have been combined with the FPM procedures to streamline the process. The family and permanency team meeting must be documented using the FPM Court Reporting Form – QRTP Version.

6B.3.2 Court requirements

*All QRTP placements must be approved by the court **within 60 days** of the child's placement. If the placement is not approved by the court within 60 days, IV-E funding can only be used for the first 60 days of placement. The court hearing must be held after the completion of the assessment as the court considers the assessment when making the placement determination.*

6B.3.2.1 Materials to be submitted to court

***Within 30 days** of the child's placement in a QRTP, the service worker must file the necessary QRTP paperwork to the court. The child's QRTP court review can be completed as a separate hearing or in conjunction with an existing hearing. Required materials for court approval of QRTP placement are as follows:*

Separate Hearing	Existing Court Hearing
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<p><i>If the service worker will need to request a stand alone hearing for the QRTP placement review as there is no court hearing scheduled within 60 days of placement, the service worker will file:</i></p> <ul style="list-style-type: none"> • <i>a Petition for Foster Care Placement Hearing,</i> • <i>a Foster Care Plan Transmittal Form,</i> • <i>a foster care plan,</i> • <i>the QRTP assessment, and</i> • <i>the FPM Court Reporting Form - QRTP version.</i> 	<p><i>If the child has a foster care hearing (i.e. Dispositional, Foster Care Review, or Permanency Planning) scheduled within 60 days of the child's placement, the service worker will file:</i></p> <ul style="list-style-type: none"> • <i>the petition and Foster Care Plan Transmittal Form required for the type of foster care hearing scheduled,</i> • <i>a Petition for Foster Care Placement Hearing</i> • <i>a foster care plan (and foster care plan review if required),</i> • <i>the QRTP assessment, and</i> • <i>the FPM Court Reporting Form - QRTP version</i>
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6B.3.2.2 Foster care plan requirements

The plan submitted for QRTP placement review must include:

- *The diligent efforts to identify and include all the individuals identified in Section 6B.3.1.2 (including the opportunity for the youth 12 years of age and older to select two members of the team) on the child's family and permanency team;*
- *Contact information for all the members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;*
- *Documentation that the family and permanency team meetings were held at a time and location that was convenient for the family, including meetings relating to the QRTP assessment;*
- *If the goal is reunification, that the parents and/or the prior custodian from whom the child was removed had opportunity to provide input on the members of the family and permanency team;*

- *That the assessment was done in conjunction with the family and permanency team;*
- *The placement preferences of the family and permanency team, relative to the assessment, recognizing that children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest; and*
- *Whether the placement preferences of the family and permanency team and the child differ from the placement setting recommended by the QRTP assessment and the reasons why the preferences of the team and of the child were not recommended.*

This information is included in the FPM Court Reporting Form – QRTP version, described in Section 6B.3.1.2. The FPM Court Reporting Form must be included as a supplement to the child's foster care plan when filing with the court to ensure that all of these requirements have been met.

6B.3.2.3 Court ordered findings

The court will consider both the assessment report and the foster care plan and order the following findings documented on the Foster Care Placement Order (for a stand alone hearing) or on the QRTP Placement Supplemental Sheet (for a hearing held in conjunction with a foster care hearing) in order to approve the QRTP placement:

- *That the needs of the child cannot be met through placement in a foster home;*
- *That placement in the QRTP will provide the most effective and appropriate level of care for the child in the least restrictive environment and is consistent with the short-term and long-term goals established for the child in the foster care or permanency plan; and*
- *That the court approves the placement of the child in a QRTP.*

If the court disapproves the placement, the service worker must place the child in another placement within 30 days. During this transition period, IV-E funding can continue to be used for up to 30 days after the court determination.

The service worker must provide a copy of the Foster Care Placement Order (attached to the child's case plan), as well as all subsequent placement orders, to the child's title IV-E worker.

6B.3.2.4 Requirements for subsequent foster care hearings

After the court's initial approval of the QRTP placement, the court must review the placement at every subsequent foster care hearing. The service worker must present evidence at the hearing that demonstrates the following:

- *The ongoing assessment of the child's strengths and needs continues to support the QRTP placement as the most effective and appropriate level of care that is consistent with the child's short-term and long-term goals and that the child's needs cannot be met in a foster home;*
- *The child's specific treatment and service needs that the QRTP will address and the length of time the child is expected to need such treatment and services; and*
- *The LDSS efforts to prepare the child to return home or to be placed with a fit and willing relative, legal guardian, or adoptive parent, or in a foster home.*

This evidence must be documented in the child's foster care plan. The court will review the evidence and make a decision to approve or disapprove the continued QRTP placement. This decision will be documented on the QRTP Placement Supplemental Sheet that accompanies the foster care hearing order. If the court disapproves the placement, the service worker must place the child in another placement within 30 days.

6B.3.3 Commissioner approval for extended placement

The service worker must request approval from the Commissioner for the child's continued placement in a QRTP, using the QRTP Extended Placement Approval Form for the following events:

- *The child has been placed in a QRTP for 12 consecutive months;*
- *The child has been placed in a QRTP for 18 nonconsecutive months; or*
- *The child is under the age of 13 and has been placed in a QRTP for six consecutive or nonconsecutive months.*

The service worker must submit to their regional practice consultant the QRTP Extended Placement Approval Form 45 days prior to the event for state review and approval. The service worker must document the Commissioner's approval in the child welfare information system once approval has been granted and provide a copy of the approval form to the child's IV-E worker. The worker will either receive approval to continue the placement in QRTP or will not receive approval for

continued placement and instead will receive a 30 day approval for a transition period to move the child from the QRTP to a more appropriate placement.

6B.4 Out of State Residential Placements

The service worker must still follow the same ICPC process outlined in Section 6.16.5 and 6.17.3 for placing children in out-of-state residential facilities. For placement in out-of-state QRTP placements, the worker must request, in addition to the facility's license, the documentation of the facility's designation of QRTP. This designation may be included in the license or it may be separate document. The license and designation will need to be provided to IV-E, CSA, and included as part of the ICPC packet. The worker must follow the same QRTP process outlined in Section 6B.3 for all out-of-state placements in QRTPs, including the assessment, court review, and Commissioner review processes.

6B.5 Family Based Residential Treatment Facility for Substance Use Disorder

Family First also allows title IV-E funding for placements where children can be placed with a parent in certain licensed residential family-based treatment facilities for substance use disorder for up to 12 months. These placements are not based on the child's need for congregate care but are based on supporting a child's access to and placement with a parent who needs residential treatment for a substance use disorder. These placements must meet the criteria outlined in this section in order to qualify for title IV-E funding.

6B.5.1 Eligibility of the child

The child must meet the following conditions to be eligible for foster care maintenance payments while placed in a residential family-based treatment facility for substance use disorder:

- *The child is in the custody of the LDSS; and*
- *The child is placed in a licensed residential family-based treatment facility for substance use disorder with their parent.*

In order for the child to receive title IV-E foster maintenance payments, the child must meet all of the title IV-E foster care eligibility requirements, except the AFDC eligibility requirements. Some children, who would otherwise be eligible for funding only through CSA, may have their maintenance costs paid with title IV-E funds while in this placement.

6B.5.2 Eligibility of the facility

While the facility must be licensed, there is no requirement that it meet the title IV-E licensing and background check requirements for a child care institution. The treatment facility must have the following elements:

- *Provide, as part of the treatment for substance use disorders, the services of
 - *Parenting skills training;*
 - *Parent education; and*
 - *Individual and family counseling.**
- *Provide those services under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing.*

Facilities that have been determined by VDSS to meet these criteria will be entered into the child welfare information system as a resource. The service worker must contact the regional consultant when considering placement in a facility that is not identified in the child welfare information system as a residential family-based treatment facility for substance use disorder prior to placement.

6B.5.3 Foster care plan requirements

Before a child can be placed in a residential family-based treatment facility for substance use disorder with their parent, their foster care plan must specify the recommendation for the placement. This recommendation can be included on either the foster care plan or the foster care plan review. The foster care plan must then be approved prior to the child's placement by either a court hearing or an administrative panel review, if there is no court hearing scheduled within the needed timeframe.

As a FPM is required prior to a placement change, the service worker may elect to hold the administrative plan review in conjunction with the FPM as long as all the requirements for an administrative panel review have been met.