



This report was revised on April 5, 2013, to reflect the following: corrections to improve the precision of wording on pages 7 (table note g), 9 (footnote 23), and 15 (note a). These changes do not affect the report's findings or conclusions.

United States Government Accountability Office  
Washington, DC 20548

March 25, 2013

The Honorable Max Baucus  
Chairman  
The Honorable Orrin G. Hatch  
Ranking Member  
Committee on Finance  
United States Senate

The Honorable Ron Wyden  
United States Senate

*Subject: Summary of Proposals to Address Income Eligibility Requirement for Federal Foster Care Reimbursement*

In fiscal year 2011, 400,540 children—many of whom were abused or neglected—had been removed from their homes and placed in foster care.<sup>1</sup> The responsibility for providing safe and stable out-of-home care for these children rests with the states, although states can claim federal reimbursement for a portion of the cost of providing this care. For states to receive federal reimbursements, which are authorized by Title IV-E of the Social Security Act, as amended, the child must (1) have been removed from a home that meets the income eligibility standard established under the discontinued Aid to Families with Dependent Children (AFDC) program, and (2) meet other nonfinancial eligibility requirements.<sup>2</sup> When children in foster care do not meet these requirements, the state bears the full cost of providing their out-of-home care.

In 1996, when Congress repealed the AFDC program, it did not amend Title IV-E to remove the link between income eligibility standards for AFDC and federal reimbursements to states for foster care. Due, in part, to fewer families meeting these income standards, the number of children who currently meet Title IV-E eligibility requirements has declined. As a result, states have shouldered the full costs for a higher proportion of children in foster care. Since 1996, several proposals to remove the link between AFDC income eligibility and Title IV-E foster care reimbursements have been put forward by the Department of Health and Human Services (HHS), Members of Congress, and interested organizations. GAO was asked to compile and review these proposals. Although most of the proposals we

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<sup>1</sup>Federal regulations define foster care as 24-hour substitute care for children placed away from their parents or guardians and for whom a state or tribal child welfare agency has placement and care responsibility. 45 C.F.R. § 1355.20(a).

<sup>2</sup>See 42 U.S.C. § 672.

identified are broad in nature and propose reforms beyond changing the Title IV-E income eligibility requirement, we focused on how the proposals would address the link between AFDC income eligibility and Title IV-E foster care reimbursements. Specifically, we reviewed whether or how they included four different components:

- changes to income eligibility criteria,
- measures to mitigate any potential impact on federal program costs,
- measures to mitigate the potential impact on funding to states, and
- requirements regarding how states should use any dollar savings that they incur from changes to Title IV-E eligibility, or from other changes designed to reduce the number of children who need foster care placement.

We identified the proposals through interviews with officials from HHS, the Congressional Research Service (CRS), relevant committee staff, and a search of relevant literature. We performed a search of legal databases for any bills introduced since 1996 containing key search terms and did not find any additional bills beyond the ones identified through our interviews. Our review included proposals from organizations, proposed legislation, and HHS that (1) suggested eliminating the AFDC income eligibility requirement, and (2) have been published since 1996. To the extent possible, we spoke with representatives of the proposals to ensure we had the most recent versions and to clarify our understanding of the proposals. Two analysts independently reviewed each proposal to determine whether it included any of the four components based on a series of related sub-questions, and consulted with a third analyst when needed to resolve any discrepancies:

- *Changes to income eligibility criteria.* Would the proposal eliminate means testing altogether or link income eligibility to a different benchmark?
- *Measures to mitigate the potential impact of any changes on federal program costs.* Does the proposal consider or quantify the potential impact on federal costs of any changes to the eligibility requirements, and does it address how, if at all, potential increases would be mitigated or contained?<sup>3</sup>
- *Measures to mitigate the potential impact on funding to states.* Does the proposal consider or quantify the potential changes in funding to states, and does it include measures to mitigate potential decreases in funding to states?<sup>4</sup>
- *Requirements regarding how states should use potential savings.* Acknowledging that reforms that change the requirements for Title IV-E eligibility or include measures to help reduce the need for foster care could result in savings to the states or federal government, does the proposal specify how states should use these savings?

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<sup>3</sup>We did not independently verify any estimated changes in federal costs reported in these proposals.

<sup>4</sup>We did not independently verify any estimated changes in funding to states reported in these proposals.

We conducted this performance audit from August 2012 through March 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Results in Brief

Twelve of the 14 proposals we identified would eliminate means testing altogether as a requirement for states to receive federal funding to help pay for the costs associated with supporting children in foster care. Two other proposals would link means testing to a different benchmark. Half of the proposals would mitigate a potential increase in federal costs due to the elimination of means testing by either changing the rate of federal reimbursements, capping federal funding, or both. Additionally, half would attempt to mitigate the potentially negative effects of lowering the reimbursement rate on states by, for example, allowing states to access additional funding in the event of an unanticipated increase in foster care placements. All five proposals that specify how states should use any foster care maintenance savings they incur would require states to reinvest these savings in child welfare services that benefit all children at risk of neglect or abuse.

## Background

Foster care is a joint federal and state program that serves children who are removed from their homes because they cannot safely live with their families, often due to neglect or abuse. When children are taken into foster care, the state child welfare agency becomes responsible for determining where the child should live and providing the child with support. The agency may place the child in the home of a relative or with unrelated foster parents.<sup>5</sup> HHS's Administration for Children and Families is responsible for federal administration and oversight of the Title IV-E foster care program.

The principal federal funding source for foster care is Title IV-E, an annually appropriated entitlement to states that helps states pay for the costs to administer state foster care programs, develop and maintain data collection systems, and support children in foster care.<sup>6</sup> The costs of supporting children in foster care—referred to as foster care maintenance—include basic living expenses for children who meet eligibility requirements,

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<sup>5</sup>Children in foster care may also be placed in other settings, such as group homes or residential facilities, but federal law requires states to ensure that each child in foster care is placed in the least restrictive (most family like) setting. 42 U.S.C. § 675(5)(A). Title IV-E directs states to consider giving priority to relatives when deciding with whom to place children while they are in foster care. 42 U.S.C. § 671(a)(19). In addition, in order to receive funding under Title IV-E, states must agree to identify and provide notice to grandparents and other adult relatives of the child's removal from parental custody. 42 U.S.C. § 671(a)(29). States are also required to notify relatives about their options to participate in the care of the child, become a foster parent, and the availability of services for the child.

<sup>6</sup>42 U.S.C. §§ 670-679c. Title IV-E also authorizes funds for Adoption Assistance programs, which provide financial support to families who adopt eligible children with special needs from the foster care system.

such as food, clothing, shelter, and school supplies.<sup>7</sup> Title IV-E also funds case planning for eligible children in foster care, and training for staff, foster parents, and adoptive parents. In addition, it funds assistance for youth who are transitioning out of foster care without a permanent home, youth who have been adopted out of foster care after age 16, and youth who have entered into kinship guardianships after age 16. In fiscal year 2012, federal funding for Title IV-E was about \$7 billion and approximately one-third was provided to states in the form of federal reimbursements for foster care maintenance.<sup>8</sup> The federal reimbursement rate for foster care payments is equal to each state's federal medical assistance percentage (the match rate used for Medicaid), as set by HHS each year.<sup>9</sup> The federal match for foster care maintenance payments in fiscal year 2011 ranged from 50 to 83 percent of eligible expenditures for each state.

Although states may generally provide foster care services to any child, they may only claim federal reimbursement for costs incurred serving children who meet federal eligibility criteria, as provided in Title IV-E of the Social Security Act.<sup>10</sup> One of these criteria specifies that in order for the state to receive a reimbursement, the child must have been removed from a home that would have qualified for cash assistance under the AFDC program as of July 1996.<sup>11</sup> The AFDC income eligibility standard has not changed since 1996, when AFDC was replaced by the Temporary Assistance for Needy Families (TANF) program, and the income eligibility threshold has not been adjusted for inflation. For example, a family of four had to have an annual income below \$15,911 to meet the AFDC income eligibility threshold in 1996. If adjusted for inflation, the threshold would have been \$23,550 in 2013.

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<sup>7</sup>42 U.S.C. § 675(4)(A). States participating in the Guardianship Assistance Program may also receive Title IV-E reimbursement for a portion of the cost of kinship guardianship assistance payments to relatives who become guardians (known as kinship guardians) of eligible children in foster care. To receive funding, the child must meet Title IV-E eligibility requirements, the caregiver must be a licensed or approved foster parent, and the child must live with the caregiver for at least 6 months. In addition, reunification with the child's birth parents and adoption by the relatives must be ruled out as permanency options. Through kinship guardianship, a relative assumes legal guardianship over a child or youth without the termination of that child's parents' rights.

<sup>8</sup>The proportion of funding dedicated to maintenance payments is an estimate, based on GAO analysis of fiscal year 2010 expenditures. Based on this analysis, the remaining 66 percent provided support for administrative costs (44 percent); demonstration project costs (15 percent); training (4 percent); and statewide child welfare automated information systems (3 percent). See GAO, *Foster Care Program: Improved Processes Needed to Estimate Improper Payments and Evaluate Related Corrective Actions*, [GAO-12-312](#) (Washington, D.C.: Mar. 7, 2012).

<sup>9</sup>42 U.S.C. § 674(a)(1). Each state's federal matching rate is based on a statutory formula under which the federal share of a state's Medicaid expenditures for services may range from 50 to 83 percent. States with lower per capita income receive a higher rate. 42 U.S.C. §§ 1396b(a)(1), 1396d(b).

<sup>10</sup>States, Indian tribes, tribal organizations, or tribal consortiums may also claim IV-E reimbursements if they have a foster care plan that is approved by HHS.

<sup>11</sup>42 U.S.C. §§ 672(a)(1)(B) and 672(a)(3). Other IV-E eligibility criteria specify that expenses must be for a child for whom (1) placement is in a state-licensed or approved home or institution in accordance with either a voluntary agreement with the child's legal guardian(s), or a judicial determination that conditions in the child's home were contrary to the child's welfare; (2) there is a judicial determination that reasonable efforts were made to prevent the need for removal or that such efforts would be inappropriate; and (3) placement and care responsibility are with an agency operating under an HHS-approved foster care plan. Also, in the case of voluntary placements, eligibility terminates 180 days after removal unless there is a judicial determination that continued placement is in the child's best interest.

The number of children in foster care has been declining since 1999, after years of increasing caseloads throughout the 1980s and 1990s. As of September 30, 2011, there were about 401,000 children in foster care, about 30 percent fewer than the peak of 567,000 in 1999. The decline may be due to several factors, such as greater emphasis on moving children promptly to permanent families, increased adoptions, and greater emphasis on providing services that help strengthen families and prevent the need for foster care placements.

In addition, the proportion of children in foster care who meet Title IV-E eligibility requirements has also been declining because of the use of AFDC income standards to determine eligibility. The average monthly number of children for whom states received federal foster care reimbursements declined from over 300,000 in fiscal year 1999 (53 percent of children in foster care) to approximately 179,400 (45 percent) in fiscal year 2011.

Although the overall number of children in foster care eligible for Title IV-E funding has declined, experts and policymakers have questioned whether the federal funding structure for child welfare encourages reliance on foster care and whether it gives states the flexibility they need to provide services designed to reduce the number of children who need to be in foster care. Specifically, funds authorized under Title IV-E comprise the large majority (about 90 percent) of federal funding dedicated to child welfare, with funds chiefly available for specific foster care and adoption expenses, but not for services that could reduce the need for out-of-home care. These services include, for example, home visiting programs, parent education and training, and substance abuse assessment and treatment.<sup>12</sup> In response, a handful of states have experimented with flexible funding arrangements under the Child Welfare Waiver Demonstration authority.<sup>13</sup> This authority was granted to HHS in 1994, when Congress authorized HHS to approve Title IV-E child welfare waiver demonstration projects, and to waive certain requirements of Title IV-B and IV-E, allowing states to spend child welfare funds more flexibly.<sup>14</sup> In order to receive a waiver, states must demonstrate, among other things, that their projects are cost-neutral to

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<sup>12</sup>Child welfare services are generally defined in HHS regulations as public social services directed toward protecting and promoting the welfare of all children, preventing or remedying child neglect or abuse, and preventing the unnecessary separation of children from their families. Services also help ensure that children are adequately cared for away from their homes, safely restored to their families, and placed in suitable adoptive homes when returning them to their families is not possible. 45 C.F.R. § 1357.10(c). For a more in depth discussion of child welfare programs, see GAO, *Child Welfare: States Use Flexible Federal Funds, But Struggle to Meet Service Needs*, [GAO-13-170](#) (Washington, D.C.: Jan. 30, 2013). See also Congressional Research Service, *Child Welfare: Recent and Proposed Federal Funding*, RL34121, (Washington, D.C.: Jan. 8, 2013).

<sup>13</sup>As of October 2012, 14 states had implemented or were approved to initiate Title IV-E waiver demonstration projects that allow them to use those funds for services covered by Title IV-B of the Social Security Act, which is the primary source of dedicated federal funding for child welfare services, such as in-home services, substance abuse assessment and treatment, and mental health counseling. States with waivers are required to ensure that their Title IV-E expenditures under the waiver do not exceed what they would have spent without a waiver. These states would be solely responsible for covering additional costs incurred if the number of children in foster care, or costs of caring for such children, exceeded state estimates.

<sup>14</sup>Social Security Act Amendments of 1994, Pub. L. No. 103-432, § 208, 108 Stat. 4398, 4457.

the federal government.<sup>15</sup> HHS's authority to issue waivers lapsed in 2006, but was renewed by Congress in 2011.<sup>16</sup>

Although the AFDC eligibility requirement for Title IV-E foster care payments remains unchanged, Congress has made other important changes to Title IV-E since repealing the AFDC program. For example, in 1999 Congress granted more flexibility to states to use Title IV-E funds to help former foster care recipients aged 18 to 21 make the transition to self-sufficiency, including paying for their room and board.<sup>17</sup> In addition, other changes enacted a few years ago make some provisions included in these proposals less relevant. For example, in 2008, Congress allowed states to receive reimbursement under Title IV-E for kinship guardianship assistance payments to relatives who assume legal guardianship of children for whom they cared as foster parents.<sup>18</sup> Congress also provided for the gradual elimination of the AFDC eligibility requirement for Title IV-E adoption assistance payments, beginning in October 2009.<sup>19</sup>

### **Most Proposals Addressing the AFDC Eligibility Requirement Would Eliminate All Means Testing**

As shown in figure 1, most of the 14 proposals we identified and reviewed recommend eliminating all means testing and half provide measures to mitigate federal costs and negative financial impact on states. Five of the proposals specify that states should reinvest any foster care maintenance savings they incur to support a range of child welfare services. For more specific information on each proposal, see enclosure I.

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<sup>15</sup>42 U.S.C. § 1320a-9(h).

<sup>16</sup>Child and Family Services Improvement and Innovation Act, Pub. L. No. 112-34, § 201, 125 Stat. 369, 378 (2011).

<sup>17</sup>Foster Care Independence Act of 1999, Pub. L. No. 106-169, § 101(b), 113 Stat. 1822, 1824.

<sup>18</sup>Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, § 101(a)(3), 122 Stat. 3949, 3950.

<sup>19</sup>Pub. L. No. 110-351, § 402, 122 Stat. 3949, 3975.

**Figure 1: Summary of Proposals to Eliminate the AFDC Program Eligibility Requirement Based on Inclusion of Selected Components**

Source of proposal	S. 940 and H.R. 1990 <sup>a</sup> 2001	S. 2052 2002	H.R. 1534 2003	H.R. 4856 2004	H.R. 3576 2005	H.R. 4207 and S. 2900 <sup>b</sup> 2007/08	H.R. 3229 and H.R. 2063 <sup>b</sup> 2009/11	Senate Foster Youth Caucus 2010	Pew Commission 2004	Partnership <sup>b</sup> 2007	NAPCWA <sup>c</sup> 2010	Cassey Family Programs 2010	Heritage Foundation 2011	HHS Proposal 2004
	Congress							Organizations					Executive	
<b>Eligibility criteria</b>														
Eliminates all means testing	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ <sup>d</sup>
Links income means testing to a different benchmark		✓ <sup>e</sup>	✓ <sup>e</sup>				f							
<b>Federal costs</b>														
Includes measures to contain federal costs				✓	✓				✓		✓	✓	✓	✓
Changes the federal reimbursement rate				✓	✓				✓		✓	✓		
Includes a funding cap				✓									✓	✓
Quantifies potential changes in federal costs						g			✓		✓			✓
<b>State funding</b>														
Includes measures to mitigate impact on states				✓	✓				✓		✓	✓	✓	✓
Quantifies potential changes in funding to states									✓		✓			
<b>Use of savings</b>														
Specifies how states should use potential savings				✓ <sup>h</sup>		✓ <sup>h</sup>			✓ <sup>h</sup>	✓	✓			

Source: GAO analysis of 14 proposals to address income eligibility requirement for federal foster care reimbursement.

<sup>a</sup>Because the text of both bills is identical, for purposes of this report we are counting these bills as one proposal.

<sup>b</sup>The Partnership to Protect Children and Strengthen Families (Partnership) is a collaboration among various nonprofit organizations. (See enclosure I for a list of organizations involved in developing the 2007 proposal.) The Partnership is currently developing a new proposal on child welfare financing that involves about 30 organizations.

<sup>c</sup>The National Association of Public Child Welfare Administrators (NAPCWA) is an affiliate of the American Public Human Services Association.

<sup>d</sup>This proposal gives states the option to receive a fixed funding stream which would eliminate means testing.

<sup>e</sup>These proposals give states the option to link income eligibility to TANF eligibility criteria for cash assistance.

<sup>f</sup>Both of these bills include a sense of the Congress provision indicating that the AFDC eligibility requirement should be replaced with income eligibility standards developed by HHS in collaboration with Congress and child welfare advocates. A sense of the Congress provision expresses the opinion of Congress; it is not enforceable but may serve as a guide in interpreting the mandatory provisions of a bill.

<sup>g</sup>See Enclosure I for information on a 2008 analysis of mandatory funding proposed in this bill compared to actual and projected spending for those same purposes for fiscal years 2005 through 2010..

<sup>h</sup>These proposals ensure that states that opt to reinvest federal Title IV-E savings use the funds for child welfare services, but reinvestment is not required.

## Changes to Income Eligibility Criteria

Most of the proposals we reviewed (12 out of 14) would eliminate all means testing for eligibility for Title IV-E reimbursements to states. Two proposals—the Personal Responsibility and Work Opportunity Reconciliation Act Amendments of 2002 (S. 2052) and the Child Protective Services Improvement Act (H.R. 1534)—propose giving states the option of aligning income eligibility to TANF eligibility criteria for cash assistance. An additional congressional proposal—the Look-back Elimination Act (H.R. 2063 and H.R. 3329)<sup>20</sup>—calls for eliminating the link between Title IV-E eligibility and AFDC. Although it contains a sense of the Congress provision stating that new income eligibility standards should be developed, it does not require this and does not specify exact standards.

## Potential Impact on Federal Program Costs

Half of the 14 proposals offer specific measures that would mitigate or contain potential increases in federal costs that may result from proposed changes to income eligibility requirements. Eliminating income eligibility requirements would effectively expand eligibility, allowing states to receive federal funds for every child in foster care. Without additional changes, this would lead to increases in federal program costs. To help manage these potential increases, 5 proposals would reduce the federal reimbursement rate per child to states, and 3 would establish state funding caps.<sup>21</sup> The rates proposed vary by proposal:

- The Casey Family Programs' proposal would lower the reimbursement rate for eligible expenses to 60 percent or less.<sup>22</sup>
- A proposal from the Pew Commission would lower each state's current federal reimbursement rate by 35 percent per child.
- The Child Safety, Adoption, and Family Enhancement (SAFE) Act of 2004 (H.R. 4856) would lower each state's reimbursement rate to 65 percent of their current rate.
- The other 2 proposals—The Leave No Abused or Neglected Child Behind Act (2005, H.R. 3576) and the proposal from the National Association of Public Child Welfare Administrators—suggest that reimbursement rates be state-specific, based on each state's expenses from previous years.

Of the 3 proposals that would establish funding caps, 2 proposals—HHS's 2004 Child Welfare Program Option and the Heritage Foundation proposal—would cap funding through fixed funding streams to states and provide states new flexibility to use these funds for foster care maintenance expenses or other child welfare services. The other proposal

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<sup>20</sup>The Look-back Elimination Act was introduced in the House in both 2009 (H.R. 3329) and 2011 (H.R. 2063). As the text of both bills is identical, we are treating them as one bill for the purpose of this report.

<sup>21</sup>One proposal—the Child SAFE Act of 2004 (H.R. 4856)—would reduce the federal reimbursement rate and introduce a funding cap for states.

<sup>22</sup>Specifically, this proposal offers the highest level of reimbursement—60 percent—for the first year of relative care, and decreasing rates for care in the homes of nonrelatives, congregate care, and for all types of out-of-home care provided for more than 1 year.

with a funding cap—the Child SAFE Act of 2004 (H.R. 4856)—would establish funding limits for states based on expenses from prior years. Three of the 14 proposals quantified likely changes to federal costs, 2 of which estimated potential increases in federal costs.<sup>23</sup>

### Potential Impact on Funding to States

Half of the 14 proposals also offer specific measures to mitigate any potential negative financial impact on states. Because states must cover foster care costs not reimbursed by the federal government, changes to federal funding could affect state funding as well. For example, if the federal reimbursement rate is reduced in order to offset the cost of more children meeting income eligibility requirements, states that have higher proportions of children who already meet these requirements might lose funding. The 7 proposals that outline measures to mitigate impact on states describe the following approaches:

- Three would allow states to access additional funding from the TANF Contingency Fund in the event of an unanticipated increase in foster care placements.<sup>24</sup>
- The proposal from the National Association of Public Child Welfare Administrators (NAPCWA) would create a minimum level of federal support.
- The Casey Family Programs, which proposes allowing states to use federal funds to offer a broader array of services, would provide short-term seed funding for states to develop these additional services.
- The proposal by the Pew Commission describes a mechanism by which states' reimbursement claims would be adjusted to allow every state to continue to receive the same level of funding it would have received under current law during a 3-year transition period.
- The Leave No Abused or Neglected Child Behind Act (2005, H.R. 3576) would allow states to submit supplemental claims for reimbursement for 3 years after the provision in the bill, which reduces states' reimbursement rates, becomes effective.

Only 2 of the 14 proposals attempt to quantify potential changes in federal funding to states that might occur if the proposal is enacted. Representatives from the American Public Human Services Association reported, however, that they are currently estimating the costs in four selected states of various proposals to change Title IV-E eligibility.<sup>25</sup> The organization plans to complete this work in early 2013.

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<sup>23</sup>In addition, see Enclosure I for information on the Child SAFE Act of 2004 (H.R. 4856).

<sup>24</sup>The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created a TANF Contingency Fund, which is available to states that have increased unemployment or Supplemental Nutrition Assistance Program (food stamps) caseloads. Pub. L. No. 104-193, 110 Stat. 2105, 2122. In short, the fund allows for the potential fiscal risks to states that may result from a fixed federal funding stream. The 3 proposals that would allow access to the TANF Contingency Fund are the Child SAFE Act (H.R. 4856), HHS's 2004 Child Welfare Program Option, and the Heritage Foundation proposal.

<sup>25</sup>NAPCWA is an affiliate of the American Public Human Services Association.

## States' Use of Potential Savings

All of the 5 proposals that specify how states should use potential savings would require that states reinvest any funds that would have been spent on children in foster care toward child welfare services that benefit all at-risk children. These proposals primarily refer to federal funds that are saved due to states' efforts to reduce foster care caseloads through increased emphasis on keeping children in their own homes or other permanency options such as adoption. The proposals vary in the level of details provided as to how states would receive these federal funds. Two proposals—the Partnership for Children and Families Act (S. 2900/H.R. 4207) and the Child SAFE Act of 2004 (H.R. 4856)—would require states to apply to HHS to use saved federal funds that would have otherwise been spent on foster care. States must reinvest these funds in child welfare services. Two other proposals—one from the Pew Commission and one from NAPCWA—would require all states that implement changes enabling them to safely reduce their foster care caseloads to reinvest the difference between the expected and actual foster care maintenance costs into child welfare services. If actual federal costs decrease, states would keep and use the difference for child welfare services, but also would have to spend some of their own funds as a condition for keeping the federal money. These funds could be from state savings due to reduced foster care caseloads. The remaining proposal lacked details on how the states would receive the funds.

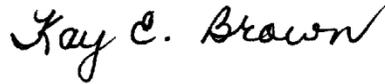
## Agency Comments

HHS did not have any comments on our report.

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We are sending copies of this report to the Secretary of Health and Human Services, appropriate congressional committees, and other interested parties. The report also is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-7215 or [brownke@gao.gov](mailto:brownke@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff members who made key contributions to this report are listed in enclosure II.



Kay E. Brown  
Director  
Education, Workforce,  
and Income Security Issues

Enclosures-2



## Congressional proposal

### Overview

These were extensive bills, each over 1,100 pages, covering a range of issues, including children’s health insurance, Head Start, child care, elementary and secondary education, promotion of permanency for children, juvenile justice, and other issues.

The bills would have amended Title IV-E of the Social Security Act to provide payments for preventive, protective, crisis, permanency, independent living, and post-permanency services and activities. Included as the recipients of such services are children who are at risk of abuse or neglect and their parents, and parents and other caregivers of children who leave foster care. Other recipients included children who are likely to remain in foster care until they are 18, and former foster care recipients who have not yet attained 21 years of age.

**S. 940 sponsor:** Sen. Dodd and 13 co-sponsors.

**H.R. 1990 sponsor:** Rep. Miller and 94 co-sponsors.

### To read the bills

**View [S. 940](#)**

Last accessed on February 15, 2013

**View [H.R. 1990](#)**

Last accessed on February 15, 2013

### Enclosure I

## S. 940 and H.R. 1990

Leave No Child Behind Act of 2001 (S. 940)

Leave No Child Behind Act of 2001 (H.R. 1990)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.



## Congressional proposal

### Overview

This bill proposed amending part A of Title IV of the Social Security Act to reauthorize and improve the TANF program, and for other purposes. The bill covers a wide range of issues, including TANF funding, employment supports, supports for families, state flexibility in the use of TANF funds, as well as child health and public accountability measures.

**S. 2052 sponsor: Sen. Rockefeller** and no co-sponsors.

### To read the bill

[View S. 2052](#)

Last accessed on February 15, 2013

### Enclosure I

## S. 2052

### Personal Responsibility and Work Opportunity Reconciliation Act Amendments of 2002

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

### Changes Income Eligibility Criteria

*Links income means testing to a benchmark other than AFDC eligibility:*  
Gives states the option to align eligibility for foster care maintenance payments with a child's eligibility for TANF cash assistance



## Congressional proposal

### Overview

This bill's purpose was to improve the ability of the child welfare system to prevent and respond to child abuse and place children in safe, loving, and permanent homes. In addition to proposing a change in foster care program eligibility requirements, the bill proposed: grants and bonuses intended to provide incentives for states to improve child welfare service quality; increased payments for training of certain child welfare staff and court personnel; and grants to promote federal/state/local alcohol and drug partnerships.

**H.R. 1534 sponsor: Rep. Cardin** and 35 co-sponsors.

### To read the bill

[View H.R. 1534](#)

Last accessed on February 15, 2013

### Enclosure I

## H.R. 1534

### Child Protective Services Improvement Act (2003)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

### Changes Income Eligibility Criteria

*Links income means testing to a benchmark other than AFDC eligibility:*  
Gives states the option to align eligibility for foster care maintenance payments with TANF eligibility for cash assistance.



## Congressional proposal

### Overview

This bill's purpose was to provide states with improved incentives, more flexibility, and increased funds to develop child welfare services that meet the unique needs of children and families and enhance children's prospects for safe and permanent living arrangements.

Specifically, the bill would have amended Title IV-B of the Social Security Act to give states and tribes the flexibility to develop, establish, and operate coordinated programs of community-based family support services, family preservation services, time-limited reunification services, and adoption promotion and support services, among other services.

**H.R. 4856 sponsor: Rep. Herger** and eight co-sponsors.

### To read the bill

View [H.R. 4856](#)

Last accessed on February 15, 2013

### Enclosure I

## H.R. 4856

### Child Safety, Adoption, and Family Enhancement (Child SAFE) Act of 2004

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

#### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.

#### Mitigates Federal Program Costs<sup>a</sup>

*Changes the federal reimbursement rate:* Reduces the federal reimbursement rate to 65 percent of the federal medical assistance percentage match rate for the state.<sup>b</sup>

*Includes a funding cap:* Caps annual funding for a period of 10 years.

#### Mitigates Impact on Funding to States

*Includes measures to mitigate impact on states:* Allows states to apply for TANF Contingency Funds if the state experiences an extreme foster care crisis as specified in the bill, such as an increase in children entering foster care.<sup>c</sup>

#### Specifies Requirements for Use of Savings

*Specifies how states should use potential savings:* Gives states the option of transferring unused foster care funds from the foster care program to a new fixed grant that provides flexible funds for a variety of services to help improve protection for children and strengthen families.

<sup>a</sup>The Congressional Budget Office (CBO) did not prepare a formal cost estimate of H.R. 4856 when it was introduced in 2004. However, mandatory funding proposed in the bill generally matched the funding projected for these purposes by CBO, as part of its March 2004 baseline. In 2008, the Congressional Research Service (CRS) compared mandatory federal funding proposed in this bill to actual funding claimed (fiscal years 2005-2006) or projected (fiscal years 2007-2010) for those same purposes. The projected funding relied on the most current relevant CBO projections at that time (March 2007 baseline and January 2008 baseline). This CRS comparison showed that direct (mandatory) funding proposed to be authorized under H.R. 4856 exceeded actual spending or the current CBO projections of federal spending for comparable purposes by \$5.3 billion for fiscal years 2005 through 2010.

<sup>b</sup>The federal government matches state Medicaid expenditures for services according to a state's federal medical assistance percentage (FMAP). The FMAP is based on a statutory formula under which the federal share of a state's Medicaid expenditures for services may range from 50 to 83 percent. States with lower per capita income receive higher FMAP. 42 U.S.C. §§ 1396b(a)(1), 1396d(b).

<sup>c</sup>The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created a TANF Contingency Fund, which is available to states that have increased unemployment or Supplemental Nutrition Assistance Program (food stamps) caseloads.



## Congressional proposal

### Overview

This bill's purpose was to improve outcomes for vulnerable children by investing in families; improving accountability in the child welfare system; and finding safe, stable, and permanent homes for children in foster care.

**H.R. 3576 sponsor: Rep. McDermott** and 21 co-sponsors.

### To read the bill

View [H.R. 3576](#)

Last accessed on February 15, 2013

### Enclosure I

## H.R. 3576

### Leave No Abused or Neglected Child Behind Act (2005)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

#### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.

#### Mitigates Federal Program Costs

*Changes the federal reimbursement rate:* Reduces the reimbursement rate for each state by an equal percentage as necessary to ensure that the ratio of total payments to states, to total foster care maintenance expenditures, equals the average ratio for the 3 years prior to when the change goes into effect.

#### Mitigates Impact on Funding to States

*Includes measures to mitigate impact on states:* Allows states to submit supplemental claims for reimbursement that are based on the average reimbursement rate nationwide—rather than the reduced rate described above—for 3 years after the change becomes effective.



## Congressional proposal

### Overview

These bills are identical and their purpose was to provide states with the incentives, flexibility, and resources to develop child welfare services that focus on improving circumstances for children, whether in foster care or in their own homes.

**S. 2900 sponsor: Senator Brown** and no co-sponsors.

**H.R. 4207 sponsor: Rep. Berkley** and nine co-sponsors.

### To read the bills

**View [H.R. 4207](#)**

Last accessed on February 15, 2013

**View [S. 2900](#)**

Last accessed on February 15, 2013

### Enclosure I

## H.R. 4207 and S. 2900

Partnership for Children and Families Act (2007, H.R. 4207)  
Partnership for Children and Families Act (2007, S. 2900)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

#### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.

#### Specifies Requirements for Use of Savings

*Specifies how states should use potential savings:* Creates a child welfare reinvestment fund. States can apply to HHS to receive foster care maintenance payment savings from this fund that were achieved by reducing the total number of days that children are in foster care during the fiscal year. States may use these funds to provide family preservation and support services, child welfare staff training, and other services.



## Congressional proposal

### Overview

These bills are identical and their purpose was to eliminate the AFDC eligibility requirement. Both bills address only the AFDC eligibility requirement and no other reforms to child welfare programs or financing.

**H.R. 3329 sponsor: Rep. Lewis** and four co-sponsors.

**H.R. 2063 sponsor: Rep. Lewis** and 10 co-sponsors.

### To read the bills

**View [H.R. 2063](#)**

Last accessed on February 15, 2013

**View [H.R. 3329](#)**

Last accessed on February 15, 2013

### Enclosure I

## H.R. 3329 and H.R. 2063

Look-back Elimination Act of 2009 (H.R. 3329)

Look-back Elimination Act of 2011 (H.R. 2063)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates the AFDC income eligibility requirement as a criterion for states to receive federal reimbursement for foster care maintenance payments. Both bills include a sense of the Congress provision indicating that the AFDC income eligibility requirement should be replaced with income eligibility standards developed by HHS in collaboration with Congress and child welfare advocates.<sup>a</sup>

<sup>a</sup>A sense of the Congress provision expresses the opinion of Congress; it may serve as a guide in interpreting other mandatory provisions of the bill, but it is not enforceable.



## Congressional proposal

### Overview

This bipartisan paper presents a set of proposals for members of Congress to consider in the next phase of child welfare reform, after the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351). The proposals were developed with input from former foster care youth, child welfare researchers, government officials, and others.

The proposals aim to reflect a broader array of services needed to support children. Options for reform include stronger protections and expanded services for children in out-of-home care; tax incentives for businesses that provide material support to foster families, group homes, and youth transitioning from care; educational improvements; and provisions to strengthen child support enforcement, among other changes. The Caucus also found that child welfare and family support systems should be able to adapt to a child and family's unique circumstances, and recommended allowing federal Title IV-E funds to be used to provide post-permanency supports for a period of time when children are reunited with their families, adopted, or placed permanently with relative guardians.

### To read it

[View proposal](#)

Last accessed on February 15, 2013

## Enclosure I

# Senate Caucus on Foster Youth

Options for Child Welfare Reform: A Call to Action (2010)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.



## Proposal from an organization

### Overview

This proposal aims to improve outcomes for children in the foster care system and expedite the movement of children from foster care into safe, permanent, nurturing families, and prevent unnecessary placements in foster care.

In addition to expanding Title IV-E eligibility, it proposes changes aimed at improving the federal system for reviewing and monitoring state programs, encouraging states to experiment with new programs and services, and strengthening the system for adjudicating child welfare cases.

The proposal also recommends allowing states more flexibility to use Title IV-E Administration and Training funds to help pay for any child welfare purpose currently allowed under Title IV-B, except for foster care maintenance payments.

### To read it

[View proposal](#)

Last accessed on February 15, 2013

## Enclosure I

# Pew Commission on Children in Foster Care

## Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care (2004)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

#### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.

#### Mitigates Federal Program Costs

*Changes the federal reimbursement rate:* Reduces each state's current federal reimbursement rate by 35 percent, with adjustments to ensure that states maintain the same level of federal funding as they would have received under current law for a 3-year transition period.

*Quantifies potential changes in federal costs:* Estimates that the annual federal cost of eliminating income eligibility requirements without adjusting the reimbursement rate would increase by approximately \$1.6 billion for both foster care and adoption assistance.<sup>a</sup>

#### Mitigates Impact on Funding to States

*Includes measures to mitigate impact on states:* After a 3-year transition period, states would negotiate a permanent, adjusted reimbursement rate, based on actual and projected expenditures. The adjustment would prevent states from experiencing decreases in federal funding.

#### Specifies Requirements for Use of Savings

*Specifies how states should use potential savings:* Allows states to reinvest federal funds that would have been spent on foster care, if they safely reduce their foster care caseloads. Federal funds saved would be calculated as the difference between estimated federal payments that would have been provided to states, and actual payments. States could spend these federal funds on a broader range of child welfare services, but only if they also spend state funds that are saved due to caseload reductions on these services.

<sup>a</sup>This proposal also offers two alternative options for delinking that are not cost-neutral for the federal government.



## Proposal from an organization

### Overview

The Partnership to Protect Children and Strengthen Families recommends a package of reforms designed to guarantee services, supports, and safe homes for every child who has been, or is at risk of being abused or neglected.<sup>a</sup> These reforms would promote investments in a broad continuum of services for children and families, and eliminate income eligibility requirements. The proposal would also allow Title IV-E funds to be used to provide access to post-permanency services.

### To read it

[View proposal](#)

Last accessed on February 15, 2013

## Enclosure I

# Partnership to Protect Children and Strengthen Families

## Changes Needed in Federal Child Welfare Law to Better Protect Children and Ensure Them Nurturing Families

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.

### Specifies Requirements for Use of Savings

*Specifies how states should use potential savings:* Allows states that offer services and supports that safely reduce their foster care caseloads and expenditures to retain the Title IV-E federal funds that are not used for foster care and reinvest these funds in services and supports that prevent child abuse and neglect. States could only use federal funds that are saved if state dollars no longer needed for foster care are similarly used.

<sup>a</sup>The organizations that supported this proposal when first published in 2007 include the American Federation of State, County and Municipal Employees; the American Public Human Services Association; Catholic Charities USA; the Center for Law and Social Policy; the Child Welfare League of America; the Children's Defense Fund; the National Child Abuse Coalition; and Voices for America's Children. The Partnership to Protect Children and Families is currently developing a new proposal on child welfare financing that involves about 30 organizations.



## Proposal from an organization

### Overview

The proposal describes three primary goals for federal child welfare finance reform: (1) expand covered services by allowing states to use Title IV-E funds on services other than foster care, (2) expand eligible populations by removing the AFDC income requirement for Title IV-E eligibility, and (3) maintain federal investment in Titles IV-B and IV-E to meet the needs of children and their families who come to the attention of the child welfare system.

### To read it

[View proposal](#)

Last accessed on February 15, 2013

## Enclosure I

# National Association of Public Child Welfare Administrators

## Child Welfare Finance Reform Policy Proposal (2010)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

#### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.

#### Mitigates Federal Program Costs

*Changes the federal reimbursement rate:* Creates a new state-specific match rate based on the federal medical assistance percentage and the percentage of children for which the state has received federal foster care maintenance payments in the past.

*Quantifies potential changes in federal costs:* Estimates a \$1.4 billion increase in combined federal and state savings over a 5-year period due to a decrease in foster care placements. These funds must be spent on other child welfare services. An estimated 30 percent of these funds would come from the federal government.

#### Mitigates Impact on Funding to States

*Includes measures to mitigate impact on state funding:* Creates a federal funding floor. If the need for foster care falls below projected levels, federal foster care funds are transferred into another program, such as Title IV-B. States must match the transferred funds with state funds at the state-specific match rate.

*Quantifies potential changes in state funding:* As noted above, the proposal estimates a total benefit to the child welfare system of \$1.4 billion, assuming that there would be a decrease in caseloads over the first 5 years of implementation. The states' portion of the increase in child welfare spending is estimated to be 70 percent. The proposal also presents examples of the potential impact of changes to administrative reimbursement rates under hypothetical scenarios.

#### Specifies Requirements for Use of Savings

*Specifies how states should use potential savings:* Federal, state, and local funds that would otherwise support foster care would be retained in the child welfare system in order to provide other child welfare services.



## Proposal from an organization

### Overview

The President and CEO of Casey Family Programs was invited to testify on child welfare demonstration projects before the House Ways and Means Subcommittee on Income Security and Family Support. The Chairman of the Committee asked for specific ideas on how to comprehensively reform federal child welfare financing. The recommendations provided specifically suggest expanding the service array and population eligible for services, with the goals of keeping children safely at home whenever possible and moving children in care to safe, permanent families in a timely manner. The recommendations also suggest allowing states to reinvest any savings realized by improved outcomes, and for holding states accountable for desired outcomes.

### To read it

#### [View proposal](#)

Last accessed on February 15, 2013

## Enclosure I

# Casey Family Programs

## Recommendations on Comprehensive Child Welfare Finance Reform (2010)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

#### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments, and expands eligible population to include all families referred to the child welfare agency and found to need services, regardless of income.

#### Mitigates Federal Program Costs

*Changes the federal reimbursement rate:* Provides diminishing rates of reimbursement for out-of-home care. Specifically, offers the highest level of reimbursement—60 percent—for the first year of relative care, and decreasing rates for care in the homes of nonrelatives, congregate care, and for all types of out-of-home care provided for more than 1 year. Also reduces the reimbursement rate for each state for preventive services from the federal medical assistance percentage to 50 percent or less, to help mitigate increased costs associated with expanding the service array and eligible population.

#### Mitigates Impact on Funding to States

*Includes measures to mitigate impact on states:* Provides additional federal dollars to states in the first few years and phases in federal program changes to allow time for states to build the infrastructure needed to develop prevention and early intervention strategies and increase services. Reduces state costs by eliminating the administrative burdens related to eligibility determinations. Also reduces costs by removing barriers that prevent states from leveraging federal funds from Title IV-B and other social service programs.



## Proposal from an organization

### Overview

The proposal aims to reduce overuse of foster care by states and meet the individual needs of each child in foster care. Specifically, it calls on Congress to consolidate Title IV-E funding for foster care maintenance, administration, and training with funding for Title IV-B's Child Welfare Services and Promoting Safe and Stable Families programs. These programs provide funds for family support, preservation, and reunification services as well as adoption support and promotion.

### To read it

[View proposal](#)

Last accessed on February 15, 2013

## Enclosure I

# Heritage Foundation

## Foster Care: Safety Net or Trap Door? (2011)

### Selected components reviewed

Changes income  
eligibility criteria

Mitigates federal  
program costs

Mitigates impact  
on funding  
to states

Specifies use  
of savings  
by states

#### Changes Income Eligibility Criteria

*Eliminates all means testing:* Eliminates all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.

#### Mitigates Federal Program Costs

*Includes a funding cap:* Provides a capped amount of federal funding to be used for several newly-consolidated programs and eliminates the state entitlement for Title IV-E payments based on caseload size. Also reduces funding for states with excessive administrative expenses.

#### Mitigates Impact on Funding to States

*Includes measures to mitigate impact on state funding:* Gives states greater flexibility to decide how best to meet federal child welfare benchmarks, and reduces the administrative costs associated with establishing Title IV-E eligibility. Allows states to use TANF contingency funds if they experience a severe foster care crisis, such as a significant increase in children entering foster care.



## Executive branch proposal

### Overview

The Child Welfare Program Option was first proposed in HHS's fiscal year 2004 budget request for the Administration for Children and Families (ACF) and then in the agency's budget requests for fiscal years 2005 through 2009.

It would allow states to choose between the current Title IV-E program and a 5-year capped flexible allocation of funds. The proposal would allow state and local child welfare agencies to eliminate eligibility determination and redirect funds toward services and activities that more directly achieve safety, permanency, and well-being for children and families.

### To read them

[View HHS's fiscal year 2004 through 2008 Budget documents.](#)

Last accessed on February 15, 2013

[View HHS's fiscal year 2009 Budget in Brief.](#)

Last accessed on February 15, 2013

### Enclosure I

## Child Welfare Program Option

Department of Health and Human Services (HHS) (2004)

### Selected components reviewed

Changes income eligibility criteria

Mitigates federal program costs

Mitigates impact on funding to states

Specifies use of savings by states

#### Changes Income Eligibility Criteria

*Eliminates all means testing:* Allows states that choose this option to eliminate all means testing as a criterion for states to receive federal reimbursement for foster care maintenance payments.

#### Mitigates Federal Program Costs

*Includes a funding cap:* Provides a 5-year capped, flexible allocation of funds to states. Bases state allocations on historic expenditure levels to achieve cost-neutrality for the federal government.

*Quantifies potential changes in federal costs:* Estimated the need for an additional \$35,300,000 in fiscal year 2004 to cover the new funding option. According to HHS officials, the costs incurred in the first year would be offset by estimated savings in later years, and the proposal would be budget neutral over a 5- to 10-year period.

#### Mitigates Impact on Funding to States

*Includes measures to mitigate impact on states:* Allows states to choose to receive more funding in the early years of the program in order to make investments in services that are likely to result in cost savings in later years. Participating states can also access the TANF Contingency Fund if unanticipated emergencies result in funding shortfalls.

## **Enclosure II: GAO Contact and Staff Acknowledgments**

### **GAO Contact**

Kay E. Brown, (202) 512-7215 or [brownke@gao.gov](mailto:brownke@gao.gov)

### **Staff Acknowledgments**

In addition to the contact named above, Elizabeth Morrison, Assistant Director; Regina Santucci, Kate Blumenreich, Kirsten Lauber, James Rebbe, James Bennett, and David Chrisinger, also made contributions to this report. Margaret Phelps-Ranen, Laura Henry, Sharon Hermes, and Almeta Spencer also provided assistance.

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