

FAMILY FIRST PREVENTION SERVICES ACT
EXCEPTIONS FOR THE USE OF CONGREGATE CARE OR ROTATING STAFF HOMES
& QRTP REQUIREMENTS

With the passage of the **2018 Family First Prevention Services Act** (FFPSA), the federal government now only recognizes two types of foster care placements to be reimbursable under Federal Title IV-E. These placement types include a foster family home and, in very limited circumstance, a child care institution. Currently, there is a national consensus that all children and youth, especially infants and toddlers, do best when living with families. When children must enter child welfare custody, the focus of FFPSA is to place children in “foster family homes.” Additionally, with the passage of FFPSA, there is a significant reduction in a child welfare agency’s incentive to continue to use congregate care settings as a typical placement option for children in foster care.

FFPSA incentivizes states to reduce placement of children in congregate care by placing certain limitations on federal funding reimbursement through conveying specific expectations within the law for the provision of quality congregate care settings.

FFPSA Federal Definitions

Foster Family Home	Child Care Institution
<p>“(A) IN GENERAL—The term ‘foster family home’ means the home of an individual or family—</p> <p> “(i) that is licensed or approved by the State in which it is situated as a foster family home that meets the standards established for the licensing or approval; and</p> <p> “(ii) in which a child in foster care has been placed in the care of an individual, who resides with the child and who has been licensed or approved by the State to be a foster parent—</p> <p> “(I) that the State deems capable of adhering to the reasonable and prudent parent standard;</p> <p> “(II) that provides 24-hour substitute care for children placed away from their parents or other caretakers; and</p> <p> “(III) that provides the care for not more than six children in foster care.</p> <p>“(B) STATE FLEXIBILITY—<i>The number of foster children that may be cared for in a home under subparagraph (A) may exceed the numerical limitation in subparagraph (A)(ii)(III), at the option of the State, for any of the following reasons:</i></p> <p> “(i) <i>To allow a parenting youth in foster care to remain with the child of the parenting youth.</i></p> <p> “(ii) <i>To allow siblings to remain together.</i></p> <p> “(iii) <i>To allow a child with an established meaningful relationship with the family to remain with the family.</i></p> <p> “(iv) <i>To allow a family with special training or skills to provide care to a child who has a severe disability.</i></p>	<p>“(A) IN GENERAL—The term “child-care institution” means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved by the agency of the State responsible for licensing or approval of institutions of this type as meeting the standards established for the licensing.</p> <p>“(B) SUPERVISED SETTINGS—In the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations.</p> <p>“(C) EXCLUSIONS—The term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.”</p> <p>Anything that does <u>NOT</u> meet the FFPSA definition for <u>foster family home</u> is federally considered a <u>child care institution (CCI)</u>. A Nevada group home (<u>over 6 children</u>) or rotating staff home (<u>any amount of children</u>) now meets the FFPSA definition for a CCI.</p> <p>Unless the Nevada CCI meets one of the four (4) exceptions for a CCI within the FFPSA, the CCI will only be eligible for 14 days of reimbursement through Federal Title IV-E for foster care costs.</p> <p style="text-align: center;"><u>Title IV-E is the <i>PRIMARY</i> federal funding source for Nevada foster care costs</u></p>

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What **EXCEPTIONS** are there for child care institutions (CCI) to be eligible for more than 14 days of Title IV-E foster care reimbursement?

Non-Specialized CCI: a foster care setting that provides foster care through a congregate care or rotating staff model. Child welfare agencies may claim 14 days of title IV-E foster care cost reimbursement. (***No exception***)

Prenatal, Post-partum, or Parenting Youth CCI: a setting specializing in providing prenatal, post-partum, or parenting supports for youth. The facility must meet the FFPSA definition of a CCI. (***Exception***)

Sex Trafficking Victims / At-Risk of Becoming Sex Trafficking Victims CCI: a setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims as identified by the child welfare agency. The facility must meet the definition of a CCI. (***Exception***)

Supervised Independent Living CCI (age ≥18 custody youth): a supervised setting in which the child is living independently (in the case of a child who has attained 18 years of age). (***Exception***)

Qualified Residential Treatment Program (QRTP):* a QRTP facility is a specific category of a non-foster family home setting, for which title IV-E agencies must meet detailed assessment, trauma informed programming, registered or licensed nursing personnel and other licensed clinical staff, case planning, documentation, discharge supports, judicial determinations and ongoing review and permanency hearing requirements for a child to be placed in and continue to be eligible for title IV-E foster care reimbursement for the placement. The facility must also meet the definition of a CCI. Further, it must be accredited by one of the independent, not-for-profit organizations such as COA, CARF, or Joint Commission. (***Exception***)

*See detailed QRTP requirements (attached)

To maximize their business model, it is important for higher level-of-care foster care agencies/providers to fully understand the recent changes to foster care reimbursement under the federal FFPSA. Foster care agencies/providers whose facilities currently meet the FFPSA definition for a CCI, have an essential business decision to make; either to meet one of the four (4) CCI exception categories listed above or make changes to conform to a foster family home model per the FFPSA definition. When Nevada initiates implementation of the FFPSA requirements, foster care agencies/providers who continue to meet the definition for a non-specialized CCI will only qualify for 14 days of foster care that is eligible for Title IV-E reimbursement. Therefore, Nevada child welfare agencies cannot make any guarantee to a non-specialized CCI that children placed there will remain beyond 14 days or that new children will be placed initially if there is a Title IV-E eligible, longer-term placement option available.

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Qualified Residential Treatment Program (QRTP) Requirements

QRTP Requirements: A QRTP must be a program that:

- has a trauma-informed treatment model that is designed to address the needs, including clinical needs, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the required 30-day assessment (described below) of the appropriateness of the QRTP placement;
- to extent appropriate, and in accordance with the child’s best interests, facilitates participation of family members in the child’s treatment program;
- facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;
- documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;
- provides discharge planning and family-based aftercare support for at least 6 months post-discharge;
- is licensed in accordance with Federal Title IV-E foster care requirements and is accredited by any of the following independent, not-for-profit organizations: The Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation (COA), or any other independent, not-for-profit accrediting organization approved by Federal HHS; and
- has registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state/tribal law, are on-site according to the treatment model, and are available 24 hours a day and 7 days a week. The Act indicates that this requirement shall not be construed as requiring a QRTP to acquire nursing and behavioral health staff solely through means of a direct employer to employee relationship.

QRTP Placement Requirement – 30-day Assessment of the Appropriateness of a QRTP Placement:

- A “qualified individual” must assess a child to determine the appropriateness of a placement in a QRTP for purposes of approving the case plan and the case system review procedure for the child (see described below).
- If the assessment is not completed within 30 days after the placement is made, the placement become ineligible for Title IV-E foster care reimbursement beyond the 30 days. There is no future recourse for the placement to become eligible for Title IV-E once this 30-day deadline is missed.
- A “qualified individual” is defined as a trained professional or licensed clinician who is not an employee of the agency, and who is not connected to, or affiliated with, any placement setting in which children are placed by the agency. The “qualified individual” must:
 - assess the strengths and needs of the child using an age-appropriate, **evidence-based**, validated, functional assessment tool that is federally approved;
 - determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which allowable CCI setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
 - develop a list of child-specific short- and long-term mental and behavioral health goals; and
 - work in conjunction with the child’s family and permanency team (further described below) **while conducting and making the required 30-day assessment.**
- If the “qualified individual” determines the child should not be placed in a foster family home, the qualified individual must specify in writing:
 - the reasons why the child’s needs can’t be met by the family or in a foster family home (a

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shortage of foster family homes is not an acceptable reason for determining the child's needs cannot be met in a foster family home); and

- why the recommended placement in a QRTP is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.

QRTP Placement Requirement – Family and Permanency Team Requirements: The agency must assemble a family and permanency team for the child placed in the QRTP in accordance with specified requirements.

- The team must consist of all appropriate biological family members, relative, and fictive kin of the child, as well as professionals (*as appropriate*) who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy.
- If the child is age 14 or older, the team must also include the members of the permanency planning team for the child that are selected by the child in accordance with the title IV-E case planning requirements.

QRTP Placement Requirement – Case Plan Requirements: For a child placed in a QRTP, the child welfare agency must document the following in the child's case plan:

- the reasonable and good faith effort of the agency to identify and include all the individuals required to be on the child's family and permanency team;
- all contact information for 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;
- evidence that meetings of the family and permanency team, including meetings relating to the required 30-day assessment of the appropriateness of the QRTP placement, are held at a time and place convenient for family;
- if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;
- evidence that the required 30-day assessment to determine the appropriateness of the QRTP is determined in conjunction with the family and permanency team;
- the placement preferences of the family and permanency team relative to the required 30-day assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest;
- if the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the required 30-day assessment of the appropriateness of the QRTP, the reasons why the preferences of the team and of the child were not recommended; and
- the written recommendation by the qualified individual regarding the appropriateness of the QRTP placement and the court approval or disapproval of the QRTP placement.

QRTP Placement Requirement – 60-day Court Approval: Within 60 days of the start of each placement in a QRTP, the dependency court of jurisdiction must:

- consider the required 30-day assessment of the appropriateness of the QRTP, and documentation made by the qualified individual conducting the assessment;
- determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and
- approve or disapprove the placement. Such approval or disapproval must be documented in the case plan.

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QRTP Placement Requirement – Ongoing Review and Permanency Hearing Requirements: As long as a child remains placed in a QRTP, the child welfare agency shall submit evidence at each status review and each permanency hearing held for the child:

- demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
- documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and
- documenting the efforts made by the agency to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

Additional reporting requirements for extended QRTP placements: If a child welfare agency places a child in a QRTP for more than 12 consecutive months, or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than six consecutive or nonconsecutive months, the child welfare agency must submit to Federal HHS:

- the most recent versions of the evidence and documentation submitted for the most recent status review or permanency hearing; and
- the signed approval of the Administrator of the Division of Child and Family Services for the continued placement of the child in that setting.

Funding during transition out of QRTP:

- The child's placement continues to be Title IV-E eligible in the QRTP, during the period necessary for a child to transition out of a QRTP, for up to 30 days from the date a determination is made that the placement is no longer the recommended or approved placement for the child when:
 - the required 30-day assessment determines that the QRTP placement is not appropriate;
 - a court disapproves the QRTP; or
 - a child is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.