



## Office of the Child Advocate

3312 Northside Drive, Suite D-250  
Macon, GA 31210

478-757-2661 or 1-800-254-2064  
[www.gachildadvocate.org](http://www.gachildadvocate.org)



---

### New Federal Regulations Threaten Therapeutic Foster Care

By Tom C. Rawlings

State Child Advocate for the Protection of Children

You know how we Southerners hate to be critical, so I'll say this in the typically kind South Georgia way: The federal Medicaid authorities – *bless their hearts* – are doing major damage to our ability to provide services for foster children. The damage is coming from a new federal policy called “unbundling.” More on that in a minute.

Let's start off with the basic facts. Children who come into foster care have serious needs, among them behavioral health needs. Studies indicate that over 50% of children in foster care have a mental health issue requiring intervention; the Child Welfare League of America says that figure is closer to 80%. They have often suffered physical, sexual, or emotional abuse or chronic neglect at the hands of their own parents, so they obviously can't be treated on an outpatient basis in their own homes. If placed in regular foster homes, these children become those who bounce from placement to placement, further complicating their mental health problems.

Fortunately, Georgia and other states have over the years developed some pretty effective approaches to assisting these children. We place them in therapeutic foster care placements, ranging from foster parents with specialized behavioral training to group homes where they can have all their mental health needs met on-site, on the campus that they temporarily call home.

Traditionally, these specialized placements were reimbursed for their work with a single rate that covered all the child's needs, from food and shelter to counseling and therapy. That single rate allowed the state child welfare agencies to coordinate services and allowed the providers to work more efficiently and effectively. Medicaid, the federal-state health insurance program for low-income families, generally covered these therapeutic placements.

Is that model effective? A report by former Surgeon General David Satcher concludes that “therapeutic foster care is considered the least restrictive form of out-of-home therapeutic placement for children with severe emotional disorders,” and that for these children the therapeutic group home “provides an environment conducive to learning social and psychological skills.” Many of the group facilities are faith-based or charitable institutions with long and storied histories of success.

Enter the federal government, whose Center for Medicare and Medicaid Services (CMS) has determined that Medicaid should not be paying for the room and board for these children. CMS has also expressed concerns that state child welfare agencies may be giving children behavioral care they don't need as a way to “shift” the cost of foster care to the federal Medicaid system. Therefore, CMS is proposing to do its own “shifting” by making the states alone fiscally responsible for \$22 billion worth of therapeutic care, according to one congressional study.

CMS has proposed regulations that require the states, including Georgia, to “unbundle” their charges for room and board – a state responsibility -- from their charges to Medicaid for therapeutic services. But how, exactly, does one do that? In Georgia, we have been forced to go to a system in which providers are now required to deal with multiple agencies to serve emotionally-disturbed foster children.

Under the new system, either the Department of Family and Children Services (DFCS) or the Department of Juvenile Justice (DJJ) determines a child needs specialized residential placement because of the child's behavioral health issues. Then, another agency has to determine whether the child actually needs the services for which he or she has been placed, and whether those services can be billed to Medicaid. A foster child could, unfortunately, end up in a situation in which DFCS determines he badly needs therapeutic residential services but Medicaid refuses to authorize the therapy. Providers, many of whom already subsidize the state's child protection system with charitable contributions, are being forced to add staff, to do more paperwork, and to negotiate a more complex bureaucracy to serve these children.

As one experienced therapeutic provider told me, the new regulations are destroying the “therapeutic milieu.” Or, in layman's terms, this ain't no way to run a railroad.

CMS's position is that foster care is a state responsibility, and that federal Medicaid shouldn't have to pay for it. That's an understandable concern, but in requiring the states to dismantle therapeutic residential services, CMS is further complicating an already complex system. First, the federal government already pays for foster care through another federal funding program known as “IV-E.” Second, for years now, child advocates at the state and federal level have been trying to find ways to better *integrate* residential and behavioral care for troubled youth. Federal mental health authorities, for example, have been pushing the states to set up coordinated systems of care for children. Now, it seems, another branch of the federal government wants to *dis-integrate* the system.

Congressman Henry Waxman's Committee on Oversight and Government Reform held hearings earlier this month in which child welfare experts from across the country pointed out the flaws of the CMS regulations. If you're interested, links to his committee's work and to information on the new regulations will be posted at the Child Advocate's website, [www.gachildadvocate.org](http://www.gachildadvocate.org).

*Tom Rawlings, Georgia's Child Advocate for the Protection of Children, was appointed by Governor Sonny Perdue to assure quality and efficiency in Georgia's child protective systems. The Office of Child Advocate is a resource for those interested in the welfare of our state's neglected and abused children. Tom can be reached at [tom@gachildadvocate.org](mailto:tom@gachildadvocate.org)*