

FEDERAL TITLE XX LEGISLATION AND
CHILD CARE FUNDING IN KANSAS

by

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Chapter 1

INTRODUCTION

The federal government's role in the funding of child care services has been a source of controversy for many years. Many suggest that the federal government has the responsibility to see that all children have quality child care available to them at a reasonable cost. The only way this will be achieved, they argue, is for the federal government to require minimum standards and to provide funds to help pay for quality care. The care of preschool children, others counter, should not be the concern of the federal government and involvement in this area should be minimal.

Although child care is only one of the social services provided for under Title XX of the Social Security Act, it is one of the primary sources of child care funding in Kansas. It thus has major impact on the child care services available in Kansas. An understanding of the Title XX law and regulations is important for all concerned with child care services in Kansas, including state planners, day care center directors and working parents.

The purpose of this report is to provide the reader with

an understanding of Title XX funding of child care and how these funds are being used in Kansas. A historical review of federal involvement in the funding of social services in general is the focus of Chapter 2. Chapter 3 describes the provisions of the Title XX legislation and its regulations for the funding of social services while Chapter 4 describes the regulations for day care centers promulgated by Title XX. Chapter 5 turns to a description of the state planning process by which Title XX funds are allocated for social services in Kansas. A description of the allocations of Title XX funds for child care services in Kansas comprises Chapter 6, including a comparison of the first and most recent state plans, focusing on changes in policy and funding over the three-year period during which Title XX has been in effect. Chapter 7 outlines the manner in which a program gains access to Title XX funds. The author's conclusions are presented in Chapter 8.

Chapter 2

HISTORICAL BACKGROUND

According to a review of the history of social services by Kamerman and Kahn (1976), the federal government refused to become involved in the funding of any type of social services prior to the Depression years from 1929 to 1933. Public welfare was considered strictly a responsibility of local units of government. For example, when federal legislation passed both houses of Congress in 1854 to assist the states in financing the care of the insane and in supporting training institutions for deaf mutes, President Franklin Pierce vetoed the bill on the grounds that welfare programs were not a federal responsibility.

The Depression years, however, brought about a great amount of economic change. The national income was cut in half and unemployment increased to approximately one-fourth of the civilian labor force. The number of people depending on local welfare programs increased while tax revenues dwindled. Local welfare funds were soon exhausted and appeals were made to the state governments for assistance. Emergency relief programs were set up in many states but the resources were so limited that, by 1932, there was

increasing pressure on the federal government for funds.

The states were, however, reluctant to relinquish any control over welfare programs to the federal government, and Congress and the President were reluctant to permit federal involvement in what had been for so many centuries recognized as a state and local responsibility. Finally, in response to the economic needs of the nation, President Franklin D. Roosevelt set up the Federal Emergency Relief Administration, which operated between 1933 and 1935, with half a billion dollars voted by Congress. Money became available to the states through this program for the support of public welfare programs both on a matching basis as well as in the form of outright grants.

This temporary program, Kamerman and Kahn suggest, set the precedent for the provision of federal monies for public welfare services. On August 14, 1935, Congress passed the Social Security Act, which provided a permanent program making grants available to states to set up their own public welfare programs which were required to meet federal guidelines.

The original Social Security Act covered three categories for public assistance: the aged, the needy blind, and dependent children. The inclusion of dependent children in

the Social Security Act, Ferguson (1963) suggests, came at the urgent recommendation of the Children's Bureau, which had been concerned since its inception in 1912 about the customary practice of removing children from their homes because of poverty. In addition, in 1920, the White House Conference on Children formulated a Children's Charter which suggested that every child had a right to the following: (1) a secure home; (2) health care; (3) schooling; and (4) the guarding of his personality as his most precious right (Ferguson, 1963). As a result of these forces, the Social Security Act authorized grants-in-aid for child welfare services, including day care (usually on a project or demonstration basis) for the poor.

In 1956, the first set of amendments were attached to the Social Security Act. The federal share of the financial responsibilities for assistance was increased and money became available to help the states develop new social services. Emphasis was placed on services which would help the recipients gain self-sufficiency in hopes of decreasing the number of persons dependent on welfare services. Provision was made for services to maintain and strengthen family life for children whose families received public assistance. The states were still free to develop their own programs.

The 1962 amendments to the Social Security Act raised

reimbursement for services from 50 percent to 75 percent and authorized limited matching funds to states for the development of licensed day care facilities for the children of welfare recipients.

Further amendments in 1967 significantly altered and enlarged the authorization to pay for services outside the welfare departments. Title IV A of the Social Security Act encouraged state departments of public welfare to develop day care services for past and potential as well as present welfare recipients. The Department of Health, Education and Welfare was authorized by this legislation to reimburse state expenditures on a 75-25 matching basis. The funds for matching by the states could be derived from local or state governmental units or could be donated by individuals, businesses or charitable organizations. Any day care facility, however, was required to meet the standards for state licensing (Kamerman and Kahn, 1976).

Originally, the amount of money available to the states was unlimited. More and more states took advantage of this open-ended matching system and federal spending for social services gained accordingly. In fiscal year 1969, federal funding for this purpose totaled \$354 million. More states caught on and, by fiscal year 1972, federal expenditures had reached \$1.5 billion with indications that the total would

rise to \$4.7 billion the following year and to even higher levels in succeeding years (U.S. Congress, 1974).

Concern over this trend led to the enactment in 1972 of a \$2.5 billion limit on federal funding for social services under the Social Security Act. The ceiling was slightly above actual spending levels reported from the states at that time, mid-1972. Effective fiscal year 1973, each state was limited to its share of \$2.5 billion based on its proportion of the population to the population of the United States.

Child care and other services could be provided, under this new legislation, to persons formerly on welfare as well as to current welfare recipients. Until a state reached the limitation on federal matching, 75 percent federal matching continued to be available for social services as under prior law.

On May 1, 1973, the Department of Health, Education and Welfare issued sweeping revisions in the federal regulations under which social service programs were operated. These were much more restrictive than the old regulations and were strongly opposed by many groups and individuals who felt the changes were, in many respects, contrary to the purposes social services were intended to serve.

Under these proposed regulations, which were never enacted, eligibility guidelines were very restrictive. The type of services which would have been provided would have been limited to 18 specifically defined services and only a few services would have been required (Senate Report No. 95-456, 1977).

Because of the extensive nature of the changes which would have been made by the proposed regulations, and because of the issues raised by those changes, Congress did not have sufficient time to develop a legislative resolution to the issues before the new regulations were to go into effect on July 1, 1973. Instead, a Senate amendment to postpone their effective date until November 1, 1973, was attached to a bill which became Public Law 93-66. Congress provided in this legislation that no new social service regulations (other than those needed for technical compliance with the law) could become effective prior to November 1, 1973, unless the Administration obtained approval for any such regulations from the Senate Committee on Finance and from the House Committee on Ways and Means.

On September 10, 1973, the Department of Health, Education and Welfare published in the Federal Register a number of revisions to its earlier regulations. Additional changes were made on October 31, 1973, when the Department published in the Federal Register the final set of regulations,

which were to go into effect November 1, 1973. These revisions, however, proved insufficient to counter the objections which had been raised.

In November, 1973, the Senate passed, with an amendment, H.R. 3153, which was designed to resolve the issues raised by the new regulations. The House conferees, however, were not willing to consider the Senate amendments to the bill. Legislation was passed at the end of 1973, however, which invalidated the regulations which had gone into effect on November 1, and prohibited those or any new social service regulations from becoming effective prior to January 1, 1975.

On December 9, 1974, the House of Representatives passed a new social services bill, H.R. 17045, which would amend the Social Security Act by adding a new section, Title XK, which would deal with social services. The Senate, however, substituted for the text of the House bill the social service provisions which it had passed in 1973 and which the House had refused to consider because of Senate amendments made to the original bill.

The major difference between the Senate and House bills revolved around the standards for child care facilities. The House bill would have required that child care funded under the Social Security Act meet the 1968 Federal Inter-

agency Day Care Requirements. In addition, for the care of children under three outside the child's own home, the bill would have required at least one caretaker for every two children and that caretaker could attend no older children.

The Senate amendment, on the other hand, would require out-of-home care to meet the 1968 Interagency Day Care Requirements only as modified to make less stringent the staffing requirements and to make the educational content of the child care programs recommended rather than mandatory.

The conference committee finally agreed to the Senate provisions regarding standards for child care with respect to the ratio of adults to children of various ages and making the educational component for child care recommended rather than mandatory. In case of children under three, the ratio was left to regulations to be made by the Secretary of HEW.

The final legislation was approved by both houses of Congress on December 20, 1974, and was signed into law on January 4, 1975, by President Gerald Ford, thereby becoming Public Law 93-647. The new law, called Title XX, became effective October 1, 1975.

Chapter 3

THE LAW

Title XX of the Social Security Act (P.L. 93-647, 1974) allows the states to receive matching funds for any social service programs aimed at one of the following five goals:

"1. Achieving or maintaining economic self-support to prevent, reduce or eliminate dependency.

"2. Achieving or maintaining self-sufficiency, including reduction or prevention of dependency.

"3. Preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families.

"4. Preventing or reducing inappropriate institutional care when other forms of care are not appropriate, or providing services to individuals in institutions."

(P.L. 93-647, 1974, p. 2337)

Although the specific goals of strengthening family life and fostering child development are no longer in the law, services previously provided for those purposes could be attributed to one of the above goals, particularly number three.

The early emphasis on services designed to help welfare recipients gain self-sufficiency in hopes of decreasing the number of persons dependent on welfare services is reemphasized in Title XX, particularly in the first two goals listed above.

Under the provisions of Title XX, the federal government will pay each state an amount equal to 75 percent of the total expenditures of any services to families which are directed at one of the five goals listed above (until the state reaches its limit under the national \$2.5 billion ceiling).

The law does not specifically define which services the state may provide. Eligible services, however, include those designed for children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, alcoholics and drug addicts. Suggested services related to children include: child care services, protective services, services designed for children in foster care, services related to the management and maintenance of the home, and appropriate combinations of services designed to meet the special needs of children.

Expenditures for administration (including planning and evaluation) and personnel training directly related to the provision of services are also eligible for reimbursement

under Title XX. Training expenditures may include both short and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions.

Fifty percent of all payments made to a state for any fiscal year under Title XX must be expended for the provision of services to individuals who are eligible for Title IV aid or supplementary security benefits, or who are eligible for medical assistance under Title XIX of the Social Security Act. In addition, each state must provide at least one service for each of the five goals, and must provide three types of services for recipients of supplemental security income.

Title XX prohibits reimbursement for the following: (1) medical or remedial care, unless it is an integral but subordinate part of an allowable service and is not covered by Medicaid; (2) purchase, construction, or major modification of facilities or fixed equipment; or (3) educational services which the state makes generally available to its residents without cost and regard to income.

Title XX allows each state to define its own standards of eligibility, but provides that the state may not include any person who is a member of a family with a gross monthly income which exceeds 115 percent of the median income for

a family of four in that state, adjusted for family size.

Fees must be charged anyone with a gross monthly income above 80 percent of the state median family income or 100 percent of the national median family income (whichever is lower). Title XX provided that the Secretary of the Department of Health Education and Welfare should establish regulations for fees to be imposed on individuals with incomes below the 80 percent level. These regulations (Dep't of HEW, 1975a) allow the imposition of such a fee as long as the fee schedule meets the following criteria:

1. Fees may be different for different services.
2. Fees shall be reasonably related to income.
3. Fees shall not exceed the cost of the services.

4. Methods for the collection of the fees shall be provided for, and, if a fee for any individual eligible for income maintenance is imposed, it shall be the same as the fee imposed on an individual whose eligibility is based on income and whose family has the same monthly gross income.

Donated funds may be used for the state's 25 percent share of the program costs. However, they must be in cash (not in-kind) if provided by a private entity, and must be donated to the state without restrictions. The type of service and geographic area can be specified but only if the donor is not a sponsor or operator of programs to

provide those services. The funds may revert to the donor only if the donor is a non-profit organization.

Chapter 4

THE FEDERAL DAY CARE REQUIREMENTS CONTROVERSY

Title XX provided that no payment be made with respect to day care services unless certain federal standards were met. All care provided outside a child's home, according to Title XX, was required to meet the Federal Interagency Day Care Requirements of 1968, with the following exceptions:

1. The requirements for educational services were to be recommended but not required.

2. The Secretary of HEW was instructed to write staffing standards for the care of children under age 3 since none had been provided in the Federal Interagency Day Care Requirements.

3. The Secretary of HEW was given the authority to revise the Federal Interagency Day Care Requirements staffing standards for the center care of school-age children, up to one adult per 15 school-age children under age 10, and one adult per 20 children between the ages of 10 and 14.

Title XX also specified that the Secretary of HEW should submit to Congress, prior to July 1, 1977, an evaluation

of the appropriateness of these requirements, together with any modifications.

Proposed regulations for the administration of Title XX, submitted by the Secretary of HEW, (Dep't of HEW, 1975b) provided for the following staffing standards for children under age 3 in day care centers or group day care homes:

ages 0 - 6 weeks: one adult per each child

ages 6 weeks - 18 months: one adult per 3 children

ages 18 months - 3 years: one adult per 4 children

A great amount of concern was expressed over the expense involved in meeting these new and more stringent staffing requirements in day care centers. As a result, in the final Title XX regulations (Dep't of HEW, 1975a) the ratios were changed to one adult per four children ages 6 weeks through 4 years. Table 1 outlines the staffing standards prescribed in each document.

Family day care home standards were also included in the regulations. Under the proposed regulations, a family day care home serving children from infancy to age 6 could care for no more than two children under age 3, and no more than five children under age 14, including the provider's own children under 14. The final regulations, however,

Table 1

A Comparison of Adult/Child Ratios for Day Care Centers

	Federal Inter- agency Require- ments (FIDCR)	Title XX	Proposed Title XX Regula- tions	Final Title XX Regula- tions
0-6 weeks	n.i.	n.i.	1/1	n.i.
6 weeks - 18 months	n.i.	n.i.	1/3	1/4
18 months -36 mo.	n.i.	n.i.	1/4	1/4
3 - 4 years	1/5	see FIDCR	see Title XX	see Title XX
4 - 6 years	1/7	see FIDCR	see Title XX	see Title XX
6 - 10 years	1/10	1/15	1/15	1/15
10-14 years	1/10	1/20	1/20	1/20
n.i. = not included				

returned to the existing Federal Interagency Day Care Requirements which allow for no more than two children under the age of 2, and no more than five in total, including the provider's own children.

These new day care standards for centers and family day care homes were to go into effect October 1, 1975. However, the controversy over the new standards continued as many programs still felt they could not meet the new standards without additional funding, which had not been provided for in the Title XX legislation. As a result, a series of bills was introduced into Congress, in an attempt to help centers remain in operation and to remain eligible for federal funds.

The first of this series of legislation was passed by Congress in October of 1975 (P.L. 94-120, 1975), and became Public Law 94-120. This new law suspended the Title XX staffing standards until February 1, 1976, and provided that reimbursement for day care services for preschool children could continue until then, without regard to the new standards, as long as the standards being applied:

"1. comply with applicable state law (as in effect at the time the services are provided),

"2. are no lower than the corresponding staffing standards which were imposed or required by applicable state law on September 15, 1975, and

"3. are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975" (P.L. 94-120, 1975, p. 609).

In the fall of 1975, Congress passed additional legislation (H.R. 9803), which would have:

"1. postponed further the effective date of the pre-school staffing requirements until July 1, 1976,

"2. provided an additional \$125 million in federal funding for child care through September 30, 1976,

"3. permitted the states to make grants to child care providers for the hiring of welfare recipients,

"4. increased the federal matching rate for child care expenditures from 75 to 80 percent (applicable only to the additional \$125 million provided by the bill), and

"5. extended the welfare recipient tax credit provision for child care jobs from July 1, 1976 until October 1, 1976" (Senate Report No. 94-857, 1976, p. 2132).

This legislation was vetoed by the President, however, and the veto was sustained by the Senate.

X In the fall of 1976, Public Law 94-401 was enacted (P.L. 94-401, 1976). This new legislation was quite similar to H.R. 9803 which had been vetoed a year earlier. It provided that the suspension of the staffing standards for preschool children in day care centers be extended from February 1, 1976 (as provided in P.L. 94-120) until October 1, 1977. Congress hoped that by then, the Secretary of HEW would have completed his report on the appropriateness of the Title XX standards which they had requested be submitted to them prior to June 30, 1977.

P.L. 94-401 also provided for \$375 million in additional child care funding (\$125 million for the remaining part of fiscal year 1976, and \$250 million for fiscal year 1977) to help day care centers meet the new standards imposed under Title XX. Special provisions were included to permit these funds (commonly referred to as "Mondale money") to be used (in combination with tax credit provisions) to provide full federal funding for the cost of employing welfare recipients in child care jobs. In addition, reimbursement for administrative costs related to the provision of child day care services during the fiscal year ending September 30, 1977, was increased from 75 to 100 percent.

P.L. 94-401 also gave state agencies the authority to waive staffing standards for a day care center or group home

as long as not more than 20 percent of the children in the facility had some or all of the costs of day care services paid under Title XX. Such a waiver was to be granted only if the facility met state licensing requirements and "if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such [Title XX] standards"(P.L. 94-401, 1976, p. 1218).

This new law also provided that children of a family day care provider need be included in determining the number of children being cared for only if under the age of 6, instead of 14 as provided in the Federal Interagency Day Care Requirements.

In June, 1977, Congress deferred, through Public Law 95-59, until April 1, 1978, the date by which the Secretary of HEW was required to submit his report on the appropriateness of the Title XX child care standards. A final resolution to the controversy was thus further delayed. In response to this delay, the provisions of P.L. 94-401, which were to expire October 1, 1977, were extended until February 1, 1978, by the passage of P.L. 95-171 in November, 1977 (P.L. 95-1717, 1977). The Title XX staffing standards for preschool children thus remained suspended as long as the states continued to meet 1975 state licensing requirements. In addition, the supplemental money for child care originally authorized by

P.L. 94-401 was extended for the four month period from October, 1977 through January, 1978.

The funding of child care, including the incentives for hiring welfare recipients was later extended through fiscal year 1979 by P.L. 95-600 (P.L. 95-600, 1978). This new legislation raised the national ceiling for the funding of social services under the Social Security Act from the original \$2.5 billion limit set in 1972, to \$2.7 billion, only for fiscal year 1979. The extra \$200 million was designated for child care services with no state matching requirement for fiscal year 1979. The \$215 billion ceiling is to become effective again for all fiscal years after 1979 under the provisions of this legislation.

The federal staffing standards remain suspended for the fiscal 1979 year. It is hoped that the issues involved in the controversy over these standards will finally be resolved through the revision of the 1968 Federal Interagency Day Care Requirements. This revision process is currently in progress, and it was hoped that it would be completed prior to the beginning of the new fiscal year on October 1, 1979. Congressional approval of the new regulations will be required.

Chapter 5

STATE PLANNING

Section 2004 of Title XX provides that, in order for a state to receive reimbursement for social services according to its provision, each state must publish an annual comprehensive service plan which is to include the following:

1. Objectives to be achieved under the program.
2. Services to be provided, including a definition and a description of their relationship to the objectives to be achieved under the program and the goals described in Title XX.
3. Categories of individuals to whom those services are to be provided.
4. Geographic areas in which those services are to be provided, and the nature and amount of services to be provided in each area.
5. A description of the planning, evaluation, and reporting activities to be carried out under the program.
6. The sources of the resources to be used to carry out the program.
7. A description of how the provision of services under the program will be coordinated with other programs

for the provision of related human services within the state.

9. Estimated expenditures under the program.

10. A description of the steps taken to assure that the needs of all residents and all geographic areas in the state were taken into account in the development of the plan. (P.L. 93-647, 1974).

Section 2004 goes on to provide that this plan must be published and made generally available at least 90 days prior to the beginning of the state's services program year (which may be either the federal or state fiscal year). Public comment on the proposed plan must be accepted for at least 45 days. Following this 45 day period and prior to the beginning of the program year, a final comprehensive annual services program plan must be published. The final plan must set forth the same information as in the proposed plan, together with an explanation of the differences between the proposed and final plans, and the reasons for any such differences.

When the first proposed state plan were reviewed by HEW in 1975, 40 states were found to be in violation of the federal law and HEW regulations. The two most frequently violated rules according to the September 1975 issue of Voice for Children, were the access that citizens had to the full state plans, and the lack of a within state geographic area expenditure projection.

The states which were found to have errors in their

plans were required to make necessary changes and publish those changes in the same newspapers in which the summary of the plan originally appeared, and to allow another 45 day comment period beginning on the day on which the changes were published.

Title XX (section 2003) provides that the chief executive officer of each state should designate an appropriate agency to administer or supervise the administration of Title XX. Kansas Governor Robert F. Bennett designated the State Department of Social and Rehabilitation Services as the administering agency in Kansas on February 10, 1975. State planning in Kansas is therefore the responsibility of the Department of Social and Rehabilitation Services.

The development of the state plan in Kansas follows the planning-budgeting-legislative cycle shown in Table 2.

The first stage of the planning cycle is the assessment of needs. Input is received from public and private agencies, individuals and groups, Social and Rehabilitation Services staff and other state agency staff members. Two statewide hearings are held in Topeka each year, and public hearings are held in each of the 17 SRS management areas throughout the state. A notice of the hearings and a summary of the plan are published in the newspaper of widest circulation in the state. Invitations to local hearings are published in the local newspaper of each community.

Table 2

THE PLANNING-BUDGETING-LEGISLATIVE CYCLE *

1. March - July
 - A. Public meetings provide information on service needs.
 - B. Needs assessment studies and evaluation are summarized.
 - C. Various departmental staff prepare proposals for new service delivery methods and new service programs under Title XX.
 - D. The departmental budget request will be prepared. This includes any revisions in the budget for the current fiscal year and an initial request for the fiscal year starting the next July.
 - E. Goals and objectives received from the seventeen area offices.
2. August - December
 - A. Departmental budget requests are reviewed by the state budget director and the governor's office.
 - B. Governor's budget is prepared.
3. January - April
 - A. Governor's budget message to the legislature (available to the public).
 - B. Departmental administrators testify before various legislative committees.
 - C. Additional studies and information are supplied to legislature.
 - D. Appropriations laws are enacted which provide funds for next fiscal year as well as revisions for current fiscal year.
 - E. Proposed Title XX service plan is prepared.
4. May - June
 - A. Final Title XX service plan is prepared for next fiscal year.

*Taken from the 1975-1976 Kansas Final Comprehensive Social Services Plan.

On the basis of the needs assessment formed from the input of all interested parties, S.R.S. departmental staff prepare proposals for new service delivery methods and new service programs. These are then reviewed by S.R.S. departmental administrators. The priorities of these administrators are incorporated into the departmental budget request, formalized in the state budget process and reviewed by the governor and legislature. Programs which meet legislative and gubernatorial approval are then incorporated into the Kansas Title XX Comprehensive Social Services Plan.

Chapter 6

A COMPARISON OF THE FIRST AND LATEST KANSAS STATE PLANS

This chapter will look at two state plans: the 1975-1976 (the first state plan under Title XX) and the 1978-1979 state plan (the most recent plan available). The money available, eligibility requirements and provisions for child care services of each plan will be reviewed.

Kansas' first state plan for the 1975-1976 program year covered only the nine-month period of October 1, 1975, to June 30, 1976, because Kansas' fiscal year begins July 1, in contrast to the federal fiscal year which begins October 1.

Kansas received \$27,250,000 as its share of the Title XX money under the allotment system outlined in Title XX. This amount was reduced in the final state plan, however, to show that an estimated one-quarter of the funds had been spent through Titles IVA and VI between June 1, 1975, and September 30, 1975.

Persons eligible to receive social services under the 1975-1976 state plan included all state residents who were:

- (1) recipients of Aid to Families of Dependent Children;
- (2) recipients of Supplemental Security Income; and (3)

income eligibles having an income up to 115 percent of the

median Kansas income. Fees were to be charged anyone with a gross income between 80 and 115 percent of the state median income.

A total of \$8,250,000 was allocated for day care services in the 1975-1976 state plan. Day care was defined as follows:

Direct care and protection for less than twenty-four (24) hours a day; provision of milieu necessary for each individual's optimal development (social, emotional, intellectual, physical); recruitment, development and evaluation of homes and centers. Day care services may also include medical (physical, psychological, social, dental assessment), diagnostic, and remedial care (including speech, occupational, physical and recreational therapies), board, and transportation when it is an integral part of the program services.

(K.S.D.S.R.S., 1975, unpagged)

Day care services were directed toward three objectives in the 1975-1976 state plan. The first of these was the provision of day care to enable parents to obtain employment or training and education leading to future employment. The

goal was to aid 3,500 parents in obtaining economic self-support. The second objective was to provide day care services for 415 mentally retarded individuals to provide skills and learning opportunities aimed at the prevention of dependency and the encouragement of self-sufficiency. The third objective was the purchase of day care services for 1,245 individuals in need of protective care. Table 3 outlines the amounts allocated to each objective for the 1975-1976 program year. Table 4 shows the source of these funds.

Table 3

Kansas Day Care Service Allocations for the
1975-1976 Program Year According to Objective

	Estimated Expenditures
Objective 1 (employment)	\$4,488,740 (purchased) 765,521 (direct)
Objective 2 (skill training)	\$ 332,441 (purchased) 61,736 (direct)
Objective 3 (protective services)	\$2,194,107 (purchased) 407,455 (direct)
TOTAL	\$8,250,000

direct = services provided by SRS

purchased = services provided by outside agencies

Table 4
Source of Funds

Federal	\$6,187,500
State	1,427,250
Local	297,000
<u>Donated</u>	<u>338,250</u>
TOTAL	\$8,250,000

Because the general population of Kansas is presently increasing at a rate greater than the United States as a whole, there was a slight increase in the amount of federal dollars available to Kansas from \$26,587,000 for the program year 1977-1978 to \$26,802,250 for the 1978-1979 program year. In addition, a larger percentage of the federal funds became available for the purchase of services for the 1978-1979 program year, as compared to previous years, because the amount of indirect administrative costs charged to federal Title XX dollars was decreased, while the amount of state funds to administer the program was increased (K.S.D. S.R.S., 1978).

Kansas increased services during the first years of operation under Title XX to the point that all of the federal funds had been matched and allocated for services. Because of rising costs and limited federal funds, it was decided to devote a larger percentage of the Title XX funds

each year to persons having a lower income level (K.S.D. S.R.S., 1978).

In accordance with this policy, the income eligibility level has been lowered for the 1978-1979 program year from the 115 percent of state median income used for the first program year (1975-1976) to 80 percent of the state median income in the third program year. In addition, the 1978-1979 plan provides that a fee be charged all families in need of day care services whose gross monthly income is 56 through 80 percent of the state median income. Fee ranges are based on family size and range from \$0 to \$86 per month (see Table 5). In the first plan, fees were not charged anyone under the 80 percent level.

The 1978-1979 state plan further restricts eligibility by providing that:

Persons are not necessarily eligible to receive a service listed in this state Title XX service plan just because they are financially eligible. There must be an identifiable personal need for the service(s) which is based upon one of the five national goals.

(K.S.D.S.R.S., 1978, p. 2)

The plan goes on to state that services will not normally be authorized if:

Table 5

DAY CARE FOR CHILDREN

FEE SCHEDULE **

Fiscal Year 1979

Page 1 of 2
For the period July 1, 1978,
through June 30, 1979

To be applied to services for income eligibles. Not to be used for current ADC recipients or current SSI recipients. A mandatory fee is charged income eligibles based on income and family size. A mandatory fee is not charged for protective services for children and adults, and information and referral.

1 Person				2 Persons				3 Persons				4 Persons				5 Persons			
Gross Monthly Income		Less Than		Gross Monthly Income		Less Than		Gross Monthly Income		Less Than		Gross Monthly Income		Less Than		Gross Monthly Income		Less Than	
At Least	Fee	At Least	Fee	At Least	Fee	At Least	Fee	At Least	Fee	At Least	Fee	At Least	Fee	At Least	Fee	At Least	Fee	At Least	Fee
\$ 0	\$400	\$ 0	\$ 0	\$ 0	\$534	\$ 0	\$ 0	\$ 0	\$660	\$ 0	\$ 0	\$ 0	\$705	\$ 0	\$ 0	\$ 0	\$911	\$ 0	\$ 0
408	416	3	3	534	543	3	3	660	672	3	3	705	719	3	3	911	927	3	3
416	423	3	3	543	553	3	3	672	683	3	3	719	731	3	3	927	944	3	3
423	430	3	3	553	562	3	3	683	695	3	3	731	743	3	3	944	960	4	4
430	438	3	3	562	572	3	3	695	707	4	4	743	755	4	4	960	977	4	4
438	445	3	3	572	582	4	4	707	719	6	6	755	766	6	6	977	993	5	5
445	453	4	4	582	591	6	6	719	731	7	7	766	778	7	7	993	1009	6	6
453	460	5	5	591	601	7	7	731	743	8	8	778	790	8	8	1009	1026	7	7
460	467	6	6	601	611	8	8	743	755	10	10	790	802	10	10	1026	1042	8	8
467	475	7	7	611	620	10	10	755	766	12	12	802	814	12	12	1042	1058	9	9
475	482	8	8	620	630	11	11	766	778	14	14	814	825	14	14	1058	1074	10	10
482	489	10	10	630	639	13	13	778	790	16	16	825	837	16	16	1074	1091	11	11
489	496	11	11	639	649	14	14	790	802	18	18	837	849	18	18	1091	1107	12	12
496	504	12	12	649	658	16	16	802	814	20	20	849	861	20	20	1107	1123	13	13
504	511	14	14	658	668	18	18	814	825	22	22	861	872	22	22	1123	1140	14	14
511	518	15	15	668	677	20	20	825	837	25	25	872	884	25	25	1140	1156	15	15
518	526	17	17	677	687	22	22	837	849	27	27	884	896	27	27	1156	1172	16	16
526	533	18	18	687	696	24	24	849	861	30	30	896	908	30	30	1172	1188	17	17
533	540	20	20	696	706	26	26	861	872	33	33	908	920	33	33	1188	1205	18	18
540	548	22	22	706	716	29	29	872	884	36	36	920	931	36	36	1205	1221	19	19
548	555	24	24	716	725	31	31	884	896	38	38	931	943	38	38	1221	1237	20	20
555	562	26	26	725	735	34	34	896	908	42	42	943	955	42	42	1237	1254	21	21
562	569	28	28	735	744	36	36	908	920	45	45	955	966	45	45	1254	1270	22	22
569	577	30	30	744	754	39	39	920	931	48	48	966	977	48	48	1270	1286	23	23
577	584	32	32	754	763	42	42	931	943	51	51	977	988	51	51	1286	1302	24	24

DAY CARE FOR CHILDREN

FEE SCHEDULE

Fiscal Year 1979

Page 2 of 2
For the period July 1, 1978,
through June 30, 1979

To be applied to services for income eligible. Not to be used for current ABC recipients or current SST recipients. A mandatory fee is charged income eligible based on income and family size. A mandatory fee is not charged for protective services for children and adults, and information and referral.

6 Persons			7 Persons			8 Persons			9 Persons*		
Gross Monthly Income	At Least	Less Than	Gross Monthly Income	At Least	Less Than	Gross Monthly Income	At Least	Less Than	Gross Monthly Income	At Least	Less Than
\$ 0	\$ 0	\$ 1037	\$ 0	\$ 0	\$ 1061	\$ 0	\$ 0	\$ 1084	\$ 0	\$ 0	\$ 1108
1037	1037	1055	1061	1061	1080	1084	1084	1104	1108	1108	1128
1055	1055	1074	1080	1080	1099	1104	1104	1123	1128	1128	1147
1074	1074	1092	1099	1099	1118	1123	1123	1142	1147	1147	1167
1092	1092	1111	1118	1118	1137	1142	1142	1162	1167	1167	1187
1111	1111	1130	1137	1137	1155	1162	1162	1181	1187	1187	1207
1130	1130	1148	1155	1155	1174	1181	1181	1200	1207	1207	1226
1148	1148	1167	1174	1174	1193	1200	1200	1220	1226	1226	1246
1167	1167	1185	1193	1193	1212	1219	1219	1239	1246	1246	1266
1185	1185	1204	1212	1212	1231	1239	1239	1259	1266	1266	1286
1204	1204	1222	1222	1222	1250	1259	1259	1278	1286	1286	1306
1222	1222	1241	1241	1241	1269	1278	1278	1297	1306	1306	1325
1241	1241	1259	1259	1259	1288	1297	1297	1317	1325	1325	1345
1259	1259	1278	1278	1278	1307	1317	1317	1336	1345	1345	1365
1278	1278	1296	1296	1296	1326	1336	1336	1355	1365	1365	1385
1296	1296	1315	1315	1315	1345	1355	1355	1375	1385	1385	1405
1315	1315	1333	1333	1333	1364	1375	1375	1394	1405	1405	1424
1333	1333	1352	1352	1352	1383	1394	1394	1414	1424	1424	1444
1352	1352	1370	1370	1370	1402	1414	1414	1433	1444	1444	1464
1370	1370	1389	1389	1389	1421	1433	1433	1452	1464	1464	1484
1389	1389	1408	1408	1408	1440	1452	1452	1472	1484	1484	1504
1408	1408	1426	1426	1426	1459	1472	1472	1491	1504	1504	1523
1426	1426	1445	1445	1445	1478	1491	1491	1510	1523	1523	1543
1445	1445	1463	1463	1463	1497	1510	1510	1530	1543	1543	1563
1463	1463	1482	1482	1482	1516	1530	1530	1549	1563	1563	1583

*A family size of nine is based on 141 percent of the median income of a family of four. For each additional family member above nine persons, add three percentage points to the percentage for a family of nine.

**Taken from 1978-1979 Kansas State Plan

"1. The potential client is able to perform or provide identified service needs for himself or herself.

"2. The potential client has family members, or caretakers, who will provide identified service needs of the client at no cost to the potential client or the local social service unit.

"3. The potential client has other relatives, friends or other interested individuals who will provide identified service needs of the client at no cost to the potential client or the local social service unit.

"4. The potential client is residing in an institutional setting.

"5. The potential client does not meet the financial eligibility established by the state.

"6. The potential client does not meet other requirements specified in state policies governing each defined service."

(K.S.D.S.R.S., 1978, p.4)

The 1978-1979 Kansas state plan lists day care services for children whose parents have an employment related goal as one of five priority services to be provided under Title XX. The service definition has been expanded to indicate precisely what may be included:

Protection, supervision, guidance and activities (in behalf of children and adults) which are necessary for each individual's optimal social, emotional, intellectual and physical development, provided for periods of less than 24 hours per day, in licensed, certified or approved facilities.

Day care facilities shall provide the following services as an integral part of the facility's service program: a) socialization services; and b) transportation services, i.e., unusual/periodic/unscheduled/emergency.

Day care facilities may provide the following additional services as an integral part of the facility's service program: a) counseling services; b) behavior and personal adjustment services; c) learning experiences in health maintenance, management of home, money, leisure time, use of bus, taxi, and other forms of transportation; d) mobility and communication training; e) meals; f) transportation to and from the facility;

g) speech therapy; and h) occupational, psychological and physical evaluations and therapy when not available through Title XIX.

Day care facilities for children (persons under 16 years) may provide the following additional services as an integral part of the facility's service program: a) medical services (physical, psychological, social, dental assessment); b) diagnostic and remedial care including speech, occupational, physical and recreational therapies.

(K.S.D.S.R.S., 1978, pp. 27-28)

A total of \$7,904,613 (excluding the supplemental child care funding) was allocated for day care services for the 1978-1979 program year. In addition to the three objectives outlined in the 1975-1976 state plan (employment related, skills training, and protective services) a fourth objective, the prevention or reduction of inappropriate institutional care has been added in the 1978-1979 plan. Instead of listing direct services such as case management and counseling under each objective, these allocations are listed separately in the 1978-1979 plan. Table 6 shows the amounts allocated for day care services under

each objective, and Table 7 shows the source of these funds.

Table 6

Kansas Day Care Service Allocations for the
1978-1979 Program Year According to Objective

	Estimated Expenditures
Objective 1 (employment)	\$4,713,487
Objective 2 (skill training)	\$ 509,563
Objective 3 (protective services)	\$ 828,040
Objective 4 (prevention or reduction of in- appropriate in- stitutional care)	\$ 318,447
Direct services	\$1,535,076
TOTAL	\$7,904,613

Table 7

Source of Funds

Federal	\$5,928,460
State	1,560,263
Local	357,665
<u>Donated</u>	<u>58,225</u>
TOTAL	\$7,904,613

Supplemental child care funding under P.L. 95-171 and P.L. 95-600 ("Mondale money") was also available to Kansas for the 1978-1979 program year. The state plan therefore outlines expenditures for this money for the period of July 1 through September 30 (the end of the federal fiscal year), as authorized by P.L. 95-171, as well as proposed expenditures for the remaining portions of the Kansas fiscal year (October 1 to June 30) if the allotment was extended by Congress for another federal fiscal year (as it was by P.L. 95-600).

The day care allotment funds in Kansas for the 1978-1979 program year are directed to three primary goals. The first of these was the purchase of day care services for children of Title XX eligible families "to enable parent(s) to secure employment, education or training; to enable young children with special needs to achieve self-sufficiency; and to prevent or remedy the neglect, abuse, or exploitation of children" (K.S.D.S.R.S., 1978, p. 11).

The second goal of the day care allotment funds was the granting of funds to child care centers and associations to employ welfare recipients to improve staff-child ratios to meet Title XX standards.

The third goal was the support of "staff activities in direct support of child day care services, such as licensing, monitoring, and training staff in facilities used by Title XX

eligible children" (K.S.D.S.R.S., 1978, p. 11).

Table 8 shows the amounts allocated for each goal.
No matching funds were required.

Table 8
Use of Day Care Allotment Funds
for the 1978-1979 Program Year

	7-01-78 thru 9-30-78	10-01-78 thru 6-30-79	Total
Purchase of day care services	\$435,175	\$1,316,500	\$1,751,675
Funds for the employ- ment of welfare recipients	\$ 65,000	\$ 200,000	\$ 265,000
Staff activities	\$ 36,825	\$ 94,500	\$ 131,325
Total	\$537,000	\$1,611,000	\$2,148,000

Chapter 7

Gaining Access to Title XX Funds

In order for a child care center or a family day care home to receive Title XX monies for their services, they must go through a three-step process. This process includes: (1) licensing by the state; (2) certification; and (3) negotiation of a purchase of services contract with Social and Rehabilitation Services. Each of these steps will be examined in turn in this chapter.

Title XX (section 2003) provides that, if a state program includes day care services, then the state must provide for the establishment or designation of a state authority which will be responsible for establishing and maintaining standards for such services. These standards must be reasonably in accord with recommended standards of national organizations concerned with standards for such services, including standards related to admission policies, sanitation, and the protection of civil rights (P.L. 93-647, 1974).

In Kansas, the Bureau of Maternal and Child Health of the Kansas Department of Health and Environment is responsible for the licensing and supervision of child care facilities. State law requires any facility or home offering

child care services be so licensed.

Three types of license are available in Kansas. The first is a foster home license for homes providing 24-hour care. The second is a family day care home license which allows a provider to keep a small number of children in his or her home for less than 24 hours. A child care center license is needed by any program providing care for seven or more children. Separate regulations exist for each type of license. All deal with health and safety factors, the number of children who can be enrolled, records that must be kept and minimal qualifications for providers.

The first step in obtaining a state license is the filing of an application on Kansas Department of Health and Environment forms. Upon receipt of the application, the Department of Health and Environment requests that a public health nurse evaluate the facility for compliance with licensing regulations in the areas of health, safety and nutrition. In the past, in addition to approval from the Department of Health and Environment, a local social service worker was asked to evaluate the home or center and the approval of the Department of Social and Rehabilitation Services was required for obtaining either a center or home license. However, recent changes (spring, 1979) in the licensing of day care homes require that the Department of Social and

Rehabilitation Services become involved only if requested by the Department of Health and Environment.

Licenses are granted for one year. The maximum number and age range of children that may be cared for at any one time are specified on each license.

Certification is the process by which centers and homes wishing to receive purchase of care reimbursement for their services under Title XX are evaluated by the State Department of Social and Rehabilitation Services for compliance with the federal day care standards. State licensing is required for certification. A home or center may, however, be licensed but not certified if they do not wish to receive federal funds.

A home or center that has been licensed and certified is eligible to enter into a purchase of services contract with S.R.S., the purchasing agent in Kansas. The Title XX Regulations provide that a state agency may purchase services from another agency, individual or organization, only when the state agency has a written contract with the agency, individual or organization from which services are purchased. According to these regulations, this contract must:

1. Include all terms of the contract in one instrument, be dated, and be executed by authorized representatives of all parties to the contract prior to the date of implement-

ation.

2. Have a definite effective and termination date.
3. Contain a detailed description of the services to be provided and of the methods, including subcontracting, to be used in carrying out its obligations under the contract.
4. Describe eligibility criteria used if determined by the provider.
5. Determine rate of payment.
6. Specify the method and source of payment to the provider, including the collection and disposition of fees, if applicable.
7. Include a statement that the provider meets applicable state or federal standards.
8. Specify the location of facilities to be used in providing services.
9. Provide for informing individuals of the right to a fair hearing when the provider determines eligibility criteria.
10. Provide that the provider will comply with the requirements of the Civil Rights Act of 1964, and for the safeguarding of information.
11. Provide that any subcontracts be subject to these same requirements and that the provider is responsible for

the performance of any subcontractor.

12. Specify requirements for fiscal and program responsibility, billing, records, controls, reports and monitoring procedures.

13. Provide for access to financial and other records pertaining to the program by state and federal officials (Dep't of HEW, 1975a).

The Kansas Department of Social and Rehabilitation Services has purchase of service agreements with 686 family day care homes and 220 child care centers for the 1978-1979 program year, providing child care services for 5,652 children. Services for 1,953 of the total number of children are funded through the day care allotment money which is not provided for fiscal year 1980 at this time.

Chapter 8

CONCLUSION

Federal funding of social services has long been a source of controversy. Title XX has been no exception. The federal day care regulations applicable to all programs receiving Title XX funds in particular have been the target of controversy for the five-year period since Title XX became law. Many protested that money was not available to allow day care programs to meet these new and more stringent requirements. In response to these protests, Congress passed a series of temporary measures suspending the federal staffing standards for center programs and providing additional funding to help programs meet the new standards in the future.

The future of the Title XX regulations remains indefinite. The temporary provisions for the delay of the staffing standards and the additional day care funding will expire at the end of the 1979 fiscal year, unless once again extended. It is hoped that the revision of the Federal Interagency Day Care Requirements, which is currently in progress, will once and for all end the standards controversy. Congressional approval of the new standards will be required.

Title XX is an important source of child care funding in Kansas. The Department of Social and Rehabilitation Services (S.R.S.) is responsible for state planning and the purchasing of services in Kansas. A comparison of the first (1975-1976) and most recent (1978-1979) state plans shows an increase in funding for child care services due to the temporary provision of day care allotment funding (commonly referred to as "Mondale money") and increased restrictiveness in the eligibility requirements for all social services in the state.

In order to gain access to Title XX funds, a child care program in Kansas must obtain a state license, certification and a purchase of service agreement with S.R.S. Two hundred and twenty day care centers and 686 family day care homes have purchase of service agreements with S.R.S. for the 1978-1979 program year in Kansas.

Whatever decisions are made at the federal level concerning day care standards and funding will directly affect day care programs and children receiving day care services in Kansas. Continuous monitoring of Title XX related legislation will therefore be important for all concerned with child care services in Kansas.

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FEDERAL TITLE XX LEGISLATION AND
CHILD CARE FUNDING IN KANSAS

by

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AN ABSTRACT OF A MASTER'S REPORT

submitted in partial fulfillment of the

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MASTER OF SCIENCE

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1979

ABSTRACT

This report is concerned with Title XX funding of child care, and how these funds are being used in the state of Kansas. A historical review of the federal funding of social services, is followed by a description of the Title XX law and regulations as related to the funding of child care services. A review of the child care standards promulgated by Title XX and subsequent Title XX legislation is presented. The utilization of Title XX monies for child care services in Kansas is then examined, including a description of the state planning process and the procedure through which a child care program gains access to these monies.