Testimony of

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Good morning. I am Stephanie Gendell, the Associate Executive Director for Policy and Public Affairs at Citizens' Committee for Children of New York, Inc. (CCC). CCC is a 68-year old independent child advocacy organization dedicated to ensuring that every child in New York is healthy, housed, educated and safe.

I would like to thank Assembly member Paulin and all of the members of the Children and Families Committee for holding today's hearing to examine child welfare financing funding streams and programs in order to inform reauthorization discussions in the upcoming State Fiscal Year 2012-2013 budget negotiations. This hearing is very timely and CCC appreciates the Committee's interest in gathering information from stakeholders regarding how we can improve the use of child welfare funds and most effectively meet the needs of New York's children and families at risk or in need of services. CCC has been participating in a recently-formed workgroup on child welfare finance reform and has a long history of working on this critical issue.

The current child welfare financing scheme is comprised of four main components: 1) open-ended state reimbursement for protective, preventive, independent living and adoption administration services; 2) a capped foster care block grant that also provides funding for private juvenile justice placements and kinship guardianship subsidies (KinGAP); 3) open-ended state reimbursement of the non-federal share for adoption subsidies; and 4) a currently unfunded Quality Enhancement Fund.

Given these difficult budget times, it is more important than ever that the cost-effective services that keep children safe and strengthen families, thereby preventing more costly foster care and juvenile justice placements, remain supported. In addition, the state has a responsibility to provide for the children in its care- those children for whom the state and its counties have determined that they are better-equipped to care for than the children's parents.

Three key principles must guide our efforts and discussions around child welfare financing:

1) <u>Prevention:</u> The most effective child welfare system is one that prevents child abuse, neglect and foster care.
2) <u>Accountability:</u> The state and counties have a responsibility to keep children safe and provide quality foster care when it is not safe for the children to remain in their homes.
3) <u>Innovation:</u> New York's child welfare financing structure needs to be flexible enough that the state and counties are able to develop innovative approaches that could better meet the needs of children and families.

In addition, as we address child welfare financing, we need to be mindful that the children touched by the child welfare system are also touched by many other systems, some of which are also under-going reform efforts. CCC believes advocates and elected and appointed officials and their staff should understand how these systems interact and consider them within the context of child welfare financing reauthorization. Specifically, Medicaid Redesign, the development of Behavioral Health Organizations (BHOs), reforms to juvenile justice (already financed in part by child welfare funds) and CSE placements should also be considered as the child welfare financing structure is reauthorized.

New York State's Current Child Welfare Financing Model

The backbone of the current child welfare financing structure is open-ended state reimbursement for the services the state wants to incentivize and a capped block grant for those services the state wants to reduce county reliance on. Thus, the state provides open-ended reimbursement for services that keep children safe, prevent foster care, and signify permanency (i.e. adoption subsidy). Alternatively, there is a block grant for foster care, which also funds private juvenile justice placements.[1] This financing structure, in place since 2002, has corresponded with a dramatic decrease in foster care both statewide and in New York City even though there has been a significant increase in child abuse and neglect reports. In addition, there has been a significant expansion of preventive services both in New York City and statewide. CCC believes that the general framework for child welfare financing in New York has benefited countless children and families and that much of the current funding structures should remain in place. We recommend some rejiggering of the financing structure to further enhance access to preventive services and post-permanency services, strengthen accountability, incentivize innovation, and improve coordination with other systems and reform efforts.

A) Uncapped Reimbursement for Preventive, Protective, Independent Living Services

Once a county meets its maintenance of effort requirement (MOE) and federal funds are exhausted, the county can access unlimited, open-ended matching funds for preventive, protective, independent living and adoption administration services. Through this child welfare funding stream, the state has been a valuable partner for counties working to reduce their reliance on foster care while keeping children safe through the use of preventive services. This funding stream has also enabled counties, such as New York City, to increase their front line investigative staff when the number of SCR reports needing to be investigated increased.

CCC believes that the extraordinary decrease in the state's reliance on foster care has resulted from the counties' ability to access funding needed to develop a wide array of preventive services that have enabled countless children to avoid the trauma of foster care and safely remain at home with their families.

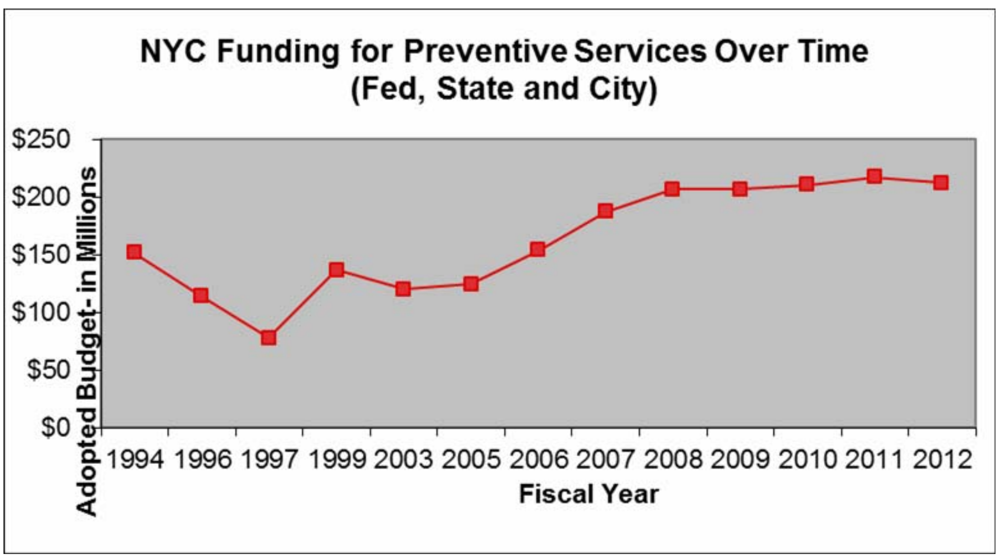
[1] The exception to this fiscal incentive arrangement is New York's new Kinship Guardianship Assistance Program (KinGAP), in which the subsidies for this permanency arrangement are currently funded by the Foster Care Block Grant and not open-ended reimbursement. The New York State Legislature amended the Governor's proposal such that KinGAP is funded by the Foster Care Block Grant during the current fiscal year only and future funding will be determined when child welfare financing is reauthorized this fiscal year.

Currently, New York State Social Service Law Section 153-k provides for a 65% state reimbursement rate; however, several years of budget cuts have reduced the level of state support for these invaluable services, leaving state reimbursement for Fiscal Year 2010-2011 down to 62%.

Prior to 1995, the state/local match for preventive services was 75% state/25% local. In 1995, New York State created the Family and Children's Services Block Grant, which collapsed funding for protective, preventive and foster care services into a single block grant, and then reduced state funding by 26%, or $151 million, $131 million of which was shouldered by New York City. The establishment of a capped block grant and initial funding decrease led localities, such as New York City, to decrease their expenditures for preventive services in order to ensure that they would have sufficient funds for more costly and mandated foster care. For example, in City Fiscal Year 1996, there was a $38.3 million decrease in city preventive funds for services and then an additional $35.6 million decrease in City Fiscal Year 1997.

In 2002, the state adopted Child Welfare Financing Legislation, which created uncapped 65% state reimbursement to localities for preventive, protective, adoption, and independent living services (after the use of federal funds) and a Foster Care Block Grant, which capped state reimbursement for foster care services. This financing structure greatly expanded state resources for preventive services and led to greater county investments as well. For example, by 2007, New York City's budget for preventive services was more than double what it had been in 1997.

The graph below shows New York City's increased investment in preventive services after the State's 2002 Child Welfare Financing legislation:



More importantly than the investment that can be seen in preventive services, since the creation of the 65/35 (now 62/38) uncapped funding stream in 2002, the number of children in foster care has decreased dramatically. In New York City, the number of children in foster care declined as the number of children receiving preventive services simultaneously increased. In fact, in 2002, when this funding stream was established, for the first time ever more NYC children received preventive services than foster care services.

The numbers are quite dramatic. In 2002, there were over 25,000 NYC children in foster care; today there are almost half as many with 14,459 children in foster care as of June 2011. This trend is similar statewide—in 2002, there were 37,072 children in foster care and by December 2009, there were 24,522 children in care throughout the State.

It is important to note that these trends occurred and continued despite the fact that there had been a dramatic and sustained increase in the number of reports of abuse and neglect and in increased indication rate, following the death of Nixzmary Brown in January 2006. Specifically, there was an almost 30% increase in the number of reports of abuse or neglect in New York City and an increase in the indication rate from approximately 33% to approximately 40%. Thus, more NYC children were found to be abused or neglected; yet, there was not a corresponding increase in foster care placements. CCC believes this is because NYC child protective staff had access to a robust preventive service system that could keep the children safe without removing them from their families, schools and communities. Similarly, according to the state Office of Children and Family Services, there was a 15% increase in the number of abuse and neglect reports from 2000-2009, but the number of children in foster care dropped by 43% (or 18,000 children) during that same time frame.[2]

This history is important to understand and learn from, as we look to make decisions about the future of child welfare financing. The allocations of dollars by counties together with the decreasing number of children in foster care, despite the increase in reports and the higher indication rate, are clear indications of the success of open-ended protective and preventive state reimbursement.

In addition, preventive services are also cost-effective. For example, in New York City, preventive services cost a fraction of the price of foster care with an average annual cost of $10,000 <u>per family</u> for preventive services and an average annual cost $36,000 <u>per child</u> for foster care. These figures do not even begin to calculate the other costs associated with foster care including the costs to other systems such as the family court and the health and mental health systems, nor the incalculable human capital costs created by the trauma of removal and growing up in multiple foster homes. <u>It is imperative that open-ended, uncapped reimbursement must remain the backbone of New York State's child welfare financing structure.</u>

B) The Foster Care Block Grant

Funded at approximately $436 million, the Foster Care Block Grant (FCBG) is intended to fund the state's share for children in out-of-home placements, including foster homes,

[2] Office of Children and Family Services. *The State of Child Welfare in New York: Shaping Things to Come.* http://www.ocfs.state.ny.us/ten_for_2010/OCFS_ChildWelfareFinance_Final.pdf

kinship foster homes, residential foster care placements, and private juvenile justice placements. As of April 2011, the FCBG is also supposed to contribute to the state's share for KinGAP subsidies (even though this is technically a permanency arrangement and not an out-of-home placement).

While the federal government has decided to make foster care an open-ended entitlement (for any child who is Title IV-E eligible), New York State has capped allocations for foster care. Pursuant to current law, New York State pays 50% of the non-federal share of foster care, until a county reaches the limit of their allocation, at which point the county receives no state funding for those additional children/care days. New York City has reported spending approximately $70 million above their allocation this past year, meaning that NYC would have received an additional $35 million from the state if there was true 50/50 reimbursement or a FCBG cap that was high enough to accommodate the City's actual spending needs.

While CCC appreciates the state's efforts to create disincentives for localities to rely on foster care, and for localities to expedite permanency, there are some children and youth who will always be in need of a foster care so that they can be safe and receive the services they and their families need. It is imperative that New York's foster care system have the resources it needs to provide high quality foster care to any child that needs to be removed from his/her home. In fact, the state and its counties have an enormous responsibility to these children for whom they have determined it is necessary to interfere with their parents' rights and subsume temporary or permanent custody of.

The results of having capped foster care block grant allocations appear evident in caseload reduction initiatives. In the past few years, New York City has lowered caseload ratios in both child protective services (down to 10 to 1) and preventive services (down from 15 to 1 to 12 to 1). While the City had to invest resources to accomplish this, the state's 65% (or more recently 62%) reimbursement made this feasible. On the other hand, the City has not implemented caseload reduction initiatives in foster care programs and reportedly foster care caseworkers are carrying very large caseloads. Furthermore, if there was a crisis in the state that created the need for more children to come into foster care, the costs of this would be shouldered solely by the counties and not by the State at all, due to the cap on state reimbursement pursuant to the block grant.

In addition to CCC's concerns about the amount of funding within the Foster Care Block Grant, we are also concerned about its lack of flexibility in terms of rates and payment for care days. While counties that do not use their full block grant allocations are able to use the remainder flexibly, the reality is that the FCBG is insufficiently funded to enable counties to do this. Given that typically the goal is to reduce the number of care days, reimbursement based solely on maintaining children in foster care is counter-intuitive and inhibits county innovations. For example, if the FCBG reimbursements were not based solely on care days, counties could try to use their allocations in ways that expedited permanency (e.g. pay an annual rate for a child that could be used for residential, foster care and after care and would thus incentivize providers to expedite permanency and lower levels of care.) New York City attempted to pilot this type of funding model but the FCBG construction (and federal rules) made the back-end claiming work too costly and complicated.

CCC also believes that the FCBG should be able to be used to reimburse providers for the supervision and services they provide to families on trial discharge. While there is no reimbursement for these families, providers still make home visits, report to the Family Court, and provide the services to enable a successful reunification. The FCBG allocations to counties would also need to be adjusted so that there was a true state share for the trial discharge period.

CCC is also deeply concerned that the KinGAP subsidy is currently funded within the FCBG. While in a one-year period, the fiscal impact is moot since the children receiving the KinGAP subsidy would have otherwise been in foster care receiving a foster care subsidy, in the longer term this will be costly to counties as new children receive the subsidy and the others continue to receive it until they turn 18 or 21 (depending on the age with which the legal guardianship was obtained.)

In addition, CCC is concerned that the Foster Care Block Grant currently funds private juvenile justice placements, but counties have no control or oversight over the services or length of stay, yet have to pay out of the money that is otherwise intended to children in the county's custody (versus the state's). As child welfare and juvenile justice reforms are implemented, these funding streams should also be discussed and addressed to also incentivize prevention (ATDs/ATIs) and shortened lengths of stay.

C) Funding for Permanency

Almost all children who are adopted from New York's foster care system are eligible for an adoption subsidy. The subsidy is typically the same payment level as the foster parent was receiving while the child was in foster care. The goals of adoptions subsidies are to eliminate any fiscal disincentive for a foster parent to adopt and to provide support for hard-to-place and special needs children adopted from foster care.

Historically, the state had reimbursed counties 75% of the non-federal share for adoption subsidies. In the State Fiscal Year 2011-2012 Budget, the state reduced its commitment and support to these children by reducing its reimbursement to 62%. This is a pure cost-shift to counties who will be continuing to pay adoptive parents the same rates. Furthermore, it could have the unintended consequence of reducing the number of adoptions in some cash-strapped counties.

While adoption subsidies still have uncapped reimbursement, this is not the case for kinship guardianship subsidies (KinGAP). As with adoption subsidy, the federal government pays 50% of the subsidy for IV-E eligible children who meet certain federal requirements. Kinship guardianship is a permanency arrangement for children living with relatives who are not going to be reunified or adopted for reasons deemed to be in the child's best interest by both the local social service district and the Family Court. The goal of KinGAP is to provide these children with permanency outside of the foster care system, and enable their relatives to continue to receive a subsidy. KinGAP would theoretically reduce foster care expenses for these children who would have otherwise remained in foster care.

Many advocates (including CCC), providers and counties believe that KinGAP should be funded by the state in the same manner as adoption subsidy, given that it is a permanency arrangement that should be incentivized over foster care. In addition, since almost all counties use their full FCBG allocation, funding the state share of KinGAP subsidies in the FCBG appears to be a pure cost-shift. Notably, the number of children receiving adoption subsidies is starting to decrease because a) the declining foster care census means there are fewer children eligible to be adopted and b) those children who were adopted at the height of the foster care census are beginning to age out of adoption subsidy eligibility (i.e. turn 21). Thus, the state savings on adoption subsidy could be redirected to KinGAP subsidies without increasing the OCFS subsidy budget.

Finally, to truly ensure permanency for children touched by the child welfare system, the state and localities must invest in post-permanency services including after care for children reunified with their families, post-adoption services to children who are adopted and post-KinGAP services to children in subsidized guardianship arrangements. As post-permanency services are in fact preventive services in that they prevent children and youth from re-entering the foster care system, CCC believes they should be funded through the uncapped child welfare services funding stream.

D) Quality Enhancement Fund

The Quality Enhancement Fund (QEF) has historically been administered by the state Office of Children and Family Services to increase the availability and quality of children and family services programs.

The QEF was funded with almost $3.6 million in SFY 2009-2010, and supported programs including a state match for federal adoption grant ($44,000); access to the University of Chicago's Chapin Hall Center for Children Data Center ($60,000); a Court Diversion Initiative with the Center for Family Representation ($218,900), parent advocate training at the Child Welfare Organizing Project ($75,000); mandated reporter training updates and tracking ($250,000); the NYS Partnership for Family Recovery and Practice Guidance Document expansion to Oneida and Dutchess Counties ($50,000); a contract for Performance Based Standards for Youth in Corrections and Detention training ($124,000); youth services through the Ready by 21 Quality Counts Initiative for youth services ($300,000); implementation of the Sanctuary Model in OCFS facilities ($725,000); an evaluation of the Sanctuary Model ($87,000); a disproportionate minority representation project in 6 counties ($240,000); wraparound services to families in the six pilot Differential Response counties ($300,000); the OCFS web site ($125,000); the Vera Institute Educational Neglect study $50,000); the Vera Institute's juvenile justice technical assistance and research support ($626,000); and a culturally sensitive workforce development program that provides scholarships to Latino Social workers who enter the field ($100,000). (CCC does not have this information for SFY10-11.)

CCC's understanding is that historically the payments for initiatives funded by the QEF have been delayed. Thus, even though the State's current Fiscal Year 2011-2012 Budget does not fund the QEF, programs such as those described above, are currently receiving funding that had previously been allocated in a prior fiscal year.

The benefits of the QEF are that it allows the State to be flexible and responsive to needs identified within the child welfare and juvenile justice systems that cannot be addressed through either the open-ended child welfare funding stream or the foster care block grant, both of which require family cases to be opened. While the funded programs and initiatives appear to be valuable to the field, the QEF could be altered so that a portion of the funds could be allocated to counties (either as straight allocations or through a competitive process) to be used for programs and initiatives deemed innovative and needed by the local social service districts. Notably, the QEF, or some sort of Innovation Fund for Child Welfare, should be funded as part of child welfare financing reform.

CCC's Recommendations for Child Welfare Finance Reform

Social Service Law Section 153-k will expire on June 30, 2012, meaning that the upcoming State fiscal year 2012-2013 budget will have to address how child welfare services will be paid for in the future. This provides us with an opportunity to extend the components of financing that are working well, while enhancing or changing other components that could either be improved or could benefit from change due to system's changes that have occurred over time. Below are CCC's recommendations for consideration.

1) **Maintain uncapped state reimbursement for child welfare services (protective, preventive, independent living and adoption administration).**

2) **Restore the state match for child welfare services to its statutory level of 65%.**

3) **Expand county access to child welfare services funding for post-permanency services (after care; post-adoption services and post-KinGAP services).**

4) **Develop a funding stream that enables counties to provide preventive services (through the uncapped child welfare funding stream) without having to open a full preventive services case for the family so that in cases such as PINS or Alternatives to Detention/Incarceration, the program can focus on just the at-risk child and not the siblings when this is appropriate and safe.**

5) **Consider creating an open-ended funding stream (with a mandated local MOE) dedicated to serving youth so as to prevent youth from aging out of foster care and to combat poor outcomes such as becoming disconnected, unemployed, or homeless.**

6) **Fund the Foster Care Block Grant at a level that ensures the state is providing for all children in foster care.**

7) **Consider creating flexibility within the FCBG that enables counties to be innovative in their approach to foster care such that their funding is not entirely based on the number of care days.**

8) **Consider foster care caseworker caseload reduction funds or incentives to lower caseloads.**

9) **Fund KinGAP in the same manner as adoption subsidy (uncapped state match outside the foster care block grant.)**

10) **Restore the state match for adoption subsidy (and thus KinGAP) to 75%.**

11) **Consider combining funding for child welfare and county-administered juvenile justice programs into 3 funding streams and allow county flexibility to use block grant savings:**
    a) Open-ended/uncapped state reimbursement for all services that keep children safe and prevent out-of-home placements (e.g. protective, child welfare preventive, PINS preventive, alternative to detention/incarceration, and perhaps probation services.)
    b) Open-ended/uncapped state reimbursement for permanency subsidies (adoption and KinGAP)
    c) Block grant for out-of-home placements (e.g. foster care, private juvenile justice placements, detention, and any other locally administered juvenile justice system such as non-secure or limited secure should the county control or realignment proposals be approved). Counties could then use any savings from the block grant to enhance services or develop more preventive models for child welfare and juvenile justice populations.

12) **Consider enacting a law that would allow counties to opt-in or opt-out of local control of non-secure and/or limited secure juvenile justice systems so that youth could be served close to home and localities could develop local continuums of care for these young people. County savings could then be reinvested in more preventive programs.**

13) **Consider the creation of an allocation of funds that would support innovative practices at the county level. This funding could be competitive amongst counties (like Race to the Top) or allocations to counties. It would need to include an evaluation component so that in 3-5 years successful models could be brought to scale.**

14) **Be mindful of the impact Medicaid Redesign and the creation of Behavioral Health Organizations (BHOs) will have on the child welfare system, particularly foster children who are not currently in a Medicaid managed**

care plan, but receive Medicaid fee-for-service while their providers receive a per diem. Consider having child welfare financing laws sunset in three years when foster children are possibly going to transition from Medicaid fee for service to Medicaid managed care to ensure that foster care rates, the MSAR and the FCBG are sufficient to meet the needs of foster children after Medicaid Redesign.

15) **Allow foster children to receive free tuition at SUNY/CUNY colleges.**

16) **Pass legislation that increases the number of Family Court Judges in NYC and in New York State so that children are not spending unnecessary time in more-expensive foster care than in permanent families through reunification, adoption or KinGAP.**

17) **Consider revamping the manner in which Committee on Special Education (CSE) placements are paid for in a way that incentivizes school districts to maintain children in their districts, keep children in state and bring children in CSE placements back into their school districts.**

CCC appreciates that this is a challenging budget time and that child welfare financing is particularly complicated. We are very appreciative of this opportunity to testify and that the Committee has taken an interest in considering ways to improve and maximize the funding streams, so as to effectively reach children and families that are at-risk or in need of services. CCC looks forward to working with the Committee, the Governor's Office, OCFS and the Senate on child welfare finance reform. Please feel free to contact CCC at any time during this process if we can be helpful to you.

Thank you for this opportunity to testify.