Child Welfare

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ASFA AND SUBSTANCE ABUSE:UNDERSTANDING THE ISSUES IMPACTING TWO SYSTEMS OF CARE

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INTRODUCTION

The Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89) was passed in response to growing dissatisfaction with the ability of state child welfare systems to achieve the goals of safety, permanency, and well-being. According to the Administration for Children and Families (ACF), ASFA embodies a number of key principles:

- The safety of children is the paramount concern that must guide all child welfare services;
- Foster care is a temporary setting and not a place for children to grow up;
- Permanency planning efforts should begin as soon as a child enters foster care, and should be expedited by the provision of services to families;
- The child welfare system must focus on results and accountability; and
- Innovative approaches are needed to achieve the goals of safety, permanency, and well-being (ACF, 1998).

The four goals of ASFA are: (1) to promote the safety of children first and foremost; (2) to decrease the time it takes to achieve permanency for children; (3) to promote adoption and other permanency options; and (4) to enhance state capacity and accountability for both safety and permanency.

One of the most significant problems facing the child welfare system is parental substance abuse. It is estimated that 80 percent of children in out-of-home placements are there due to parental substance abuse problems (DHHS, 2001). In addition, children whose parents abuse substances are much more likely to be abused and neglected than children of parents who do not abuse substances (Blunt, 2003). The purpose of this update is twofold: (1) to provide social workers employed in the child welfare system a better understanding of the issues relevant to substance abuse treatment and recovery; and (2) to provide substance abuse treatment professionals with information about ASFA and how it may impact the services they provide to clients who are part of the child welfare system.

FREQUENTLY ASKED QUESTIONS ABOUT SUBSTANCE ABUSE TREATMENT AND RECOVERY

Do all individuals who receive substance abuse treatment services meet the diagnostic criteria for substance dependence?

The simple answer is no. There are two broad diagnostic categories for individuals presenting with substance use disorders: (1) dependence or (2) abuse. According to the American Psychiatric Association's (APA) Diagnostic and Statistical Manual of Mental Disorders 4th Edition (DSM-IV, 1994), "The essential feature of substance dependence is a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues use of the substance despite significant substance-related problems. There is a pattern of repeated self-administration that usually results in tolerance, withdrawal, and compulsive drug-taking behavior" (pp.176). In order for an individual to be diagnosed with substance dependence, he or she must meet three (or more) of the seven symptoms described in the DSM-IV in the same 12-month period (APA, 1994).

The APA (1994) defines substance abuse in the following manner: "The essential feature of substance abuse is a maladaptive pattern of substance use manifested by recurrent and significant adverse consequences related to the repeated use of substances. There may

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be repeated failure to fulfill major role obligations, repeated use in situations in which it is physically hazardous, multiple legal problems, and recurrent social and interpersonal problems" (pp. 182). An individual must meet one (or more) of four symptoms, and never meet the criteria for substance dependence in the class of substance, to be diagnosed with substance abuse (APA, 1994).

Should everyone who presents with substance use problems be required to completely abstain from substance use?

Individuals seek, or are referred to, substance abuse treatment services for a variety of reasons. Some individuals desire or need to abstain from substance use completely, while others are looking to reduce certain harmful consequences (e.g., driving while intoxicated, being arrested for possession) associated with substance use. Abstinence is generally an expected outcome of individuals who meet the diagnostic criteria for substance dependence. It should be understood that achieving, and maintaining, abstinence can be a difficult process, and may involve use of substances (relapse) during the treatment and recovery phases. Individuals who meet the diagnostic criteria for substance abuse may not need to abstain from substance use unless that is a goal agreed to by the individual receiving treatment. Temporary or long-term abstinence may be required for some of these individuals, particularly adults involved with the child welfare system wanting to maintain parental rights.

What are realistic goals for individuals receiving substance abuse treatment services?

It is important that treatment goals are appropriate to the diagnoses (dependence versus abuse), and are developed by both the individual receiving services, the treatment professional, and other service providers when such are involved with providing services. An appropriate treatment goal for an individual who meets the diagnostic criteria for substance dependence and experiences a multitude of negative consequences as a result of substance use (e.g., multiple arrests, job loss) will most likely be abstinence from said substance(s). The level of treatment (e.g., inpatient, outpatient, residential) and activities necessary to achieve this goal will vary, and should be based on a thorough assessment. An appropriate treatment goal for an individual diagnosed with substance abuse as demonstrated by legal problems (e.g., arrest for possession) associated with substance use may be the elimination of the substance-related legal problems. Again, the level of treatment may vary from individual to individual, and should be based on a good assessment. The treatment goal for a parent who is diagnosed with substance abuse and lost custody of his or her child due to substance use problems may or may not be abstinence (either temporary or permanent). During the period of participating in treatment, the parent may need to learn parenting skills and harm reduction techniques to help with his or her substance use.

How long should individuals be required to participate in substance abuse treatment services?

The average length of stay in substance abuse treatment varies widely, depending on the type of treatment (e.g., detoxification, outpatient, residential/rehabilitation). According to the Treatment Episode Data Set (TEDS), in 2000 "The median length of stay for persons *completing* treatment ranged from five days for detoxification to 91 days for outpatient treatment" (SAMHSA, pp. 71). However, the average length of stay in all treatment modalities was longer. Furthermore, a variety of studies indicate that longer lengths of stay lead to positive outcomes such as reduction or elimination of substance use and decreased criminal behavior (SAMHSA, 1998; SAMHSA 2000). A recent study has concluded that substance abuse treatment for 15 months in outpatient settings and 18 months in residential facilities yield the greatest reductions in substance use (AScribe Newswire, 2003).

How often do individuals who meet the diagnostic criteria for substance dependence use substances again (relapse)?

It is difficult to quantify this because the research about relapse rates is minimal. The vast majority of outcomes studies to date have not focused on abstinence per se, but have evaluated the overall reduction of negative consequences associated with substance use (e.g., decrease in substance use, decrease of criminal activity, increase in income). Results from the services research outcomes study (SROS) indicate that the percentage of individuals that used substances in the five years after treatment ranged from 59 percent for any illicit drugs to 78 percent for alcohol (SAMHSA, 1998). However, it is unclear whether the individuals in the sample population met the diagnostic criteria for substance dependence. Recent literature indicates that individuals receiving substance abuse treatment relapse within one year at much lower rates than individuals with other chronic and treatable diseases (e.g., asthma, insulin-dependent diabetes) (Join Together, 2002). In short, substance dependence, or the disease of addiction, is a chronic, relapsing condition, and individuals may receive treatment multiple times before they are successful in achieving sustained abstinence (RWJF, 2001).

FREQUENTLY ASKED QUESTIONS ABOUT ASFA

Are there circumstances when reasonable efforts may not be required before removing a child from home or moving to another permanency plan?

ASFA maintains the reasonable efforts requirements to preserve or reunify families that have been established in previous laws. However, there are certain circumstances, referred to as aggravated circumstances, when reasonable efforts may not be required before removing a child from home or another permanency plan. These aggravated circumstances include but are not limited to child abandonment, torture, chronic abuse, sexual abuse, and parental conviction of murder of another child. ASFA gives states the authority to define what constitutes aggravated circumstances, and allows states to add other conditions.

Under what conditions, if any, do states have the option not to pursue termination of parental rights?

According to ASFA, termination of parental rights (TPR) proceedings must be initiated for children who have been in foster care for 15 of the most recent 22 months except under certain conditions. States do have the option not to pursue TPR when any of the three following conditions apply:

- A compelling reason can be demonstrated regarding why it would not be in the best interest of the child to terminate parental rights;
- A relative is caring for the child; or
- Necessary and timely services to a child's family that enable that child a safe return to the home have not been provided by the state.

McCarthy et al. describe certain examples of compelling reasons why it would not be in the best interest of the child to terminate parental rights: a) "adoption is not the appropriate plan for the child;" and b) "there are insufficient grounds for filing such a petition" (McCarthy et al., 1999).

Will parents with substance abuse problems be at risk for premature termination of parental rights under ASFA?

Parents dealing with complicated problems, such as substance abuse, may need more than 12 to 15 months to resolve such issues. Relapse and other issues (e.g., housing, employment) may have an impact on the time required of individuals participating in treatment, extending the length of time in such services beyond the 12 to 15 month time frame. In some communities services may be inadequate, inaccessible, nonexistent, or have long waiting lists, which make it difficult for parents to receive the necessary help to make progress within these timeframes. Often individuals receiving services for alcohol or drug addiction may require longer-term treatment and ongoing support—sometimes up to two years. In such cases, parents must demonstrate at the permanency hearing that they are in compliance with the case plan, making measurable progress toward achieving goals of said plan, and working toward unification (McCarthy et al., 1999). In short, if it can be documented that parents are making progress than TPR either prematurely or at 15 months does not have to be pursued by the states.

BARRIERS

- ***Confidentiality:*** Regulations pertaining to confidentiality for the two systems are different, often resulting in important information that could impact recommendations and decisions relevant to the child welfare system not being shared. Confidentiality regulations protecting substance abuse treatment records (Title 42, Part II, Code of Federal Regulations [CFR]) are more stringent than other regulations pertaining to confidentiality.

- ***Differing Clinical Language:*** The language used by staff in the two systems is different, and there is often a lack of understanding about the terms and definitions used by each system. For example, substance abuse treatment providers understand that treatment and recovery are complicated processes that often include relapse (AOD use), and that relapse is not an indication that treatment (or the client) has failed.

- ***Lack of Communication:*** Staff members within both systems do not communicate with one another enough to ensure that the needs of the client are being served. Often, communications focus on specific outcomes (e.g., urine screen tests, attendance at sessions), instead of discussing, and working toward, ways to help the client meet the necessary goals of both treatment and obtaining permanent parental rights.

- ***Definition of the Client:*** The child welfare and substance abuse systems often have different definitions of the primary client. In the child welfare system the client is the family, focusing on the safety of the children. On the other hand, the primary client in substance abuse treatment is the individual (parent) receiving services.

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RESOURCES:

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