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Governor Scott Walker
Secretary Eloise Anderson

June 12, 2018

Ms. Kathleen McHugh, Director
Division of Policy, Children's Bureau
Administration on Children, Youth and Families
Administration for Children and Families
1250 Maryland Ave SW, Suite 800
Washington, DC 20024
CBComments@acf.hhs.gov

RE: Comments on 45 CFR Part 1355 RIN 0970-AC72

Dear Ms. McHugh,

Wisconsin appreciates the opportunity to provide commentary on the Proposed Rule Changes to Adoption and Foster Care Analysis and Reporting System (AFCARS). This letter is in response to 45 CFR Part 1355 RIN 0970-AC72, Advance Notice of Proposed Rulemaking (ANPRM) regarding delaying implementation of the AFCARS final rule of December 14, 2016 (81 FR 90524) until October 1, 2021.

Wisconsin reiterates and resubmits our original commentary regarding 80 FR 7132 on February 9, 2015, which is provided as Attachment 1. We believe this commentary remains relevant to the current ANPRM.

The following are Wisconsin's comments on the most recent Questions for Comment in the current ANPRM.

The costs related to implementing non-ICWA AFCARS items

The proposed AFCARS rules will require information technology (IT) development, policy development/implementation and caseworker time and training to enter the new elements. Wisconsin estimates the costs for these areas are:

- IT Development for the state's eWiSACWIS child welfare data information system
 - o 5,740 hours for design, development and testing
 - o \$527,700 of IT contract costs which is equivalent to 11% of our IT case management budget
- Policy Development and Implementation
 - o 800 hours of program staff time for the development and implementation on the following fifteen new policies and practice guidance on twenty areas requiring changes in caseworker practice

AFCAR Data Element	Practice Implications	Policy Implications
Health assessment	X	
Date of Health Assessment	X	
Whether the child has an Individualized Education Program (IEP) plan or Individualized Family Service Program (IFSP) plan,	X	
Educational Enrollment status	X	
Grade Level	X	
Whether the child is enrolled or is in the process of enrolling in a new school prompted by an initial placement into foster care or a placement change	X	
Total number of siblings	X	X
Number of siblings in foster care	X	X
Child's sexual orientation (for 14 year olds and older).	X	X
Environment at removal – household or a facility.	X	
Whether a child is a victim of sex trafficking prior to entering foster care	X	X
Whether a child is a victim of sex trafficking while in foster care	X	
Whether a child is a victim of sex trafficking if yes, whether the agency reported it to law enforcement and date.	X	
Foster parents relationship to the child	X	X
Whether the child was found to be adjudicated delinquent or a status offender during the report period.	X	X
Guardian relationship to child	X	X
Guardian sexual orientation	X	X
Adoptive parent relationship to child	X	X
Adoptive parent sexual orientation	X	X
The number of siblings in the same adoptive or guardianship home as the child.	X	X
Whether a termination/modification of parental rights is voluntary or involuntary.		X
Termination/modification of parental rights petition date.		X
Environment at removal – household or a facility.		X
Information on foster parent's sexual orientation.		X

- Caseworker time and training
 - o As noted above, we expect that fifteen AFCARS elements would require a state policy change and twenty items would require practice changes for caseworkers. This would require additional training time for workers. In addition, these changes would most likely increase the amount of caseworker time needed to input information in our case management system. Caseworkers in our state are currently experiencing high and increasing caseloads. The workload associated with the additional AFCARS items would affect their time on current and new cases. At this time, we are not able to estimate the number of additional caseworker hours required for the training and data documentation involved with the new non-ICWA AFCARS requirements

The costs related to implementing ICWA AFCARS items

The proposed AFCARS rules will require IT development, policy development/implementation and caseworker time and training to enter the new elements. Wisconsin estimates the costs for these areas are:

- IT Development for the state's eWiSACWIS child welfare data information system
 - o 1,200 hours for design, development and testing
 - o \$103,680 of IT contract costs which is equivalent to 2 % of our IT case management budget
- Policy Development and Implementation
 - o 200 hours of program staff time for the development and implementation on the following five new policies and practice guidance on five areas requiring changes in caseworker practice

ICWA AFCAR Data Element	Practice Implications	Policy Implications
For states only, ICWA-related data elements: reason to know a child is an Indian child as defined in ICWA	X	X
For states only, ICWA-related data elements: court determine ICWA applies	X	X
For states only, ICWA-related data elements: notification of child custody proceedings	X	X
For states only, ICWA-related data elements: transfers to tribal court	X	X
For states only, data elements on involuntary and voluntary termination/modifications under ICWA (e.g., whether the state court found beyond a reasonable doubt that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(f)).	X	X

- Caseworker time and training
 - o As noted above, we expect that five AFCARS elements would require a state policy change and five items would require practice changes for caseworkers. This would require training time for workers. In addition, these changes would most likely increase the amount of caseworker time needed to input information in our case management system. Caseworkers in our state are currently

experiencing high and increasing caseloads. The workload associated with the additional AFCARS items would affect their time on current and new cases. At this time, we are not able to estimate the number of additional caseworker hours required for the training and data documentation involved with the new ICWA AFCARS requirements.

Other Data Collection Concerns

The Final Rule contains variables that may not be ideal to collect in the AFCARS format. Wisconsin is concerned about requiring data collection of child sexual orientation. As noted in previous comments (April 2015) we recommend continuing to collect these data elements through the National Youth in Transition Database (NYTD) survey where any information collected is aimed towards older youth and is voluntary. Similarly, we are concerned about collecting sexual orientation information for foster parents, guardians, and adoptive resources.

Summary

Wisconsin wishes to express our appreciation for the opportunity to provide feedback on this proposed rule and for the ongoing efforts to improve the quality of AFCARS data. We also appreciate the efforts of Administration for Children and Families to address the need for longitudinal placement data for children in out-of-home care. While we have significant reservations about many of the changes, including the costs of the changes, we look forward to continuing an ongoing conversation and partnership with the ACF, representatives from other states, and key resource center and advocacy group staff to prioritize and address improvements in AFCARS data quality and content. Please feel free to contact Fredi-Ellen Bove, the state child welfare director, at (608) 422-6891 or via e-mail at Frediellen.Bove@wisconsin.gov with any questions regarding our state's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Eloise Anderson", with a stylized, flowing script.

Eloise Anderson
Secretary
Department of Children and Families

Attachment 1: Wisconsin Comments on AFCARS NPRM of February 9, 2015



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Governor Scott Walker
Secretary Eloise Anderson

Division of Safety and Permanence

Attachment 1

Wisconsin Comments on AFCARS NPRM of February 9, 2015

Wisconsin has thoroughly reviewed the Adoption and Foster Care Analysis Report System (AFCARS) Notice of Proposed Rule-making (NPRM) published on February 9, 2015 and appreciates the opportunity to provide detailed comments regarding the AFCARS changes proposed in the NPRM. Wisconsin shares the Administration for Children and Families (ACF) commitment to improve the quality and utility of foster care and adoption data submitted by states. We, too, are committed to providing accurate and timely data regarding foster care and adoption services and share ACF's desire to obtain and use longitudinal placement data to strengthen our understanding of the status and needs of children in out-of-home care.

Wisconsin recognizes the importance of AFCARS data which serves as the primary mechanism for the Children's Bureau (CB) to improve the nation's understanding of the foster care and adoption populations, to assess national and state performance on the federal permanency measures, and to manage effectively federal funds. However, the AFCARS data collection requirements have a profound impact on child welfare case practice and workload and on the development and maintenance of information systems used to collect AFCARS information. As such, the desire to know more about children in out-of-home care and adoption must be balanced with the current demands on child welfare caseworker time and the increasingly limited state resources to develop, maintain and enhance information systems and to fund child welfare programming and services. In addition, it is inefficient and leads to flawed data to require child welfare caseworkers to be the source for information maintained by other systems, such as education and healthcare data.

Scope of the Adoption and Foster Care Analysis and Reporting System: Section 1355.40(b)

In reference to the adjustment of using longitudinal datasets, while Wisconsin supports the research aspect of the proposed data elements, the state requests more information regarding the file structure and system that is being planned to support such a change. It is difficult to provide comments on overall cost, staff hours, and suggested one-year preparation time for file creation when no information regarding the new structure is provided.

Report Periods and Deadlines: Section 1355.42(a)

Wisconsin proposes that the submission deadline remain, at a minimum, at the 45 day submission timeframe currently established in the AFCARS rules and regulations. Based on the significant amount of data that is being required within the proposed rule, few, if any, states can

meet the proposed 30 day submission timeline. Data entry at the local caseworker level must remain a consideration when determining deadlines that will produce accurate, reliable data.

Data Elements: Child Information: Section 1355.43

Health, behavioral or mental health conditions: 1355.43(b)(7)(i-xii)

While Wisconsin believes that every child should receive proper healthcare and medical attention, the state questions whether tracking this information as part of the state's AFCARS file would lead to accurate or timely data regarding a child's health and wellbeing. Constant monitoring of this data will be time consuming for child welfare caseworkers. Caseworkers do not have training or expertise on detailed, technical healthcare information. Given that medical information and procedures are constantly changing, relying on caseworkers to gather, enter and update this information in a timely manner will lead to the submission of incomplete and inaccurate data. Wisconsin strongly recommends ACF consider data sharing agreements with the Centers for Medicare and Medicaid Services within the US Department of Health and Human Services, as that agency is already responsible for such data, collects such data, and is trained and knowledgeable in the meaning of this data.

School and Educational elements: 1355.43(b)(8-12)

Wisconsin actively seeks to keep all children in their own school districts while in out-of-home care, and, in collaboration with the state education agency, endeavors to strengthen these children's academic achievement. However, the state questions whether tracking this information as part of the state's AFCARS file would lead to accurate or timely data regarding a child's educational outcomes. Caseworkers have no formal training with the institutional aspects of education. Requiring child welfare workers to gather additional information from the education system will increase workload on child welfare workers, diverting them from other critical tasks, and result in inaccurate data collection and a lag in data entry. Wisconsin strongly recommends ACF consider data sharing agreements with sources like the US Department of Education, an agency that is already responsible for such data, collects such data, and is trained and knowledgeable in the meaning of this data.

Child Financial and Medical Assistance: 1355.43(b)(16)

The proposal to track other financial assistance the child receives is an additional workload burden for child welfare caseworker, diverting them from other critical tasks. The child and family are under no obligation to share this information, nor is the caseworker formally trained to collect such information.

Proposal to collect LGBTQ data elements:

Wisconsin recommends continuing to collect these data elements through the National Youth in Transition Database (NYTD) survey, where any information collected is aimed towards older youth and is voluntary.

Parent(s) or legal guardian(s) born in the United States: 1355.43(c)(1)(ii) and (c)(2)(ii)

This information is not mandatory for parents to provide; while it may be informally or more formally disclosed by the parent or in the course of serving the family, the ACF should not mandate penalties on information that will likely be unreliably attained.

Removal information: 1355.43(d)(1-5)

Wisconsin currently does not require many of the suggested Removal data elements in its SACWIS system, for example neither the Environment at Removal (d) (3) or Child and Family Circumstances at Removal (d)(5) are currently collected. Like many of the added elements in these proposed changes, requiring these new data elements will take significant time in both caseworker training and system development to implement. If this proposal is adopted, Wisconsin and many other states will need longer than the suggested one year to construct the system changes and develop and implement new standards and worker training.

Living Arrangement and Provider Information: Section 1355.43(e)

If the ACF is suggesting expanding the allowed placement setting types, Wisconsin suggests lifting any restriction on placement setting and having the federal data analysts categorize the data at the federal level. Rather than require all states to reconfigure mapping of their files, the ACF should allow for broader scrapes of data to be sent and have any necessary adjustments or exclusions made at the federal level. Creating the distinction between three different types of group homes (e)(4) does not allow more flexibility for states, rather it creates layers of complexity for both data entry and coding at the local level; all for a goal with little benefit.

If ACF plans to pursue this proposal, it is critical that ACF provide more detailed information regarding the proposed file structure and recommendations for mapping. The datasets of placement information are massive, and without a clear structure and guidelines for how the file should be created, it will be longer than a year before Wisconsin and other states can submit the file and far longer than that before the ACF will be able to undertake any national analyses of the datasets.

Siblings in Out of Home Care: Section 1355.43(e)(8-13)

It is very difficult to create family trees for cases in child welfare because the lines between biological family members, immediate family members, and other types of case participants, such as significant others, half-siblings, cousins in one household, etc., are blended and difficult to distinguish. Wisconsin asks that the ACF provide a clearer definition of how to determine siblings in a child welfare case.

Juvenile Justice: Section 1355.43(f)(7)

Wisconsin is a county-administered state and as such, many counties address their child welfare and juvenile justice populations differently and separately. The strongest difference is in Milwaukee County, the state's largest county, where child welfare is administered by the state and juvenile justice is administered by the county. The new requirement regarding reporting juvenile delinquency data involves a significant change of practice at the state and local levels, and as such will necessitate policy, training, and information system changes. It is not simply a matter of adding a new data element.

Exit to Adoption and Guardianship Information: Section 1355.43(h)

Wisconsin does not currently collect information through its SACWIS system on private or international adoptions. The addition of these elements will impose additional workload on caseworkers and other staff, diverting them from other critical tasks. In addition, it will require policy, training, and information system changes.

Title IV–E Adoption and Guardianship Assistance Arrangement and Agreement

Information: Number of Siblings: Section 1355.44(c)

The additional proposed elements regarding an adoptive child's case are problematic, as in Wisconsin a child becomes the only participant in his/her case once the termination of parental rights (TPR) is completed. Wisconsin statute effectively disconnects the child from all former participants in any previous case, including parents and siblings. Changing the existing data elements and structure to determine a child's family situation, biological or otherwise, once the adoption has been finalized will involve a significant change in the information system and impose additional work on caseworkers.

Data Quality Standards: Section 1355.45(d)

With these proposed changes, the AFCARS file would grow from its current 65 data elements to over 200 data elements, many of which are completely new requirements to states and the caseworker. As noted above, many of the new elements, such as the medical and educational data elements, are out of the control of the child welfare system. ACF's proposed ten percent margin for data errors in conjunction with these substantial and complex changes is unrealistic.

Administrative Impact and Cost Estimates

The fiscal and workload estimates provided in the proposed rule are insufficient and reflect an inadequate understanding of the practical and technical ramifications of the AFCARS changes proposed within this rule. These estimates do not reflect the extent to which the proposed changes and additions to the AFCARS reporting requirements will affect state and local child welfare workload and costs associated with changing the state's SACWIS system.

The workload impact analysis for child welfare staff is inadequate and does not reflect a full understanding of the practical impact the changes proposed in this rule impose on a child welfare caseworker's time. For example, the rule appears to estimate only those tasks related to data entry for the new data elements proposed by this rule. This approach to assessing workload impact does not take into consideration the actual practice or changes in practice needed to collect, verify and update the new information required under this proposed rule.

Implementation Process

Based on the magnitude and scope of changes proposed in the rule, we do not believe that it is feasible, nor would it be advisable, to have full implementation of all of the proposed changes at one time. This approach, as suggested in the proposed rule, would create significant pressure to carry out all of the following responsibilities simultaneously:

- 1) Re-create the new AFCARS file and re-tool the AFCARS submission process,
- 2) Design, develop and put into production the sweeping changes and additions to the SACWIS application to meet these new reporting requirements, and:
- 3) Develop and implement training, technical assistance and monitoring plans to address the extensive supports needed to ensure child welfare staff understand and are able to carry out the new reporting requirements.

This pressure will result in severe hardships for the state and local child welfare agencies, where many of the same staff (particularly state program and technical staff) will be responsible for most, if not all, of the tasks described above. We recommend that implementation of any changes and additions to the AFCARS reporting requirements be implemented in stages. This approach would allow for more thoughtful and planned actions needed to support new AFCARS reporting requirements and would enable the state to plan for the fiscal and personnel resources needed to support these requirements.

We also recommend that any proposed changes to the AFCARS reporting requirements, particularly those of the scope introduced in this NPRM, be piloted with a small number of states prior to full implementation of these changes. This process would enable ACF and states to understand more fully the technical, fiscal and practical impact associated with implementing any proposed changes to the AFCARS reporting requirements and to identify key strategies and issues affecting successful implementation of these changes.

Finally, we strongly urge ACF to consider collaborating with the Centers for Medicare and Medicaid Services within the Department of Health and Human Services and the Department of Education to obtain health and education data, respectively, on foster children directly from these agencies. The ability to share data has increased dramatically within the past five years, and there is no reason to impose greater workloads and stress on child welfare caseworkers to gather information that is outside their control, when accurate and detailed data is available within the source agency.