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A case study of the effects of privatization of child welfare on services for children and families: The Nebraska experience

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Abstract

Privatization, or contracting with non-governmental agencies for provision of state or federally funded services, is a strategy that has gained recent attention from policymakers as a potential tool for successful child welfare reform. The Child Welfare Privatization Initiatives Project was created in 2007 as a joint effort between the United States Department of Health and Human Services and the Office of the Assistant Secretary for Planning and Evaluation. The framework identified by this project produced twelve key considerations for states moving towards a privatized system. This case study considers these twelve considerations in a description of the large-scale effort to privatize child welfare services in the state of Nebraska that began in 2008. Problems leading to a need for child welfare reform and possible factors that motivated policymakers to shift services from the public to the private sector are also described. While proponents of privatization appeared to expect rapid increased efficiency and cost-savings, this case study explores multiple reductions in quality and availability of services for children and families served by the child welfare system that occurred during the effort. Further, the cost of child welfare services in Nebraska increased by 27% and the private agencies invested over \$21 million of their own funds as they attempted to uphold contracts. Recommendations for practitioners and policymakers

considering participating in efforts to privatize child welfare services in the future are made based on Nebraska's recent experience.

Keywords: Privatization, Child welfare, Child maltreatment

1. Introduction

Privatization, which is a term that refers to contracting with non-governmental agencies for provision of state or federally funded services, is a strategy that has gained recent attention from policymakers as a potential tool for successful child welfare reform (Westat & Chapin Hall Center for Children, 2002). Proponents of the strategy argue that the competition of the private marketplace creates incentives for delivery of more efficient and effective services (U.S. DHHS, 2007). It is argued that marketplace competition increases efficiency by making service providers motivated to be as productive as possible without wasted expense. It is also argued that effectiveness is increased through creation of a situation in which providers most capable of producing desired outcomes of child welfare services are rewarded by continued and increased funding. Further, some view the private sector as more capable of developing new services and changing in response to consumer needs. Finally, consumer choice and competitive bidding for government contracts is proposed to make agencies more accountable for delivery of desired outcomes. There are certainly many examples of effective public-private partnerships in social-service delivery. For example, in the area of early childcare, a large pool of potential providers exists (e.g., in-home daycares, church centers) and many families qualify for federal assistance with covering the cost of childcare. In this area, federal funding agencies have developed successful partnerships with private providers by increasing funding to those demonstrating delivery of high quality care (Zellman & Perlman, 2008).

Not all observers agree that the aforementioned benefits will necessarily result from the privatization of child welfare services. Critics argue that the potential benefits of moving social services such as child welfare to the private sector are difficult to achieve and measure (Smith & Lipsky, 1992). When state governments offer contracts for private companies to deliver a service they once controlled, they create a situation wherein the government is the only authorized buyer

of these services and thus there is no oversight ensuring that the highest quality or most effective service providers are awarded contracts. Further, if an ample pool of potential providers does not exist in a given area, there will be additional lack of competition. Unlike in other marketplaces, where consumers create accountability by choosing not to purchase inadequate goods or services, those served by the child welfare system rarely are able to make choices regarding the services they receive. Therefore, critics argue, privatization is unlikely to lead to more effective services unless the government closely monitors and evaluates service provision. Further, the costs of monitoring the private system and increased administrative responsibilities associated with overseeing contracts with private agencies reduce any cost efficiency gained from competition. Critics also warn that moving child welfare services to the private sector may create incentives for agencies to increase profits by providing less costly and potentially less effective services (Unruh & Hodgkin, 2004). Some worry that after agencies have been awarded government contracts, in the absence of careful monitoring, they can reduce costs and increase profits through methods that diminish the quality of services for children and families, such as hiring less experienced staff, increasing worker case-loads, and providing lower levels of supervision.

While many states provide portions of their child welfare services through contracts with non-governmental agencies, statewide privatization efforts in Florida, Kansas, and most recently, Nebraska are unique for their inclusion of all children in the child welfare system and all elements of their foster care systems (Flaherty, Collins-Camargo, & Lee, 2008; Nebraska Health and Human Services Committee, 2011; Unruh & Hodgkin, 2004; Westat & Chapin Hall Center for Children, 2002). The increased interest in statewide privatization efforts led the federal government to put forth a framework of recommendations for future endeavors. In conjunction with the United States Department of Health and Human Services (U.S. DHHS), the Office of the Assistant Secretary for Planning and Evaluation (ASPE) created the Child Welfare Privatization Initiatives Project (CWPI), which provides welfare administrators with information about the implementation of privatized services (U.S. DHHS, 2007). These recommendations target the justification for privatization, planning for and design of the effort, its implementation, and the evaluation of outcomes.

Although privatization is an increasingly popular tool, little research has examined its success in improving services and outcomes for children and families (Flaherty et al., 2008). This paper examines Nebraska's wide-sweeping privatization of child welfare services as a case study of changes in service efficiency and quality. The CWPI framework is applied to Nebraska's privatization effort. The intent of the investigation is to provide insight into the complexity and challenges inherent to expanded private sector delivery of child welfare services.

2. Background

2.1. Deficits in services that created a need for child welfare reform in Nebraska

Prior to 2009, child welfare services in Nebraska were administrated and delivered by the Division of Children and Family Services within the Department of Health and Human Services (DHHS). Nebraska's privatization effort was partially driven by a need for child welfare reform that would allow the state to meet recommendations from a series of Child and Family Services Reviews conducted by the federal Children's Bureau (DHHS, 2011a). In 2002, the Child and Family Services Review (CFSR) assessed seven safety, permanency, and well-being outcomes in regard to the provision of child welfare services. These outcomes were:

1. Children are, first and foremost, protected from abuse and neglect.
2. Children are safely maintained in their homes whenever possible and appropriate.
3. Children have permanency and stability in their living situations.
4. The continuity of family relationships and connections is preserved for children.
5. Families have enhanced capability to provide for their children's needs.
6. Children receive appropriate services to meet their educational needs.
7. Children receive adequate services to meet their physical and mental health needs.

The review identified specific items on which Nebraska met national standards; however, the state failed to achieve substantial conformity with any of the seven outcomes (U.S. DHHS, 2002). Following the CFSR in 2002, Nebraska produced and implemented a Program Improvement Plan, grounded in “Family Centered Practice” in 2006 (DHHS, 2006). The proposed systemic changes to the child welfare system included a team approach to services and supports, a recognition that the role of supervisor is paramount to helping change occur within children and families, and the development of a Quality Assurance system and protocols at both statewide and local levels. Further, in 2005, Nebraska received an incentive payment of \$352,000 from the Administration for Children and Families (ACF) for completing more adoptions in 2004 than in either 2002 or 2003 (DHHS, 2006). Despite the efforts made through the Program Improvement Plan and federal incentives to improve child welfare services, deficits in Nebraska’s ability to deliver child welfare services remained evident in the next CFSR, which occurred in 2008. When the final report from the 2008 review was released, Nebraska again failed to achieve substantial conformity with any of the seven outcomes described above (U.S. DHHS, 2009).

In addition to pressure to reform child welfare (and improve services for children) in an effort to meet recommendations from the CFSR, Nebraska state government was simultaneously under pressure to reduce the cost of child welfare services. For many years, Nebraska had documented a rate of out-of-home placement of children that was particularly high when compared to other states. In the years 2005 through 2007, Nebraska’s rate of out-of-home placement of children was 12% — double the national average of 5.6% (Platte Institute for Economic Research, 2009). When children are placed out-of-home following child maltreatment, federal policy stipulates that they receive services that are only partially reimbursed through federal Social Security entitlement funds. Therefore, state spending on non-reimbursed services for the increasing number of children placed out-of-home created a fiscal problem for Nebraska. Further, many saw entitlement funding as creating a financial incentive for placing children in out-of-home care and a hindrance to provision of services aimed at family preservation because children could only access these partially reimbursed services if they were placed out-of-home (Platte Institute for Economic Research, 2009). Proponents of Nebraska’s efforts

to reform child welfare services through privatization argued that the state could resolve this dilemma by creating contracts with private, for-profit agencies that would include incentives for both keeping children safe and preserving families (Young, 2009b).

2.2. History

In September 2008, Nebraska's Division of Children and Family Services released their Recommendations for the Reform of Out-of-Home Care (DHHS, 2008). Under the proposed framework, the Division of Children and Family Services would maintain responsibility for "initial assessments of child or community safety and...for all key case decision making, such as decisions related to safety assessments, case plans and court reports, treatment needs, and recommendations for case closure, including adoptions" (DHHS, 2008, p. 2). Responsibility for day-to-day provision of child welfare services and services coordination was to be allocated to private, contracting agencies (DHHS, 2008). Thus, lead agencies were to be responsible for almost all services provided directly by professionals to families in the child welfare system, including foster care, mental health treatment, supervised visits, and other assistance in carrying out case plans. By July 2009, 6 private, not-for-profit "lead agencies" had signed "implementation" contracts with the state (DHHS, 2011a). These contracts required the agencies to develop plans and hire staff capable of providing child welfare services and coordination.

Each lead agency was responsible for service provision across specific counties and regions of the state. Nebraska is largely rural and sparsely populated, with approximately 1,856,000 people spread across 93 counties. The majority of the state's population is located in just three counties in southeastern Nebraska; as such, the number of cases that each lead agency was responsible for did not reflect the amount of land they served. **Table 1** provides a summary of each lead Agency and its contract with the State. Agency 1 oversaw five partner agencies providing services for children and families in partially urban southeastern Nebraska. Agency 1 was responsible for approximately 2400 children (DHHS, 2011a). Agency 2, based in neighboring state Kansas, was responsible for serving approximately 3600 children and began providing services in both urban and rural eastern and southeastern counties in November 2009. However, Agency

Table 1. Summary of lead agency's state contracts.

	<i>Area(s) of service provision</i>	<i>Approximate number of families to be served</i>	<i>Approximate start date of service provision</i>	<i>Contract termination date</i>	<i>Summary of reason for contract termination</i>
Agency 1	Urban and rural southeastern counties	2400	November 2009	—	—
Agency 2	Urban and rural southeastern and eastern counties	3600	November 2009	February 2012	Desire to return to fee-for-service system, inability to operate within projected budget
Agency 3	Rural central, western, and northern counties	1300	November 2009	September 2010	Increased costs due to administration responsibly shared with the State, inability to operate within projected budget
Agency 4	Urban and rural southeastern counties	1000	November 2009	April 2010	Inability to operate within projected budget, bankruptcy
Agency 5	Rural southeastern counties	400	November 2009	April 2010	Increased costs due to shared case planning responsibilities with the State, inability to operate within projected budget
Agency 6	Rural central and western counties	—	Never provided services	October 2009 provision	Viewed allocated funds as insufficient for covering cost of agency service

All agencies had signed implementation contracts with the state by July of 2009. Full implementation of contracts was required by April 1, 2010.

2 did not have a Nebraska headquarters until late December of that year (Boettcher, 2009). Agency 3, an Iowa-based organization, was responsible for the provision of services in rural central, western, and northern Nebraska. Responsible for 50 subcontracting service-providing agencies across 71 counties, Agency 3 agreed to oversee approximately 1300 cases (DHHS, 2011b). Sixteen urban and rural counties in southeast Nebraska received services under the oversight of lead Agency 4. Agency 5 was responsible for the provision of services in a portion of southeastern Nebraska, an area containing 12 rural counties. Agency 6 was slated to become a lead agency across Nebraska's central and western counties.

The six lead agencies that signed implementation contracts were subject to new risk-based reimbursement procedures (rather than the former fee-for-service system), a child welfare reform strategy that

borrowed heavily from managed health care principals. In a risk-based payment system, service providers are granted a fixed payment in advance that is theoretically based on a prospective estimate of the cost of service delivery. One potential advantage of a risk-based payment system is reduction of a key challenge to traditional fee-for-service systems: the fact that favorable changes in utilization of services for children placed out-of-home are accompanied by reductions in federal entitlement funds (Wulczyn, 2000). For example, in a traditional fee-for-service system, an agency that safely reunited children with their families quickly would receive fewer federal dollars than a slower moving agency due to the greater amount of foster care service utilized by children served by the slower moving agency. However, prospective payments also inherently redistribute the financial risk involved with service delivery away from the funder to the provider, a feature that often leads to anxiety among providers about their ability to stay within a projected budget (Wulczyn, 2000).

Worries about ability to deliver services to children and families while staying within projected budgets were certainly present as agencies in Nebraska negotiated with DHHS. In October 2009, Agency 6 announced that it would not sign a second contract to provide child welfare services. A local newspaper reported that after learning that its contract would be about 1 million dollars less than expected, the agency director believed the “State had placed the [agency] in a position in which it didn’t make sense to move forward” (Young, 2009a). Without the promise of service provision from Agency 6, Agency 3 became the only provider of services to rural central, western, and northern Nebraska. While the remaining five agencies signed contracts agreeing to continue to provide services, they also told news media of worries about the financial risks they would be taking on and their ability to provide services with the limited amount of funding they would be provided by the state (Young, 2009a). The DHHS contracts underwrote the costs of services, allocating approximately 2 million dollars fewer to the lead agencies than had been previously spent on service provision by the state itself (Young, 2012b).

By April 2010, concerns expressed by the lead agencies about their inability to effectively deliver services using the funds budgeted by DHHS had become a reality. Agency 5 withdrew from its role in

the child welfare reform process, stating that, partially due to the increased cost that had occurred as a result of both the agency and the state being responsible for case planning, it had incurred significantly more expenses than projected and would no longer be able to operate if they were to continue losing money (Young, 2010a). Also in April 2010, Agency 4 filed for bankruptcy, partially due to the increased costs experienced during privatization, and the state shortly thereafter terminated its contract with the Agency (Stoddard, 2010). The abrupt ending of this agency's contract led to a need for DHHS to immediately provide continued foster care, mental health treatment, and supervised visits with parents for approximately 2000 children served by child welfare (Stoddard, 2010). In September 2010, Agency 3 announced that, due to inability to handle administration, billing, and subcontractor payments, it had mutually agreed to terminate its contract with DHHS (Young, 2010c).

By October 2011, DHHS had reassumed responsibility for provision of services to children living in the large rural portion of Nebraska once served by Agency 3 and had provided additional funding to the two remaining agencies, who continued to provide services to children in the partially-urban southeastern portion of the state (Nebraska Foster Care Review Board, 2011). At a briefing to DHHS in November 2010, legislators and agency directors expressed concern about the ability of the two remaining lead agencies to manage the child welfare cases in southeastern Nebraska (DHHS, 2011a). Despite these concerns, Nebraska Governor Heineman authorized increased funding to the two remaining agencies in accordance with a plan to transfer additional case management responsibilities to these agencies. Even with increased funding, Agency 2 continued to struggle with budgeting for service provision through the risk-based reimbursement system and attempted to negotiate with DHHS to return to a fee-for-service system (Young, 2012a). The two parties were unable to come to an agreement regarding funding, leading DHHS and Agency 2 to terminate their contract in February 2012 (Stoddard, 2012a). Following termination of its contract with Agency 2, DHHS reassumed responsibility for the large majority of child welfare services; by the end of February 2012, Agency 1 was providing services to children in Nebraska's largest city, while DHHS was again providing services to the remainder of the state (Stoddard, 2012a).

3. Changes in services for children and families that followed privatization

On January 14, 2011, the Nebraska Unicameral Legislature introduced and passed a resolution (LR 37) authorizing the Health and Human Services Committee to investigate and assess the state's attempt to reform child welfare services through privatization (DHHS, 2011a). The report completed by this committee, entitled "DHHS Privatization of Child Welfare and Juvenile Services" (hereafter referred to as the performance audit; DHHS, 2011a) provided the legislature with a detailed timeline of the events leading to privatization and findings regarding DHHS' adherence to their responsibility to protect the welfare of children. Overall, the performance audit that was generated as a result of this legislation was negative and pointed to multiple deficits in services for children and families served by the child welfare system that occurred during the reform effort.

The financial audit included in the performance audit confirmed the agency director's initial concerns about the ability to provide services within capitated budgets proposed by the state. The cost of child welfare services in Nebraska increased by 27% over the course of the reform effort and the private agencies invested over 21 million dollars of their own funds as they attempted to uphold contracts (DHHS, 2011a). Further, throughout the privatization effort, the intended improvements in the range and quality of services for children and families did not occur. During the privatization effort, the statewide rate of maltreatment reoccurrence after a child was referred to the system remained above national standards and there was no significant reduction in the number of children in out-of-home care (DHHS, 2011a).

The performance audit also concluded that instability resulting from sequential ending of contracts by lead agencies led families to experience frequent changes in their caseworkers and treatment providers (DHHS, 2011a). Further, the lead agency's inability to operate within the budgets they were provided by DHHS led to reduced options for children in need of out-of-home care. Agencies were frequently unable to pay subcontracts to group homes and shelters and subsidies to foster parents and; therefore, homes and shelters closed and foster parents were unable or refused to provide care for new children. Finally, the performance audit found that lead agencies were unable to comply with the administrative requirements of their contracts

with the state. Review of agency records found non-compliance with state requirements for reporting caseworker changes, child placement changes, and other documentation in children's files.

In response to the performance audit, the legislature promised increased transparency during the 2012 session and began holding public hearings on the reform efforts. In March 2012, the state resumed control of the child welfare system and the legislature passed five bills that created a foundation for improved provision of services. This package of bills included the creation of the Nebraska Children's Commission and the Inspector General for Child Welfare (LR 821), updated provisions related to case management and caseloads (LR 961), and requirements for foster care licensure and funding (LR 820). Additionally, LR 949 required the development of a strategic plan including goals, benchmarks, and progress reports and the creation of a separate child welfare budget (Hein & Roush, 2012). Nebraska DHHS was also required to develop a statewide child welfare information system (LR 1160). Though initially opposed to the legislation and in favor of continuing within the privatized system, Governor Heineman signed the package of bills in April 2012. This collaborative reform process occurred in stark contrast to the original privatization effort, which was enacted by DHHS without input from the legislature or other key stakeholders.

On July 6, 2012, Governor Heineman released a statement regarding the current state of child welfare reform in Nebraska, identifying the rate of out-of-home placement at twice the national average as a significant area of concern (Heineman, 2012). Further information was provided regarding the role of the Nebraska Children's Commission (LR 821) in assisting the development of the strategic plan for welfare reform and a timeline for monthly meetings through November 2012. Governor Heineman reiterated that budget issues related to the welfare reform recommendations remain a concern, indicating that increased funding for the child welfare system would potentially reduce the state's ability to provide for K-12 schools and higher education.

In August 2012, Nebraska received the first of three expected penalties for failing to comply with federal regulations regarding the use of foster care funds under privatization from fiscal years 2010, 2011 and 2012 (Stoddard, 2012c). Though Nebraska had not sought required federal approval for any contracts put in place during privatization,

the current DHHS Children and Family Services director reported that the department had been working closely with the federal government to ensure compliance since March 2012. In addition to complying with federal guidelines, Nebraska had been implementing requirements identified under the new legislation in an attempt to rapidly fix the failed system. The Foster Care Review Board was replaced by an advisory board consisting of five members, tasked with stabilizing the provision of services through collaborations with the legislature (Young, 2012b). A standardized system of assessing risk and making a determination of services, Structured Decision Making, was implemented statewide; by October of 2012, the number of children in the child welfare system had reached a 12-year low (Stoddard, 2012d). On December 14, 2012, the Nebraska Children's Commission (LR 821) proposed its strategic plan for improving outcomes for children and families in the child welfare system. The identified goal is for this framework to become more detailed throughout 2013 through collaborations between the Commission, the Children and Family Services Division of DHHS, and the legislature (Young, 2012d).

4. Factors that may have affected Nebraska's readiness to move to a Privatized System

In seeking to understand the reasons underlying the failure of Nebraska's statewide child welfare privatization effort, it is instructive to examine earlier efforts to synthesize the lessons learned from previous privatization efforts. The CWPI (U.S. DHHS, 2007) reviewed existing successes and failures of statewide and local child welfare privatization, and produced a report that includes twelve key considerations for states wishing to move towards a privatized system. Unfortunately, Nebraska's Health and Human Services Committee review of the state's privatization effort clearly indicates that these and other similar recommendations for privatization were not fully taken into account. Below, 10 of the 12 key considerations that are most applicable to understanding the failure of Nebraska's privatization effort are examined. Factors that may have affected Nebraska's readiness to move to a privatized system are also organized across these 10 considerations in **Table 2**.

Table 2. Factors that may have affected Nebraska's readiness to move to a privatized system.

<i>Child welfare privatization initiatives project key consideration</i>	<i>Circumstances and conditions in Nebraska during initial stages of privatization</i>
Why privatize?	<ul style="list-style-type: none"> • Pressure to quickly improve child welfare services due to failed Child and Family Services Reviews and media attention on high profile child welfare cases • Desire to reduce State spending
What is the level of stakeholder support for privatization?	<ul style="list-style-type: none"> • Executive branch engaged in privatization process without involvement of the legislature • Community critical of rapid switch to privatized system and lack of careful planning
Has the public agency set aside enough time for planning and designing the initiative?	<ul style="list-style-type: none"> • No evidence of acute crisis within the child welfare system • Full-scale implementation of initiative after 10 months of planning
Are there sufficient administrative and cost data to develop contracts and estimate case rates and other service costs?	<ul style="list-style-type: none"> • No cost–benefit analysis preformed prior to initiative • Goals, benchmarks, and timeframes poorly defined • Lead agencies had little-to-no experience with provision of Child Welfare services in Nebraska
Is there viable competition in the community to provide the targeted services?	<ul style="list-style-type: none"> • Very few available providers of child welfare services • Little-to-no competition among agencies bidding for government contracts • General lack of skilled child welfare professionals in the job market
Do providers have sufficient skills and administrative capacity to manage large-scale contracts and monitor service delivery and client outcomes?	<ul style="list-style-type: none"> • Lead agencies had little-to-no experience managing large-scale contracts or coordinating community-based services • Contracts awarded to agencies without evaluation of skills/capacity
Do private agency front-line staff have sufficient skills and knowledge about child welfare policies and evidence-based reform to deliver services?	<ul style="list-style-type: none"> • Historical State difficulties with hiring and retaining well-trained child welfare professionals • Lead agencies inexperienced in hiring and training qualified staff
Is the public agency prepared to design a new service delivery system and assume new roles focused on contract design, procurement, and monitoring?	<ul style="list-style-type: none"> • State agencies with expertise in planning and execution of public–private contracts were not consulted in planning the initiative • Executive branch allocated unrealistically low budgets for lead agencies • Goals, benchmarks, and timeframes poorly defined
Are roles and responsibilities clear between the public and private sectors?	<ul style="list-style-type: none"> • Frequently shifting and poorly defined State and private roles and responsibilities
Will privatizing services alone bring about improved outcomes or will the agency need to implement other reforms in tandem with privatization?	<ul style="list-style-type: none"> • No logical model identified for linking the initiative to the State's current difficulties in child welfare service delivery • Lowering State spending was a major goal for the reform, however it was not clear how this outcome would improve services for children and families

4.1. Key considerations

4.1.1. Why privatize?

Nationally, there are several key arguments that are used in support of privatization of public social services, central to which are potential for reducing government spending and improving the quality of government services (Winston, Burwick, McConnell, & Roper, 2002). These arguments are based primarily on the basic economic tenet that a competitive marketplace will lead to less costly but higher quality goods and services. By definition, for a marketplace to produce competition, a range of alternatives must exist among which buyers can choose among (Van Slyke, 2003). When this tenet operates successfully and consumers have the knowledge and ability to select superior alternatives, providers deliver the best and most cost-effective services possible because, if they do not, they will lose contracts or clients to more successful providers. Proponents also often believe that a larger body of skilled workers exists in the private sector and that the private sector has greater flexibility to recruit and hire skilled workers and deliver quality services due to the relative absence of bureaucracy commonly found within the public sector (Winston et al., 2002).

Despite the logic inherent in these arguments, evidence from states that have attempted to privatize child welfare services indicates that privatization alone is not capable of improving the quality of child welfare services or reducing their cost (U.S. DHHS, 2007). A study of six states' (i.e., Kansas, Florida, Missouri, Ohio, Michigan, and Maine) efforts to privatize child welfare services conducted by Children's Rights concluded that given the cost of providing and overseeing quality child welfare services to families, public agencies should not expect cost-savings to come from privatization (Freundlich & Gerstenzang, 2003). In Kansas, a state that shares a border with and is similar to Nebraska in terms of population demographics and geographic distribution, a statewide effort to privatize child welfare services that began in 1996 resulted in significant financial losses for contracting providers (Unruh & Hodgkin, 2004). The child welfare system serves a population of families with complex and difficult-to-treat problems and working with such families is often emotionally trying. These stresses and challenges lead to difficulty in finding and retaining a high quality workforce and demonstrating that services

are effective regardless of the source (public, private) of service provision (Winston et al., 2002).

Given the failure of previous privatization efforts to reduce costs or enhance service quality or availability, the CWPI recommends that states carefully and systematically consider their reasons for privatization before making changes (U.S. DHHS, 2007). The capability of the private sector to adequately deliver services must be carefully assessed. Further, cost savings should not be a key reason for privatization, as they may not materialize. As described above, the primary motivating factors for privatization in Nebraska appeared to be a need to reform the child welfare system to quickly meet established standards, indicated by both the 2002 and 2008 Child and Family Service Reviews (DHHS, 2011a) and a desire to reduce state spending on non-reimbursed entitlement services. Despite clear recommendations advising against the use of such factors as impetus for privatization, this rationale spurred Nebraska to move rapidly towards reform efforts. The state executive branch also appeared to rush towards privatization following a number of high profile cases involving the child welfare system (Schulte, 2012). Proponents of the privatization effort argued that competition within the private market place would lead to reduced government spending and higher quality services (Young, 2009b). However, for several of the agencies involved with the effort, their contract with the state represented their first foray into the provision of child welfare services. They lacked any track record upon which one could reasonably predict they would have success in effective delivery of quality, low cost services. The legislative audit of the privatization effort found evidence that several of the agencies involved had not previously demonstrated the capability to provide needed child welfare services before the effort began (DHHS, 2011a).

4.1.2. What is the level of stakeholder support for privatization?

The CWPI recommends that states planning to privatize child welfare services include service providers and stakeholders in the decision making process and adequately justify and explain the process to the public agencies involved (U.S. DHHS, 2007). Examinations of Kansas's recent large scale privatization process indicated that many key stakeholders had not been included in discussions pertaining to the planning and design of child welfare reform, creating problems during

the implementation process (James Bell Associates, 2001 in US DHHS, 2007; Figgs & Ashlock, 2001 in US DHHS, 2007). In Kansas, failure to achieve buy-in and promote involvement from local agencies led to a concern about the capability of adequate service delivery from the private providers. Conversely, a more successful, smaller-scale privatization effort in El Paso County, Colorado placed a clear priority on the inclusion of stakeholders throughout the planning and implementation process, emphasizing ongoing communication once the private contracts were in place (U.S. DHHS, 2007). The smaller effort in El Paso County was centered around a clearly defined mission shared by leadership in several public agencies involved in child welfare: “eliminating poverty and family violence” (Hutson, 2003, p.2). This mission was shared with and helped to foster engagement from recipients of services in the community, private and public agency staff, and private and public agency leadership (Hutson, 2003).

The performance audit conducted under the direction of LR37 reports that Nebraska’s Executive Branch engaged in the privatization process with virtually no involvement of the legislature. While this action was not judged to be a misuse of authority, neglecting to include the legislature as a key stakeholder represents a failure to adhere to best practices as outlined by the U.S. DHHS (2007) and supported by the successes and failures of prior privatization efforts. Nebraska’s DHHS did not seek approval from the legislature prior to privatization because they were not intending to utilize additional state funding. In a media report on the privatization effort, a Senator from Nebraska’s largest city, Omaha, stated, “The executive branch and the Department of Health and Human Services set out on this adventure by themselves” (Schulte, 2012).

The performance audit indicates that DHHS’s attempts to solicit feedback on the privatization effort from community stakeholders brought mixed feedback, and was certainly not fully supportive. The state solicited feedback on the initiative through email and public forums and was often criticized for moving too quickly without careful planning. Moreover, the performance audit’s review of this feedback indicated that prominent children’s advocates warned that agencies bidding for contracts would be unable to accurately estimate the costs of service delivery. Overall, the audit concluded that DHHS had not adequately engaged the full range of stakeholders and appeared to be somewhat unresponsive to stakeholder feedback (DHHS, 2011a).

4.1.3. Has the public agency set aside enough time for planning and designing the initiative?

Research on privatization efforts has indicated that many states have released requests for proposals (RFPs) from private agencies with the intent to provide child welfare services within a short timeframe and without sufficient preparation, especially when faced with increased pressure from state legislatures and federal child welfare organizations (Kahn & Kamerman, 1999; Mahoney, 2000 in U.S. DHHS, 2007). Nebraska's child welfare system received recommendations for reform in September 2008, after it was determined that the state did not meet adequate standards of care. While there was certainly a need for child welfare reform in Nebraska, problems highlighted in the 2008 review were long standing and by no means evidence of a new or emergency situation. Many states have experienced much greater turmoil in their child welfare systems, and federal or state courts typically intervene when state agencies are unable to solve problems independently (Golden, 2009). The system in Nebraska was not in such an acute state of crisis that administrators needed to engage in rapid reorganization in a manner that Golden refers to as "building the plane while flying it" (2009, p. 19). Despite the lack of acute crisis, by July 2009, ten months after the recommendations were received, six implementation contracts had been signed by private agencies. The recommended time frame for states to plan and prepare RFPs is 12 to 18 months (U.S. DHHS, 2007).

4.1.4. Are there sufficient administrative and cost data to develop contracts and estimate case rates and other service costs?

In order to effectively shift responsibility for delivery of child welfare services from the public to the private sector, it is extremely important that an accurate estimate of the cost of service delivery be derived (U.S. DHHS, 2007). Without an accurate estimate of funds utilized, caseload trends, service utilization, and performance in the current system, it is impossible to create benchmarks that hold private agencies responsible for improvements from the previous system (Golden, 2009). Similarly, it is equally important for private agencies to keep accurate records if privatization efforts are to demonstrate improvements.

The performance audit conducted under the direction of LR37 found that DHHS failed to conduct a cost-benefit analysis or assess

financial implications in any formal manner prior to privatization in 2009 and failed to identify expected goals, benchmarks, or timeframes until well after the initiative had been implemented (DHHS, 2011a). Contracts and reimbursement amounts with private agencies were created based on the amount the state had previously spent on service provision, and were not adjusted to include the additional responsibilities these private agencies were taking on (Stoddard, 2010). This was likely an especially detrimental mistake given the shift from a fee-for-service reimbursement system to a risk-based system that was part of Nebraska's privatization effort. In general, setting prospective rates for child welfare services is difficult because it requires a level of accuracy in estimation that is beyond most child welfare systems, which is why risk-based systems are themselves risky (Wulczyn, 2000).

As the privatization effort progressed, problems related to lack of an accurate estimate of costs continued. During the first year of service provision under privatization, the state budget was cut such that contractors were not paid as much as had been originally agreed upon (Stoddard, 2010). Throughout the privatization effort, it was clear that the lead agencies were unprepared to manage costs within the new risk-based system: lead agencies voiced concerns continually throughout the privatization process about their ability to deliver services using the budgets they projected when signing contracts with the state and multiple lead agencies were bankrupt by the time their contracts were terminated with the state (Center for the Support of Families and Hornby Zeller Associates, Inc., 2012). As a result, by July 2012, DHHS announced that the sole remaining private contractor would no longer be paid through a risk-based system and would begin paying for services on a case-by-case basis (Stoddard, 2012b).

4.1.5. Is there viable competition in the community to provide the targeted services?

If privatization efforts are to be successful, circumstances must exist that lead to market competition and create an incentive to deliver higher quality services at lower cost (Nightingale & Pindus, 1997). These circumstances include the presence of multiple competitors who will in fact compete to provide services. Further, once private agencies have signed contracts with the government, financial incentives and disincentives (e.g., the possibility of losing a contract to another

agency if services are not effectively delivered) must continue to promote competition. When agencies submitted proposals and signed implementation contracts in the beginning of Nebraska's privatization effort, there was early evidence that this type of competition had not developed. First, the fact that two of the agencies that signed contracts (Agencies 2 and 3) were based outside of Nebraska can be seen as evidence of the paucity of providers and the lack of agencies experienced in operating large-scale child welfare services. Problems with a lack of sufficient providers to create competition were especially evident in central and western Nebraska, where only one agency submitted a bid to provide services. This should have come as no surprise, as the number and distribution of human service agencies in highly rural areas is an ongoing national problem. A Senator from this area of the state was quoted in the news media as saying, in retrospect, "Out here, we don't have a lot of providers...looking back, that was a clue we had a problem" (Lauby, 2011).

In addition to problems of limited competition brought about by the low number of existing service providing agencies, Nebraska largely suffered from an absence of competition within the job market of individuals with the skills necessary to provide child welfare services. As identified in both the 2002 and 2008 federal CFSR of Nebraska's child welfare system, the state historically suffered from a shortage of medical, mental health service, and foster care providers (U.S. DHHS, 2003, 2009). The small number of trained providers is further compounded by misdistribution of skilled staff across the State, and in many areas, there are simply not enough trained social service workers to meet the needs of the children and families served by the child welfare system. Given the lack of available adequately trained providers of child welfare services in Nebraska, it seems unrealistic to have expected that private agencies could capitalize on competition within the child welfare services job market by accessing a pool of providers more capable than those that were part of the public system.

4.1.6. Do private providers have sufficient skills and administrative capacity to manage large-scale contracts, and monitor service delivery and client outcomes?

Most of the agencies involved had limited or no experience managing large-scale contracts or coordinating community-based services

(Young, 2012b). Several private providers were new to contracting at such large scales and thus lacked the experience and administrative capacity to effectively handle the necessary bureaucracy. Early in the process, Agency 6 determined that they had neither the funding nor the organizational experience necessary to manage its subcontracts with agencies needed to provide services, and elected not to sign a second services contract. The limited allocation of state funds during the first year of privatization created additional challenges for the five remaining lead agencies, leading a representative from one of the lead agencies to state that they would need to be “very creative” (Young, 2009b). The state audit identified a failure on the part of DHHS to evaluate and vet the lead agencies, thus contracting with organizations that had previously demonstrated inadequate skills and capacity (Young, 2012b). For example, at the time the initial contracts were signed, Agency 3 was predominantly government funded, had inadequate assets, no credit line, and an insufficient cash balance, indicating that they would likely be unable to manage the increasing case loads under privatization (Overstreet, 2011; Schulte, 2012). Despite clear evidence suggesting that the private agencies were ill prepared to handle the administrative requirements of full-scale privatization, DHHS elected to proceed with the reform efforts.

4.1.7. Do private agency front line staff have sufficient skills and knowledge about child welfare policies and evidence based reform to deliver services?

Lead agencies in Nebraska faced additional challenges in regard to hiring qualified front line staff. Nebraska has a paucity of in-state undergraduate and graduate level programs with which to train case workers and other direct service staff. It is estimated that fewer than 150 students graduate each year with master’s degrees in social work at the University of Nebraska at Omaha, the state’s only accredited Master of Social Work program (University of Nebraska at Omaha (UNO) Grace Abbott School of Social Work, 2013). Further, most of these students do not go into child welfare, which is one of the most emotionally taxing and poorly paid fields within social work. Compounding this problem of availability is the fact that most of the jobs created under privatization were relatively low-wage positions, making them unattractive to many of the potential workers in the already limited pool.

Agency 3 struggled to recruit and train qualified staff. Front-line workers enlisted by Agency 3 often had no prior experience, limited education and struggled to interact within such a complex system (Lauby, 2011; O'Hanlon, 2012). Additionally, under LR568, the Health and Human Services Committee received feedback about concerns regarding quality and care of training (LR37).

4.1.8. Is the public agency prepared to design a new service delivery system, and assume new roles focused on contract design, procurement, and monitoring?

Deficits in the ability of Nebraska's DHHS to successfully design large-scale contracts were identified prior to privatization and highlighted within the state audit (LR37). DHHS failed to utilize the available resources and expertise of Nebraska's Department of Administrative Services prior to or during the planning and execution of these contracts. Although the audit conducted under LR37 determined that DHHS met the minimum standards related to contract design, the omission of a cost-benefit analysis was considered a "critical error" and a violation of evidence-based practices. As a result, funds were awarded based on the amount previously spent by the state, with the expectation that private agencies would provide additional service coordination for an increasing population, for less money, while simultaneously obtaining improved outcomes. The executive director of the Nebraska App-leseed Center stated that these contracts required private agencies to "do the impossible" (Stoddard, 2010).

The absence of clearly identified benchmarks and outcomes prior to implementation foreshadowed the inability of the state to effectively perform their responsibilities regarding monitoring and oversight. Although oversight systems were identified in the contracts between DHHS and the lead agencies, there were no identified goals with which to hold lead agencies accountable (DHHS, 2011a). DHHS did not adequately monitor the contracts signed by private agencies and were thus unaware that subcontractors were often not paid for their services (Young, 2012b). At the same time, costs of service provision within agencies increased substantially, but the key players from the lead contractors have not been able to provide an explanation or any documentation (Schulte, 2012).

4.1.9. Are roles and responsibilities clear between the public and private sectors?

The delineation of clear roles and responsibilities for all parties involved in child welfare is one of the most challenging aspects of privatization, compounded further by the fact that ultimately, the public agency retains responsibility for the quality of services, client outcomes, appropriate use of public funds, and compliance with established guidelines (U.S. DHHS, 2007). During large scale privatization in Nebraska, contracting agencies were expected to take over the direct services operations of the child welfare system, including transportation, family support, parenting education, foster care, and supervision of any court-ordered visitation (Young, 2009b). DHHS was to retain case management oversight responsibilities (DHHS, 2011a).

However, the legislative audit conducted under LR568 indicated confusion pertaining to the division of responsibilities, noting that portions of the plan were “pretty vague” (LR37). In October 2010, approximately one year after the services contracts were implemented, DHHS announced that they would be transferring additional case management responsibilities to the private agencies, but did not provide funding to cover these added services (DHHS, 2011a). Thus, private agencies were required to provide services beyond what had been originally included in their contracts and received no additional compensation for doing so. The shifting nature of the division of responsibility was seen as a barrier to effective collaboration.

4.1.10. Will privatizing services alone bring about improved outcomes or will the agency need to implement other reforms in tandem with privatization to improve system performance?

Privatization efforts do not exist in a vacuum, and need to be considered in the context of additional reform efforts and broader state and federal policy. It is unlikely that privatization alone will address the problems inherent in a system that serves a substantial number of children and families with very little funding (U.S. DHHS, 2007). However, as indicated in the 2002 and 2008 CFSRs, numerous domains under the umbrella of service provision were identified as areas needing improvement, including response to and prevention of maltreatment, the responsiveness of the state’s case review system, and placement stability. The recommendations put forth from the CWPI suggest that

privatization of case management and a shift in the payment structure should be included as part of larger, state-wide reforms of the system, rather than the entirety of the reform effort (U.S. DHHS, 2002).

These recommendations did not appear to factor into the reform effort in Nebraska. Essentially, the privatization effort was never mapped onto the system problems identified in the CFSR process. The state did not explicitly outline benchmarks and outcomes prior to privatization, though identified goals included a reduction in the number of children in out of home care, and more broadly, the provision of improved services at lower cost. It was not overtly apparent how the privatization and reform efforts would address the individual areas of concern noted in the CFSRs, nor how privatization would lead to the identified outcomes. In other words, the state never specified a logical model linking elements of privatization to the outcomes of interest.

The private agencies who withdrew from their contracts or whose contracts were terminated by the state cited a loss of significant funds as a primary factor (LR 37). However, prior research, along with previous attempts at statewide privatization (e.g., Kansas), have indicated that these financial difficulties are not uncommon during the early stages of privatization efforts, and that overall spending tends to increase with privatization as compared to the costs of publically administered services (Freundlich & Gerstenzang, 2003; Kahn & Karmerman, 1999). It would appear that all parties were relatively naïve regarding the immediate financial realities of privatization and the state did not have sufficient policies or funds in place to support the private agencies during the costly early stages.

5. Lessons for child welfare practitioners and policymakers

Practitioners and policymakers considering the privatization of child welfare services can use four clear lessons learned from Nebraska's recent statewide privatization effort to improve future initiatives. First, those involved in the planning and design of privatization should consider the potential for increased short-term costs. Second, clear plans for the delegation of roles and responsibilities should be identified. Third, privatization efforts should be closely tied to desired outcomes. Fourth, policy objectives should be balanced by the realities of state

and local service systems. As demonstrated by Nebraska's experience, conceptual limitations of privatization, such as the use of risk-based reimbursement procedures, are compounded by specific failures of planning and implementation, particularly financial and organizational oversights.

Nebraska's large-scale effort to privatize child welfare services provides evidence that, when considering the potential benefits of privatization, potential for increased costs (especially during initial stages) should be integrated into planning and contracts. As has been repeatedly true for other states (Freundlich & Gerstenzang, 2003), Nebraska did not save money by privatizing child welfare services. Nebraska's experiment with privatization provides a clear warning to other states considering similar initiatives: the cost of providing services for the children that need child welfare services will increase if the government shifts responsibility for service provision to a private agency while remaining responsible for oversight of these services, at least in the near term. Despite contrary evidence, Nebraska appeared to expect that private agencies could serve families within a budget that allowed for the same amount of funding utilized by the state during the previous year (Stoddard, 2010). The fact that an additional 3.03 million dollars was paid to contractors than originally planned should serve as a lesson to child welfare policymakers that, even if cost savings are theoretically possible through privatization, implementing an initiative is inevitably accompanied by increased costs associated with transitions, start-ups, and new government monitoring (Freundlich & Gerstenzang, 2003; Platte Institute for Economic Research, 2012).

Planning for increased costs is especially crucial if risk-based reimbursement procedures are to be a part of new contracts. Risk-based reimbursement procedures are largely based on managed health care principals, however, private agencies that serve children in child welfare have not yet developed the sophisticated tools and technologies that managed health care organizations use to ensure quality care while limiting spending (McCullough & Schmitt, 2000). In the future, privatization efforts, especially those that include a switch to risk-based reimbursement procedures, should consider the high costs that will be associated when private agencies work with the government to develop a system for demonstrating that intended gains in service efficiency have been realized. It is important to point out that,

as was true in Nebraska and as is unfortunately the national norm in the child welfare arena, there is little basis by which to predict how much quality, effective child welfare services should cost (Freundlich & Gerstenzang, 2003). Prior to privatization, Nebraska's child welfare spending did not lead to services for children and families that met national standards for safety, permanency, and well-being outcomes. Thus, as is nationally the case, the public sector's historical cost of service provision seemed an inadequate basis by which to predict how much spending would be needed on future child welfare services. When privatization is considered as a possible tool for future child welfare reform, it should be kept in mind that realistic baseline estimates of need and service utilization are difficult to make in child welfare and, thus, it will be exceedingly difficult to ever be able to document cost savings (Freundlich & Gerstenzang, 2003).

Current difficulties with predicting the future cost of child welfare services do not make increased efficiency through privatization impossible, but overwhelmingly point to the need to tie budgets for contracting agencies closely to realistic estimates of potential spending by private agencies. Wulczyn (2000) details strategies for child welfare reform and strongly emphasizes the need for strategies for development of baseline budgets that allow agencies to plan for resource allocation over the course of a fiscal year. While these recommendations are relevant for all future privatization efforts, context specific to Nebraska's experience increased the difficulty of using this system of pay. Nebraska's contracts with lead agencies would have likely been more successful if the budgets were based on accurate estimates of the number of children that would be served by the agencies, the duration of children's need for service from the agency, the costs of delivering service plans, and the administrative cost associated with working with the public sector to monitor outcomes (Wulczyn, 2000). Furthermore, these types of estimates would have been impossible to make given the timeline of Nebraska's privatization effort. When contracts were awarded to lead agencies prior to any analyses of cost-benefit or effort to predict the manner in which the shift in risk and responsibility would increase the overall cost of service delivery, both the state and the lead agencies were left with little basis by which to allocate limited child welfare funding. In future initiatives using private sector agencies for delivery of child welfare services, timelines should allow for careful analyses of projected agency budgetary

needs and planning for flexibility in situations where the frequently unstable costs delivering these types of services exceed expectations.

The difficulties described above that Nebraska encountered with delegation of roles and responsibilities during the privatization effort also point to the importance of careful planning in child welfare reform. As is clear from Nebraska's experience and from previous privatization efforts in other states, shifting service provision from the public to the private sector involves a great deal of change for all of the professionals involved (Flaherty et al., 2008). The child welfare service system is complex and involves services aimed at a diverse range of goals (e.g., child safety, family preservation, foster care, adoption). As can be seen from the challenges encountered in Nebraska, vague stipulations regarding division of responsibility for these services and goals will impede the collaboration that must occur if government contracts with private agencies are to be successful. Similar to what was learned from Kansas's recent effort to privatize child welfare services, Nebraska's attempt provides additional evidence that contracts with private agencies are likely to be unsuccessful if they do not contain clear language about creation of new roles, expectations, and division responsibilities (Flaherty et al., 2008).

The importance of closely tying goals for child welfare reform to improved services for children and families has been emphasized consistently in previous literature and is underscored by the results of Nebraska's privatization effort (Freundlich & Gerstenzang, 2003). As described above, a significant area of concern noted in the performance audit of Nebraska's privatization effort was the failure to produce outcomes that addressed concerns noted in previous CSFRs. This was true in a smaller scale privatization effort that occurred in the late 1990s in Missouri, where poorly defined outcomes and methods used to assess outcomes led to difficulty measuring performance and an inability to make changes consistent with CSFR recommendations (Freundlich & Gerstenzang, 2003). Given the overwhelming evidence related to the inability of privatization, particularly of child welfare services, to produce cost-savings, it is important that goals for the shifting of responsibility from the public to the private sector focus on addressing deficits in the current system. For example, in New York, the STAR (Safe and Timely Adoptions and Reunifications) Program incorporates clear goals for improvement in timely moves towards permanent placement into state contracts with public agencies.

Agencies able to demonstrate that they are able to increase discharges into permanent homes without a corresponding increase in re-entries or transfers to other agencies are rewarded with increased government funding through flexible dollars that they are able to spend on a variety of services designed to further improve placement permanency. Innovations like the STAR Program suggest the possibility of successful outcomes, but highlight the fact that the ability to incorporate goals for improved outcomes into reform will require careful foresight and planning: in order for agencies to participate in the program, they must provide historical data on outcomes such as time to reunification and time to adoption, demonstrating the need for thorough information gathering prior to public-private collaborations (Westat & Chapin Hall Center for Children, 2002).

A final and overall lesson learned from the recent privatization effort in Nebraska is the importance of balancing the realities of the state/local social service system with policy objectives regarding government size and spending. The executive branch of Nebraska's government, which was solely responsible for the decisions that led to large-scale privatization, highly values conservative government spending and historically has made decisions that result in a financially secure state. Justifications for privatization of social services are consistent with conservative values, which assume that responsibilities can be reallocated to private agencies so that government size is reduced and funding can be restructured. This would then ensure that these agencies are motivated to work more efficiently than the public sector (Nightingale & Pindus, 1997). However, Nebraska's experience highlights the importance of balancing these values with the realities of the local community service capacity and potential for development of marketplace competition between social service providers. Unfortunately, as has been true for other states that have attempted to privatize child welfare services, Nebraska's reform effort did little to address the underlying problem that the state's capacity to serve children in child welfare is underdeveloped and hindered by a paucity of trained providers (Freundlich & Gerstenzang, 2003). As this case study has demonstrated, transferring responsibility from public to private agencies alone is unlikely to improve provision of child welfare services for children and families, a task that requires a highly organized system of care and commitment from a large body of dedicated and well-trained professionals.

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