Performance Contracting in Illinois: Using Leverage to Drive Results
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Introduction

The idea of performance contracting or performance based contracting has become increasingly popular in the child welfare arena. This isn't surprising, in that it comes on the heels of two very powerful shifts in the provision of child welfare services since the early 1990s: a rapid growth in privatization and the emergence of major accountability efforts from the federal government in the form of the Child and Family Services Review (CFSR). Unfortunately, too often the label "performance contracting" gets applied to efforts that are either strictly about privatization or strictly about accountability—rarely do these models capture the interests of both. The privatization of child welfare services and mechanisms designed to ensure accountability are both important strategies for ensuring results, but unless these ideas are leveraged appropriately in the contract, they won't drive real improvements in performance.

This paper makes one central argument: performance contracts should be first and foremost about securing better results for children and families, and they should align these results with the financial interests of contracted providers. This is why performance contracts are not merely documents that spell out how services are to be managed by providers (privatization and regulatory), nor are they limited to being documents which merely include an appendix identifying a set of expected outcomes (accountability). To be effective, performance contracts must leverage a set of self-enforcing financial and market-driven incentives among private providers to ensure a targeted level of performance improvement. Simply put, when providers meet or exceed specific performance expectations, they benefit financially. When providers fail to meet specific performance expectations, they lose financially.

This kind of direct link between performance and payment is missing from contracts that simply call for generic performance improvements or contracts that include a list of expected outcomes. In such contracts, the only real interest driving performance (or not driving performance) is the implied or sometimes even stated threat of being replaced as a provider once the contracts are renewed. Despite what is even at times clear language articulating performance expectations for providers, there are countless examples of providers remaining year after year without marking even marginal progress in performance improvement. Why? Because such contracts are not good examples of performance contracting. Enforcement of these contracts requires a decision to be made by the child welfare jurisdiction to either reduce capacity or eliminate the contract. These decisions are never easy. First, such decisions often carry political implications (as there are always a set of elected officials somewhere up the chain in any child welfare jurisdiction). Second, acting on these decisions can also represent major transaction costs for the government agency associated with shifting services from one provider to another (in that services do not just stop one day and then resume the following day).

The failure to consistently act in response to poor providers is usually enough to undermine any sustainable improvement in performance.

The best way to illustrate this point is to examine one successful model for contracting foster care services which was implemented in both Chicago (by the Illinois Department of Children and Family Services) and Philadelphia (Philadelphia Department of Human Services) with impressive results. Because Illinois was the first to adopt this model of performance contracting, this paper will focus on the Illinois context and the results experienced by this child welfare jurisdiction.

Performance Contracting: Understanding the Context

There is a great deal of history behind the dynamics which led to the performance based contracting model used in Chicago, Illinois, but this paper is more concerned with an examination of the mechanics responsible for driving the results.

The circumstances which gave rise to performance contracting in Illinois date back to the mid-1990s. Incoming Director Jess McDonald had inherited what was by growing reputation the single largest, worst performing state-run child welfare agency in the United States. The national sentiment was perhaps captured best by then President Bill Clinton, who after learning about the conditions surrounding one particular high profile case expressed dismay that such circumstances were found "not in Calcutta but Chicago." Added to this already jarring reputation for non-performance were very real pressures: exploding caseloads, several class action lawsuits and a runaway budget. McDonald laid out an ambitious reform agenda designed to answer the lawsuits, control growth and gradually right-size a child welfare system which had proportionately more children in care than any other in the country.

The task of designing a policy framework for achieving these results was left to McDonald's chief policy architect and Executive Deputy Director Joe Loftus. Loftus recognized that there were a complex set of interrelated pressures hindering agency performance, and he outlined a set of responses designed to address these pressures on multiple fronts. Specifically, some of his core strategies included a redesign of front-end operations, a redesign of private agency monitoring and revamping foster care contracts to emphasize moving children to permanency over maintaining them in care.

There were relatively early successes with front-end redesign and private agency management. The number of children being placed in care began a steady decline, and the cumbersome process of monitoring agencies through dual case management (where both a public and a private agency worker were assigned various case management activities) was replaced with accountability mechanisms emphasizing the whole agency. Surprisingly, however, the abatement in child entries was insufficient to get caseloads under control.

While the rate of growth was slowed, the data showed that performance at the back end—permanency for children—had all but ceased. In fact, a detailed examination of the data showed that the number of children exiting the child welfare system closely approximated the number of children coming into the system, creating a nearly level substitute care caseload. Although growth had stabilized, it was clear that without a back-end strategy for accelerating the number of children moved to permanency, Illinois' child welfare system would never be right-sized.

The charge for Loftus was a tricky one: a private sector strategy which would drive increases in permanency enough to dramatically reduce the size of the system. Added to this challenge was the fact that there was no money in the budget to invest in the kind of capacity necessary to boost private sector performance. Additionally, Loftus faced another constraint: any system built to boost performance would have to be budget neutral, as there was simply no new money for investing in capacity. It was this quixotic charge to build a budget neutral framework designed to reduce the size of foster care that gave rise to Illinois' performance contracting model.

Lesson 1
Performance contracts work best when they are designed to serve as an engine driving larger system goals.

The dynamics surrounding the emergence of performance contracting in Illinois illustrate some important concepts with relevance for other child welfare jurisdictions worth highlighting at this point. First, the impetus for improving performance was grounded in a larger system goal: right-sizing the child welfare system. Too often, child welfare jurisdictions pursue performance improvements without a clear objective for the system as a whole. Performance contracts work best when they are designed to serve as an engine driving larger system goals. On the other hand, when performance contracts are designed to improve a collection of outcome indicators without a clear understanding and anticipation of what the improvements will mean for the system as a whole, securing the leverage to drive performance can prove difficult. The first step in designing a performance framework that works is using performance expectations to reinforce broader system objectives. Are there too many children being placed into care? Too few children being returned home or adopted? Too many children returning to care after a return home? Too many children in congregate care settings? Whatever the area of interest, the performance contract should be designed with an eye toward addressing some system-wide inefficiency, not an arbitrary sense that performance needs to be improved across the board.

The idea of reducing the size of out-of-home care in Illinois (and Chicago in particular), although specific, proved a major undertaking. The fact that the caseload remained stable despite acute declines in intake pointed to a key characteristic of the child welfare system in Chicago and Cook County as a whole that would have to be addressed directly: as the number of cases entering the system declined, so too did the number of cases leaving the system to permanency. A review of quarterly data for child entries and child exits showed a clear trend over time: the system as a whole moved toward stabilizing caseloads. As intake increased, so too did the pace of child exits. When the trend changed, and the level of intake fell, the pace of moving children to permanency slowed in response.

More than anything else, the dynamic exacerbating this phenomenon was the fact that more than 70 percent of the caseload in Cook County was managed by private agencies, where a decline in the number of cases served meant a decline in revenue. This is not to suggest that agencies were keeping children in care to ensure revenue, but that agencies built capacity designed to serve a specific number of children. When that capacity was pushed, and child entries were high, there was clear evidence that efforts to move children to permanency would also accelerate in order to manage workload. When the pressure slowed, so too did the urgency to manage children to permanency. Agencies would resume managing to a basic equilibrium of moving children to permanency at the rate that they entered their care.

This dynamic is not hard to understand when examined through the lens of paid provider. Child Services Incorporated has a contract for serving 200 children placed with their relatives. Their staffing level, supervisory structure, and organizational infrastructure is designed to accommodate this level of service. When the pace of children placed in their care begins to pick up, they are not likely to immediately hire a new worker for the new cases. Workers across the agency absorb the extra work. As the workload grows, the incentive (or urgency) to move some of the cases to permanency grows. Workers and supervisors alike are more engaged in looking for possibilities that will bring the workload back under control, so the pace of permanencies picks up to answer the growth. When the pressure on individual worker caseloads lightens, the focus on permanency wanes, and caseloads stabilize. Clearly, this is not an agenda to keep children in care, nor is it premeditation to ensure revenue remains stable. Nonetheless, the reality that 70 percent of the work in Cook County was managed by the private sector meant that any strategy for rightsizing would have to reflect that private agencies respond to workload in specific ways.

Lesson 2
Performance Contracts work best when they fit the environment in which they must get results.

In Cook County, the recognition that basic operational dynamics present within the private sector accounted for significant part of overall performance represented a key part of the ultimate strategy that would best fit the environment. Failure to think through the constraints and the advantages inherent in a particular child welfare environment can lead to unanticipated results. In addition to using performance contracting to drive larger, system goals, Illinois pursued a performance framework which accounted for the environment in which the work was being done: specifically, private agencies managing caseloads with a specific capacity. While performance contracts are generally developed for use in contracting relationships between government and private providers, the same principles could be used to structure the work in the public sector, or perhaps even structure the work between one jurisdiction (the state) in relationship with other jurisdictions (counties). The key is to ensure that performance expectations appropriately reflect the environment in which the work is carried out. Both the expectations and the resulting pressures or incentives should be a good fit for how the work is managed.

Any strategy for rightsizing the system meant that if successful, there would be fewer children in care, and by extension, fewer payments for those agencies serving these children. By paring the larger system goal of rightsizing the child welfare system with the realities governing private agency behavior, a key part of the performance framework was assembled. The real challenge for designing a performance contract, however, still lay ahead: getting all of the actors in the Cook County child welfare system focused on moving children to permanency. Clearly, as the system was then configured, the basic outcome of increasing permanency (and reducing the number of children in care) was in clear tension with the incentives agencies had to maintain and support a predictable infrastructure by maintaining caseloads.

Performance Contracting: Aligning Outcomes and Incentives

The recognition that permanency was the key to rightsizing the child welfare system in Cook County, and that most of that permanency needed to be delivered by the private sector, proved to be an important starting point. The questions that remained were how much permanency could the system expect to deliver, and what resources were necessary to get these results.

Not surprisingly, answering the question about performance targets for permanency hinged on a careful review of the data. Analysis revealed that most of the build-up in care was concentrated in Cook County relative care. This made up more than 24,000 children in 1997. Based upon current performance, children placed with relatives during this time were projected to spend more than seven years in care unless there was a dramatic change in performance. While not as acute, the build-up was also slowing performance in traditional or unrelated foster care. The next step involved laying out this same information for the provider community.

Discussions with the provider community in Cook County proved incredibly instructive in developing a shared commitment to a performance framework designed to boost permanency for children. The data brought to the table detailed the performance of the system as a whole. The data was not used to single out any particular provider, but instead was used to ask a fundamental question: Is it reasonable to expect a child placed with a relative or in foster care to wait seven years to achieve permanency? While the answer was a resounding "no," there were clear barriers to turning the permanency trend around.

No small part of the problem was inherent in the existing contracting structure. Providers agreed that the contracts invested in the wrong thing. Specifically, contracts based upon a fee-for-child payment undermined permanency by rewarding stable placement of children in care with fixed revenue while moving a child to permanency always meant an uncertain replacement and the potential loss of revenue. This dynamic leads to the predictable practice of focusing the work on maintaining kids in care rather than aggressively pursuing permanency. While providers were not actively keeping children in care for a predictable revenue stream, most agreed that this method of paying for the work did little to make permanency a management priority.

The Performance Contracting model developed for Cook County sought to change this on two levels.

First, the contracts made significant investments in activity that would support performance-through additional permanency focused staff positions (permanency workers); resources enabling providers to begin serving children more quickly upon placement; resources for supporting children returning home to their biological parents; and the flexibility to use administrative funds to support different models of child welfare service provision.

Second, and perhaps most importantly, the contract realigned financial incentives to reinforce the importance of achieving outcomes over maintaining children in care. This was accomplished by developing a contract where payment was driven by investing in the capacity to do the work (staff, supervisors and supportive services) rather than counting children and child days. An agency managing 100 cases would be reimbursed for staffing and services appropriate for managing 100 cases. This shift was accomplished through redesigning how agencies receive new cases for placement services. Upon the implementation of Performance Contracting in Cook County, all agencies were required to accept 24 percent of their caseload in new referrals. Added to this was the expectation that all agencies would move 24 percent of their caseload to permanency-an outcome expectation reflecting a nearly threefold improvement over what was then a system-wide average of eight percent. This shift in structure replaced the financial incentive for maintaining caseloads with a clear incentive to move as many children to permanency as possible. Agencies were allowed to use superior performance in moving children to permanency as a way of lowering their caseloads, maintaining their contract level and financially enhancing their program.

The benefits and potential consequences were immediately apparent to contracted agencies. By exceeding the 24 percent benchmark in permanency expectations, an agency could secure caseload reductions without a loss in revenue. Falling short of the benchmark meant serving more children without a change in the contract level. In this way, the performance contracting model in Cook County not only was self-enforcing, failing to perform up to the agreed upon benchmark did not cost the state additional money. This feature of performance contracts proved to be a powerful force for ensuring the necessary investments in securing results while shifting the risk for failing to perform from the state to providers.

Lesson 3
Performance Contracts should reinforce a sense of partnership in getting results

Just as it is important to understand the context in which a particular performance framework must operate, it is also important to have a clear understanding of how responsibilities are divided up between the entity under contract and the entity issuing the contract. Specifically, it means having clarity about whether or not contractor has the necessary resources to achieve the desired results and whether or not the purchaser of services has adequate leverage to enforce any consequence for failing to get results. Unfortunately, it is easy to leave those responsible for delivering results out of the planning and benchmarking process. After all, government's role is to determine contract expectations and service providers (whether public or private) have the responsibility for delivering the results. This approach can quickly hamper progress. If the field is expected to step-up performance, using performance contracts as something which is done to them rather than with them just doesn't make sense. In Illinois, negotiations with providers were used to craft consensus around the fact that improving performance was absolutely necessary, and that everyone would be equipped for success.

Lesson 4
Performance Contracts provide government with the leverage for improving outcomes.

The fact that the performance contracting model in Cook County was designed to be self-enforcing represents a powerful tool in government contracting. It should come as no surprise that a contract reimbursed with utilization as the basis for payment prioritizes utilization, not decreasing utilization. While there are plenty of examples where paying for utilization makes perfect sense, in an environment where the pressure is on rightsizing the system, and lagging permanency is the primary culprit, getting providers focused on improving results required a contract that aligned outcomes with the financial interest of providers. A performance framework which targets a set of outcomes that have the potential to weaken providers financial viability is doomed to failure. Ironically, the move away from the utilization model increased the control of government in ensuring that only poor performers lost capacity, while superior performers were able to enrich their position through lower caseloads. By directing limited referrals to performing agencies and placing non-performing agencies on hold for new intake, the child welfare system in Cook County could be right-sized by localizing all of the contract reductions in non-performers. In this way, government enjoys the benefit of having ample leverage to drive better outcomes.

Performance Contracting: The Results

Performance Contracting in Cook County is best evaluated using three important measures of success: the rise in permanency for children in care, the reduction in the number of children in care, and the rise in over all agency performance levels since the contracts were first initiated.

Illinois' success in steadily increasing the number of finalized adoptions brought the state a great deal of national attention. By the second year (state fiscal year 1999), more children were moved to adoption than in the combined previous seven-year period of 1987 through 1994. President Clinton's Adoption 2002 Initiative twice recognized Illinois as the nation's leader in securing adoptions for children. The stated goal of this initiative was for states to double the number of completed adoptions by the year 2002. Illinois managed to nearly pass this goal just in the first year, increasing the number of adoptions from 2,229 in state fiscal year 1997 to 4,293 in 1998. During state fiscal year 1999, Illinois again almost doubled the previous year's performance by finalizing 7,315 adoptions. While numbers like these were impossible to sustain against a declining foster care population, the system-wide adoption rate has remained high, and continues to outpace performance prior to the implementation of performance contracting.

In addition to adoption, Illinois has an additional path to permanency in the form of subsidized guardianship. Made possible through a Title IV-E waiver from the federal government, subsidized guardianship was designed to create a permanency option for relatives committed to the long-term care of children placed in kinship care. The combined effect of this permanency option and performance contracts proved remarkable. During state fiscal year 1998, 1,276 children were placed permanently with relatives. During state fiscal year 1999, this number nearly doubled to 2,199 children, with and totaled 1,628 by the end of state fiscal year 2000.

In addition to securing great results for children and families, the success of individual contract agencies is telling. Prior to performance contracting in Cook County relative care, the average permanency rate for private agencies was just 6.7 percent annually. By the end of the first year under performance contracts (state fiscal year 1998), the system-wide average for relative care climbed to 20 percent, with some agencies achieving results as high as 44 percent annually. This strong showing continued into the second year of performance contracting which expanded to include traditional foster care in Cook County, and in a limited way, relative and traditional care in the rest of the state. During fiscal year 1999, system-wide performance in Cook County relative care climbed from 20 percent to nearly 30 percent, while the permanency rate for traditional foster care climbed from 14 percent to 24 percent. By the end of state fiscal year 2000, the system-wide average permanency rate for Cook County relative care contracts continued to improve to 34 percent while traditional foster care finished at 25 percent.

Finally, the success of performance contracting as a tool for rightsizing an over-subscribed child welfare system is indisputable. During the peak of growth in 1997, Illinois was serving just over 50,000 children in out-of-home care. By the end of state fiscal year 2005, the total number of children in out-of-home care had fallen to approximately 17,800 children. While there has been decline throughout the entire system, the most acute drops in the substitute care caseload was experienced in Cook County relative care and Cook County regular foster care, the two programs where contracts were dramatically restructured to emphasize getting results over maintaining caseloads.