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Senate Standing Committees on Community Affairs
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Grandparents who have Primary Responsibility for Raising their Grandchildren

Summary

This submission is written by a clinical psychologist who now works in a community setting where many clients receive therapy that is funded with support from Medicare. The psychologist works with vulnerable families who have complex needs, and often dependent children are substantially cared for by a grandparent.

The submission provides information and makes recommendations about:

- adjustments to Medicare items to facilitate therapy for vulnerable families
- a proposal that referrals for therapy with vulnerable families be made by GPs and by family law courts
- a proposal to change confidentiality provisions for professional assessments of parenting capacity so that grandparents and therapists have access to assessment reports
- proposals to introduce a quality assurance system for professional assessments of parenting capacity
- adjusting legislation to clarify decision-making roles of grandparents who provide substantial care for their grandchildren

Introduction

I write as a registered psychologist who has experience in providing therapy for families with complex needs either because a parent has a mental health condition or a child has a behavioural disorder. In many families with complex needs, grandparents take on a role of being primary carers for their grandchildren. I have experience in providing therapy for families with cases before both the Family Circuit Court and Child and Youth Court.

Previous Government Support

I note that when the Better Access scheme was first introduced to support people with a mental health condition, the scheme provided an allowance of 18 therapy sessions per year until 2011. The allocation of 18 sessions was sufficient to provide effective family-oriented therapy for vulnerable families with complex needs, and supported early intervention that prevented some children from being removed from the care of their birth parents. Unfortunately the Gillard Government in 2011 reduced the number of therapy sessions from 18 to 10 sessions per year, and the lower number of sessions has not been sufficient for psychologists to continue to provide adequate therapy for families with complex needs.

Families with complex needs are families where:

- a parent has reduced parenting capacity because of a condition such as mental illness including depression or drug use or young age, and
- a child has a behavioural or developmental disorder, or
- there is marked conflict within the family.

Children in these vulnerable families are at higher risk of maltreatment, and often receive increased support from grandparents including when a grandparent takes on primary responsibility for raising their grandchild.

Many psychologists are well equipped to provide coordinated therapy that assists vulnerable families with complex needs. Coordinated therapy addresses the needs of the parent, child, and other involved families members such as grandparents. But to work in this way, psychologists need an adequate number of therapy sessions. Coordinated therapy for a family works better than a silo approach where families approach several agencies to receive individual support for different family members.

Recommendations:

- that the Senate Inquiry support the re-introduction of additional sessions of psychological therapy that is targeted to provide therapy for vulnerable families with complex needs
- that the Senate Inquiry support coordinated family therapy for vulnerable families with complex needs that is funded by Medicare based on referral from a GP or a family law court.

Current Information about Grandparents raising Grandchildren

Information about the current status of children and grandparents is provided in the annual reports 'Child Protection Australia' published by the Australian Institute of Health and Welfare AIHW. There is a National Framework to coordinate efforts of State and Commonwealth Governments with action plans for 2009-2012 and 2012-2015. The 2011-12 AIHW report notes that the focus of the first action plan was on children in statutory out-of-home care. Early intervention services are planned for the second action plan in 2012-15.

AIHW reports indicate that the commonest types of child maltreatment involve emotional abuse (36.4% of notifications) and physical abuse of children (20.5% of notifications). Both emotional abuse and physical abuse arise when parents are stressed and perceive children's actions as being deliberate misbehaviour. Both types of maltreatment can be remedied by skilled psychologists who

provide focused therapy to a parent and child. Skilled psychologists are able to work in coordination with child protection agencies and family law courts.

The 2011-12 AIHW report shows that state governments provide intensive family support services for severe cases where child maltreatment has been substantiated, and where there is a risk or a reality of children being removed from the care of parents. Referrals for intensive care are made by statutory bodies. Intensive care involves provision of a package of services that are provided by a team rather than by a single provider, with families receiving at least 4 hours of support per week for a period of 6 months.

The AIHW report indicates that once children have been removed from the care of parents, 57.7% of children remain on care-and-protection orders for a minimum of a year, and for periods up to 8 years and longer. 47% of removed children are placed into kinship care arrangements including into the care of grandparents.

The AIHW report notes that family disruption and removal of children from their home has a long term adverse impact on the child's education and welfare.

There is clearly a need for accessible early intervention services that are focused to assist vulnerable families before crisis levels are reached and children are compulsorily removed from the care of a parent. Effective and accountable early intervention services can be provided by skilled psychologists.

The AIHW report identifies several topics that need to be addressed in early intervention therapy for parents including: methods to discipline children including children with conduct disorders, attitudes towards family violence, management of conflict within families, self management of mental health conditions, and parental misuse of substances. All of these matters can be addressed by skilled psychologists.

I note that cost-effective early intervention services can be funded on a fee-for-service basis for families who are referred by community professionals such as a GP or by a family law court. Use of skilled professionals in local communities both permits accessible services and allows a choice of provider for families.

A national and universal scheme could be introduced for vulnerable families where there is a moderate risk to children. Parents could be encouraged to participate in therapy for about one year before steps are taken to remove children from the care of the parent. This scheme would avoid a situation where grandparents are suddenly asked to care for their grandchildren because a parent has unexpectedly been declared an unfit parent.

Recommendations:

- that the Senate Inquiry support the introduction of individualised early intervention therapy for vulnerable families when parenting capacity is criticised
- that the Senate Inquiry recognise that cost-effective early intervention for vulnerable families with complex needs can be provided by individual skilled psychologists who operate on fee-for-service funding
- that the Senate Inquiry endorse the introduction of a universal scheme across Australia to fund individually focused family therapy for vulnerable families with complex needs

- that family intervention include professional assistance for grandparents who provide significant care for grandchildren
- that the Senate Inquiry support a scheme that permits a range of providers in a local area, rather than block funding to one provider who becomes a monopoly provider.

Groups of Grandparents

Clinical experience indicates that children come into the care of their grandparents through three main pathways:

- Voluntary arrangements where a parent asks a grandparent to provide significant care for a grandchild. There are sub-groups where voluntary arrangements occur. One group involves separated parents who both work, and who ask grandparents to provide significant child care. A second group involves a single mother who is very young, in the teenage years. A third group involves a single parent who struggles with a treatable mental health condition such as depression. A fourth group involves parents who overuse substances and neglect their children.
- Some parents or grandparents have been granted sole parental care or authority by a Family Circuit Court under the Commonwealth Family Law Act. Commonly an assessment of the family has been provided by a family consultant nominated by the court. Parents with sole care often seek increased support from a grandparent.
- Some children are subject to a child protection order granted by a Child and Youth Court operating under state legislation, with care of the child being transferred to a state child protection department. An assessment has been made by a child protection worker that there is significant risk that a parent will mistreat a dependent child. The child may be placed into the care of a grandparent under a kinship care arrangement.

It is noted that family law courts often play a role when children are transferred into the care of a grandparent. It is not clear that the two family law courts follow similar principles when dealing with vulnerable families who have complex needs. There are no published national guidelines for assessors who work with either of the family law courts in Australia, even for simple family cases.

Recommendation:

- That the Senate Inquiry supports the introduction of guidelines for professional assessors who submit assessments of parenting capacity to the two family law courts in Australia

Complications for Grandparents

Complications can arise for grandparents when either a Family Circuit Court or a Child and Youth Court has received an assessment report and has issued orders on the basis of the report, for two reasons:

- Professional assessments conducted on a parent are commonly declared confidential by courts and agencies, so neither grandparents nor therapists receive a copy of assessment reports that describe shortcomings in a parent's capacity. Grandparents are left poorly informed about what level of trust they can place in the parent. Some assessing agencies decline to provide assessment reports even to a parent who is the subject of the report.
- Some family law courts make interim orders, allowing parents whose skills have been criticised to seek therapy to remedy topics that were criticised. However it is not standard

practice in Australia for family law courts to issue interim orders that provide vulnerable parents an opportunity to participate in therapy to remedy their shortcomings. The lack of interim orders is especially unfortunate when a parent has an episodic mental illness that is exacerbated by stress as these mental health conditions respond well to skilled therapy. The lack of interim orders produces crisis situations if a parent is suddenly declared to be an unfit parent, and grandparents are suddenly asked to care for their grandchildren. The lack of notice introduces an unnecessary sense of crisis and adversity that has a negative impact on children.

In Australia, removal of children from the care of their birth parents has become an intervention of first choice by some state government agencies rather than a method of last resort. The standard use of interim orders for vulnerable families where parenting is criticised on moderate grounds would allow more transparent and planned management of cases appearing before the two family law courts in Australia.

The outcome of these factors is that grandparents often feel that their grandchildren were dumped into their care, with little clear information from professionals about what the problem is, and with no advice from the professionals who made the assessments about how to manage the situation that precipitated the crisis.

Recommendations:

- that the Senate Inquiry support the use of interim orders for vulnerable families where parenting has been criticised on treatable grounds
- that family law courts adopt a practice with vulnerable families of encouraging parents whose parenting practices have been criticised to participate in individualised therapy that addresses remediable shortcomings that have been noted in assessment reports
- that reports assessing parenting capacity be available to parents named in the report, to therapists who work with the parent, and to grandparents where relevant
- that family law courts ask for and receive treatment reports directly from therapists, where a treatment report describes progress made on topics that were criticised in a report that assessed parenting capacity.

Reporting by Family Law Courts

At present the Family Circuit Court routinely reports significant rulings together with reasons for rulings. The practice of publishing rulings allows interested therapists to be informed about standards that are set by family law courts, and to provide relevant information when treatment reports are provided to family law courts.

On the other hand, Child and Youth Courts rarely publish their rulings or reasons for rulings. The low level of transparency from Child and Youth Courts results in uncertainty for grandparents and for therapists about what standards will be applied by these courts. The difference in practice between the two family law courts over publication of rulings creates uncertainty about whether the two family law courts in Australia apply similar standards when they are dealing with similar issues.

Recommendation:

- that Child and Youth Courts be encouraged to publish de-identified reports of significant rulings together with reasons for the rulings, as occurs with rulings by Family Circuit Courts.

Quality Assurance of Assessment Reports

Concern has been expressed about whether there are adequate quality assurance procedures for professional assessments of parenting capacity that are provided to family law courts.

Countries such as Britain and USA have produced guidelines to assist professionals who conduct assessments of parenting capacity, but this has not yet occurred in Australia.

The importance of quality assurance for assessments of parenting capacity is accentuated as Judges' Rules in Australia have indicated that Family Circuit Courts will receive a professional assessment from a single expert, based on the rationale that this protects children from the trauma of multiple assessments. Informal reports indicate that judges are very influenced by opinions expressed by the single expert.

The matter of quality assurance is further complicated by an emphasis on confidentiality of reports. Some agencies do not release copies of their assessment report even to parents named in the report. Courts do not routinely make assessment reports available to therapists who treat a parent for shortcomings, leading to a duplication of assessments and to additional costs. Grandparents commonly do not receive a copy of reports about parenting capacity or about events that their grandchild has been exposed to, leaving grandparents with doubts about a suitable level of trust to place in the parent (their own child) in the future care of the child.

The matter of quality assurance is further complicated by the fact that different professionals conduct assessments for the two courts in Australia as family consultants conduct assessments for the Family Circuit Court and state employees conduct assessments for Child and Youth Courts. The two groups of professionals work under different legislation when conducting assessments of parenting capacity.

Unfortunately, there are grounds to be concerned about the quality of some professional reports on parenting capacity. Before the advent of national registration, state registration boards for psychologists reported that they received more complaints on the topic of assessments for family law courts than on any other topic. Similar reports have been made in Canada and USA.

There are grounds for a view that the current strong emphasis on confidentiality of professional assessment reports reduces the accountability of professionals who conduct the assessments.

Recommendations:

- that the Senate Inquiry ask the Commonwealth Attorney General's Department to establish an inter-disciplinary group with representatives from relevant and interested professional bodies (such as the Australian Chapter of the Association of Arbitration and Conciliation Courts, and the Interest Group on Family Law and Psychology of the Australian Psychological Society) both to develop guidelines for the professional assessment of parenting capacity, and to develop a quality assurance system for professional reports on parenting capacity.

- that one set of guidelines for the assessment of parenting capacity be introduced for both Family Circuit Courts and Child and Youth Courts as both courts now deal with complex cases.
- that professional assessments of parenting capacity routinely include an assessment of the potential for rehabilitation when parenting shortcomings have been noted.
- that grandparents who provide substantial care for their grandchildren receive copies of relevant professional assessments of the parenting capacity of their children, the parent of the grandchildren.

Legal Rights of Grandparents

The Australian Family Law Act does not recognise the role of grandparents, and this creates difficulties in short-term situations where a grandparent is suddenly asked to provide substantial care for their grandchild. Some grandparents find they are asked to provide substantial care for a grandchild while having no authority over the child. Some grandparents feel they are being coerced by their own child (the parent) to implement parenting practices they do not agree with and that contributed to separation between the parents. For example, a grandparent may be asked to prevent the grandchild from communicating with their other parent, when the grandparent considers there are no good grounds for this prohibition.

Recommendation:

- that legislation be reviewed to clarify the decision making powers of grandparents who provide substantial care for their grandchildren due to incapacity of one parent.

Conclusion

I thank the Senate Inquiry for the opportunity to make a submission.

Sincerely

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