

**State of Arizona
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
April 1, 2012 – September 30, 2012**

Introduction

During the week of April 29, 2013, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of Arizona's title IV-E foster care program. The review was conducted in collaboration with the State of Arizona's Department of Economic Security (ADES) and was completed by a review team comprised of representatives from the State agency's Division of Children, Youth and Families (DCYF), State court improvement program, the State Administrative Office of the Courts, CB Central and Regional Offices, and peer reviewers. The purposes of the title IV-E foster care eligibility review were (1) to determine whether the Arizona title IV-E foster care program was in compliance with the eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of the State's financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

The primary review encompassed a sample of the State's foster care cases that received a title IV-E maintenance payment for the six-month period under review (PUR) of April 1, 2012 – September 30, 2012. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 79 cases from the original sample plus one oversample case. One case was excluded from the original sample because no title IV-E foster care maintenance payment was made for a period during the PUR. The State provided documentation to support excluding the case from the review sample and replacing it with a case from the oversample.

In accordance with Federal provisions at 45 CFR 1356.71, the State was reviewed against the requirements of title IV-E of the Act and Federal regulations regarding:

- Judicial determinations regarding reasonable efforts and contrary to the welfare as set forth in §472(a)(2)(A) of the Act and 45 CFR §§1356.21(b)(1) and (2), and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with State agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the State plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v).

- Placement in a licensed foster family home or child care institution as defined in §§472 (b) and (c) of the Act and 45 CFR §1355.20(a); and
- Safety requirements for the child’s foster care placement as required at 45 CFR §1356.30

The case file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider’s file also was examined to ensure the foster family home or child care institution where the child was placed during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating when the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was paid. A sample case was cited as non error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity. In addition, underpayments were identified for a sample case when an allowable title IV-E maintenance payment was not claimed by the State for an eligible child during the 2 year filing period specified in 45 CFR §95.7, unless the title IV-E agency elected not to claim the payment or the filing period had expired. The CB and the State agreed that the State would have two weeks following the onsite review to submit additional documentation for a case that during the onsite review was identified as in error, in undetermined status or not in error but with ineligible payments. Based on the supplemental documentation, the undetermined status of sample case 21 was determined to be a non-error.

Compliance Finding

Arizona Department of Economic Security is in substantial compliance for the PUR. The review team determined that 77 of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) and three (3) cases were determined in error for either part or all of the PUR. Because the number of cases in error is below the threshold of four (4), the State meets the requirement for substantial compliance.

Additionally, one (1) non-error case was cited for improper claiming of Federal funds. Accordingly, Federal funds claimed for the title IV-E foster care maintenance payments, including related administrative costs, associated with the error cases and non-error cases with improper payments are being disallowed.

Case Summary

The following charts record the error cases; non-error case with ineligible payment; reasons for the improper payments; improper payment amounts; and Federal provisions for which the State did not meet the compliance mandates.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
36	A title IV-E foster care maintenance payment was made for a child placed with an unlicensed relative care provider. [§472(a) and (c) of the Act; 45 CFR §1356.71(d)(1)(iv) and 1355.20] Ineligible: 07/30/12 – 09/07/12	\$43 Maintenance \$0 Administration
49	Title IV-E foster care maintenance payments were made prior to the judicial determination of contrary to the welfare being made. [§472(a)(2)(A) and 475(4) of the Act; 45 CFR 1356.21(c)] Ineligible: 05/25/12 – 05/31/12	\$201 Maintenance \$0 Administration
55	Removal from & living with requirements not met by the same specified relative [§472(a)(1)& (2) of the Act; 45 CFR §1356.21(k)] Ineligible: 04/07/11 – 11/17/12	\$8,497 Maintenance \$6,250 Administration

Total Maintenance: \$8,741

Total Administrative: \$6,250

Non-error Case with Ineligible Payment

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments
80	Child left group home placement on 12/14/12. Title IV-E maintenance payment claimed for three extra days [45 CFR 1356.21] Ineligible: 12/15/12 – 12/17/12	\$163 Maintenance \$0 Administration

Total Maintenance: \$163

Areas in Need of Improvement

The findings of this review indicate the State needs to further develop and implement procedures to improve program performance in the following areas.

Issue #1: Unlicensed Foster Care Provider

In error case #36, foster care maintenance payments were made for a child placed with an unlicensed provider. The State claimed title IV-E prior to the relative caregiver becoming fully licensed as a foster family home. The State agency must document that the child's foster care placement is fully licensed or approved in order for the child to be eligible under title IV-E.

Title IV-E Requirement: Federal provisions at §472(b) and (c) of the Act and 45 CFR §1356.71(d)(1)(iv) and 1355.20 permit Federal financial participation (FFP) for the costs of foster care maintenance for otherwise eligible children placed in licensed or approved foster family homes or childcare institutions. It is required that the child's foster care setting be fully licensed or approved in accordance with the State's licensing standards. For the title IV-E eligibility review, the State must provide sufficient information to support FFP for a child's foster care placement during the PUR.

Recommended Corrective Action: The State should continue to develop and implement procedures to ensure that each foster care provider is fully licensed prior to claiming title IV-E foster care maintenance payments for a child's placement. The State should continue to develop its payment system with attention given to alerts for placement changes or other changes in the child's circumstances that would affect the child's eligibility for title IV-E. Staff training will help to ensure that workers make eligibility decisions based on the elements needed for compliance and to eliminate the authorization of payments prior to establishing compliance with the requirements.

Issue #2: Contrary to Welfare and Reasonable Efforts to Prevent Removal

In error case #49, IV-E funds were claimed beginning on May 25, 2012, before the month of June 2012 when the contrary to welfare finding was obtained.

Title IV-E Requirement: Regardless of the removal date, the title IV-E agency may claim title IV-E maintenance payments from the first day of the child's placement in the month in which all title IV-E eligibility criteria are met for the child. [See 8.3A. 15, Question #1 of the CB Child Welfare Policy Manual (CB Policy Manual)].

If a title IV-E maintenance payment was made for a period that was prior to the month in which the eligibility requirement was met and the ineligible period was outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment was made for a period that was prior to the month in which the eligibility requirement was met and the ineligible period was in the PUR, the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Recommended Corrective Action: The CB suggests that the State put in place a quality assurance system to monitor the accuracy of claiming processes.

Issue #3: Child Not Living with Specified Relative within 6 Months of Petition

In error case #55, according to the agency's petition to the court for removal, the child had been living with a family friend under a temporary custody order since July 2010. As such, the child had not lived with the mother within six months of the petition that initiated the court action that removed the child. However, the requisite judicial findings of contrary to the welfare and reasonable efforts were made against the child's mother.

Title IV-E Requirement: For title IV-E eligibility purposes, a child must be living with a specified relative during the month in which court proceedings were initiated to remove the child from the relative's home or the month in which the specified relative signed a voluntary placement agreement. The only exception to this requirement is when a child has not been living with that specified relative in such month, but has lived with that relative within 6 months of the initiation of court proceedings or signing of the voluntary placement agreement. Calculation of the 6-month period for the living with requirement is based on calendar months and is not counted from date to date. For judicial removals, the date the court proceedings are initiated is usually the date on which the removal petition is filed with the court.

Recommended Corrective Action: The AFDC determination was incorrectly based on the home of the specified relative where the child lived during the removal month even though that was not the home from which the child was judicially removed. Moreover, the child had not lived with the specified relative from whom the child judicially was removed (the mother) within six months of the petition that initiated the removal. Training is recommended to help eligibility specialists understand the "living with and removal from" requirements and their linkage to determining the AFDC removal home for title IV-E eligibility. Consistent with §472(a)(2)(A) of the Act, the child must have been physically or constructively removed from the home of a specified relative according to a court order or voluntary placement agreement and must have lived with that same specified relative within six months. The AFDC determination, then, considers the home of the specified relative who is the basis of the "contrary to welfare" determination in judicial removal or who signs the voluntary placement agreement in a voluntary removal. However, if more than six months had expired, in this situation, then the "living with and removal from" requirement has not been met and the child is not eligible under the title IV-E requirements.

Area of Concern:

In ten cases it was documented that the child had met all criteria for eligibility under title IV-E rules. However, the ADES did not claim maintenance payments for the entire month it could have for each child. The State has a practice of using Federal funds to pay for placements from the beginning of the month the child is eligible. The State has been losing money by not claiming for the entire month.

Title IV-E Requirement: Federal regulations at 45 CFR §1356.60 provide that title IV-E foster care maintenance payments may be claimed for allowable costs that are covered by the Federal definition of foster care maintenance found at §475(4) of the Act. Under §472 of the Act, title IV-E maintenance payment may be claimed from the first day of the foster care placement in the month in which all title IV-E eligibility criteria are met. The payment may be claimed for the entire month when an eligible child has resided in the foster care placement for the entire month.

However, if the eligible child is placed on a date in the month other than the first of the month, title IV-E funds may be claimed for the period beginning with the actual date of foster care placement. [See 8.3A. 15, Question #1 of the CB Policy Manual].

Recommended Corrective Action: The ADES should identify the systemic factors underlying the occurrence of improper payments and develop an action plan to correct them. This process would help determine whether adequate financial controls are in place and properly functioning to prevent payments for ineligible children or unallowable program costs. Also, it would help to reduce or eliminate future underpayments and increase the State's eligibility to maximize reimbursements for allowable costs of care for eligible children by using funding available under title IV-E

Strengths and Promising Practices

The following positive practices and processes of the title IV-E foster care eligibility program were observed during the review. These approaches seem to have led to improved program performance and successful program operations.

Timely Court Hearings

The collaboration between the child welfare agency and the court agencies resulted in timely and complete documentation of court orders for children, with the requirement met for all cases. Reasonable efforts to finalize the permanency plan findings typically occur in both the Permanency and Report & Review Hearings. The practice for the Permanency Hearings is to hold them annually, and the Report & Review Hearing is held usually every six months. Language was clear, concise and child-specific in court orders that contained more narrative usage than checkboxes, which yielded more child and case-specific information. In many orders, the permanency plan was clearly identified and concurrent planning was often integrated. As a result, reasonable efforts to finalize the permanency plan determinations always were timely and reviewers found most cases to have determinations every six months. This practice ensures that the State will meet the requirements in §472(a)(2)(A)(ii) of the Act and 45 CFR 1356.21 (b) (2) for the State agency to obtain judicial determinations within twelve (12) months of the child's entry into foster care that the agency has made reasonable efforts to finalize the permanency plan that is in effect with subsequent determinations every 12 months.

Automated Data Systems

The Arizona Children's Information Library and Data Source (CHILDS) incorporates the requirements for both the AFCARS and the National Child Abuse and Neglect Data System (NCANDS). The CHILDS has information on all children that are or have been involved with DCYF. This can range from a simple investigation to an out of home case. The CHILDS houses the following information when it comes to child care facilities: the names of all provider placements (child care facilities such as foster homes, group homes, residential treatment centers, shelters) that the ADES contract.

The Quick Connect database has information on criminal records checks, child abuse and neglect checks and whether a license was issued or declined. It has capacity when utilized to process a licensing application on a given applicant or licensee during various licensing phases, such as, initial, renewal, amendment (change of licensing conditions) and withdrawal (formalize closure

of a license). The background check process is timely, especially given the volume of checks that are completed annually,

Disallowances

A disallowance in the amount of \$8,741 in maintenance payments and \$6,250 in related administrative costs of Federal Financial Participation (FFP) is assessed for title IV-E foster care payments claimed for the error cases. Additional amounts of \$163 in maintenance payments and \$0 in related administrative costs of FFP are disallowed for title IV-E foster care payments claimed improperly for the non-error case. The total disallowance as a result of this review is \$15,154 in FFP. The State also must identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the PUR. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

Next Steps

As part of the State's ongoing efforts to improve its title IV-E foster care eligibility determination process, CB recommends that Arizona examine the areas of concern identified in this report. The State should develop measurable, sustainable strategies that will target the root cause of the concerns and improve the foster care eligibility program. Appropriate corrective action must be taken in instances of noncompliance with Federal laws and regulations. The CB Region IX staff is available to assist the State in identifying and obtaining technical assistance available to facilitate the State's strategies for corrective action.