CERTIFIED MAIL – Return Receipt Requested

Mary Ault, Deputy Director
Children and Family Services Division
California Department of Social Services
744 P Street
Sacramento, California 95814

Dear Ms. Ault:

During the week of July 31 through August 4, 2006, the Administration for Children and Families (ACF), in collaboration with the California Department of Social Services (CDSS), conducted California's title IV-E Foster Care Eligibility Review. The period under review (PUR) was October 1, 2005 through March 31, 2006. Enclosure A is the final report. This was California's second primary review; the initial primary review was conducted in May 2003.

We appreciate the exemplary efforts of your staff, county child welfare agency staff, and the California Judicial Council staff in preparing for and carrying out this review. In particular, Linda Shill's industrious efforts in ensuring the successful completion of this review are commendable. Please also extend our sincere gratitude to Los Angeles County for hosting the review again, making ample space available for the reviewers, and providing additional staff to assist, including Jung Hae Lee whose help as the case file gatekeeper ensured an orderly review so that cases were not inadvertently misplaced or mislabeled. The complete list of the team members engaged on-site to review cases is found in Enclosure E.

Purposes

The purposes of the title IV-E Foster Care Eligibility Review are (1) to determine whether title IV-E foster care maintenance payments were made on behalf of eligible children and to eligible homes and institutions in accordance with 45 CFR 1356.71 and Sections 471 and 472 of the Social Security Act (SSA); (2) to identify erroneous payments (e.g., overpayments, underpayments, etc.); and (3) to identify promising practices and/or needs for training and technical assistance.

Error Cases

A case was determined to be in error if a title IV-E payment was made on behalf of a title IV-E ineligible child and/or to a title IV-E ineligible provider during the PUR. Of the 80 cases reviewed (77 child welfare and 3 juvenile justice), 4 cases were found in error (Case Sample #s 13, 55, 66, and 69). The error cases are addressed in the enclosed report (Enclosure A) and summarized in Enclosure B.

Non-Error Cases with Ineligible Payments and/or Overpayments

In addition to ascertaining whether a case was in error, the reviewers also determined whether there were other unallowable title IV-E payments for any of the cases reviewed. Specifically, a case was determined to be a "non-error case with ineligible payments" if there were title IV-E

payments made on behalf of a child, and/or made to a provider, who were ineligible for title IV-E for a period of time solely outside the PUR -- there were three such cases (Case Sample #s 17, 40, and 51).

The review also surfaced overpayments, e.g., foster care maintenance payments made to two out-of-home care providers on behalf of a child for the same period of time – there were 11 such cases (Case Sample #s 4, 12, 27, 33, 34, 35, 46, 47, 54, 59, and 68). Two error cases (Sample Case #s 55 and 66) also had ineligible payments and/or overpayments. One non-error case with ineligible payments (Sample Case # 40) also had an overpayment. Additionally, although for Sample Case # 14 a title IV-E payment was improperly made during the PUR in February 2006 to a group home provider on behalf of a child who had left the group home in mid-January 2006 and placed in a title IV-E ineligible facility (a juvenile detention facility), we decided not to consider this as an error case. The January payment issued to the group home provider was properly pro-rated and the case was placed in a zero payment status in the automated system. The County converted to another automated System, CalWIN, in February which, because the zero payment status was not recognized by the new system, caused an additional payment to be inadvertently issued to the group home even though the child continued to reside at the juvenile detention facility. The county discovered the error when verifying the automated system conversion and initiated corrective action prior to our undertaking the title IV-E review. Thus, because action was taken to recoup the funds prior to the review and as shown by the group home not cashing the check, we are not citing this case in error, but rather as a case with an overpayment, bringing the total number of cases with overpayments to 15.

The non-error cases with ineligible payments and/or overpayments are also addressed in the enclosed report (Enclosure A) and summarized in Enclosure C.

Determination of Compliance

Since no more than four cases were in error, I am pleased to inform you that California's title IV-E foster care maintenance program is in substantial compliance with Federal child and provider eligibility requirements for the period October 1, 2005 through March 31, 2006. Pursuant to 45 CFR 1356.71(h)(4), we will conduct the State's next primary review in approximately three years.

Although California is not required to develop a Program Improvement Plan (PIP) pursuant to 45 CFR 1356.71(i), the enclosed report includes recommendations for further strengthening the State's title IV-E foster care maintenance program.

Disallowance

The financial disallowance taken as a result of this primary review will be for the foster care maintenance payments and, if applicable, administrative costs associated with the error cases and the non-error cases with ineligible payments. Administrative cost disallowances are not associated with the overpayments. Enclosure D identifies the disallowed Federal financial participation (FFP) associated with each case. **This letter constitutes our formal notice of disallowance of $122,015 in FFP for title IV-E foster care maintenance payments and related administrative costs.**

Since the amount of the disallowed funds was previously included in Federal payments made to the State, you must repay these funds by including a prior period decreasing adjustment on the Quarterly Report of Expenditures (Form ACF-IV-E-1), Part 1, Line 1, Columns (c) and (d). A supplemental IV-E-1 form must be submitted to us within 30 days of the date of this letter in order to avoid the assessment of interest. A supplemental submission must contain only the adjustment described above and identified in Enclosure D; other claims or revisions must not be included and will not be accepted.

Please note that there are two error cases (Case Sample #s 66 and 69) in which the children continued to be in foster care following the PUR. Therefore, in addition to the disallowance, we expect the State to assure us that FFP has not been claimed for these cases in the fiscal claims beginning with May 2006. For Sample Case # 66, claims for FFP may resume for payments made beginning with the month in which the foster family home fully meets the State's safety requirements. For Sample Case # 69, payments beyond April 2006 must never be claimed for FFP because the child is ineligible for the entire foster care episode.

Appeal Rights

This letter constitutes our final decision. Pursuant to 45 CFR Part 16, you have an opportunity to appeal this decision to the Departmental Appeals Board (DAB). This decision shall be the final decision of the Department of Health and Human Services unless, within 30 days of receiving this decision, you deliver or mail (using registered or certified mail to establish the date) a written notice of appeal to the DAB at the following address:

Department of Health and Human Services
Departmental Appeals Board, MS 6127
Appellate Division
330 Independence Ave., SW
Cohen Building, Room G-644
Washington, D.C. 20201

You must attach to the notice a copy of this decision, note that you intend to appeal, state the amount in dispute, and briefly state why you think this decision is wrong. A copy of your appeal should also be sent to the attention of Sharon Fujii in the ACF Regional Office. The Board will notify you of further procedures.

If you appeal, you may elect to repay the amount at issue pending a decision by the DAB or you may retain the funds pending that decision. An adjustment to return the disallowed funds for the purposes of avoiding the interest assessment must be made through the use of a supplemental submission of the IVE-1 form, as described above. If you retain the funds and the DAB sustains all or part of the disallowance, interest will be charged starting from the date of this letter on the funds the DAB decides were properly disallowed. Regulations at 45 CFR Part 30 explain how interest will be computed.

In the event you choose to take no action to return the funds, it will be assumed you have elected to retain the funds either to appeal or to delay recoupment of the funds until the next issued grant award. Interest will continue to accrue on the Federal funds retained by the State during this period.

We again want to thank you, your staff, the counties, and the Judicial Council for the efforts made in conducting this review. Please extend our appreciation to Los Angeles County for hosting the review. We look forward to working with you and your staff to continue to strengthen State implementation of the Federal title IV-E requirements and to improve services to children and families.

Please call Pat Pianko at (415) 437-8462 if you have any questions about the review or the enclosed report. Questions concerning the disallowed amounts should be directed to Debi O'leary at (415) 437-8464.

Sincerely,

Susan Orr
Associate Commissioner

Enclosures:

1. Final Report (Enclosure A)
2. Summary of Error Cases (Enclosure B)
3. Summary of Cases with Ineligible Payments/Overpayments (Enclosure C)
4. Summary of FFP Disallowed (Enclosure D)
5. Review Team Roster (Enclosure E)

cc: Barbara Eaton, CDSS
Linda Shill, CDSS
Don Will, Judicial Council
Joe Bock, Children's Bureau
Paul Kirisitz, Children's Bureau
Sharon Fujii, Region IX

Enclosure A

California Title IV-E Foster Care Eligibility Review Final Report
Period Under Review: October 1, 2005 – March 31, 2006

Introduction

During the week of July 31 through August 4, 2006, the Administration for Children and Families (ACF), in collaboration with the California Department of Social Services (CDSS), its counties, and the Judicial Council of California, conducted California's title IV-E Foster Care Eligibility Review. The review team was comprised of representatives from the State agency, four county child welfare agencies, the California Judicial Council, the ACF Regional Office, and ACF Central Office, including two Federal Peer Review Consultants. (See Enclosure E for a complete listing of the review team members.)

The purposes of the title IV-E Foster Care Eligibility Review are (1) to determine whether title IV-E foster care maintenance payments were made on behalf of eligible children and to eligible homes and institutions in accordance with 45 CFR 1356.71 and Sections 471 and 472 of the Social Security Act (SSA); (2) to identify erroneous payments (e.g., overpayments, under-payments, etc.); and (3) to identify promising practices and/or needs for training and technical assistance.

Scope of the Review

The review encompassed title IV-E foster care cases on whose behalf a title IV-E foster care maintenance payment was made for placement services rendered during the period under review (PUR): October 1, 2005 through March 31, 2006. A computerized statistical sample of 120 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data transmitted by the State agency to the ACF for the PUR. Eighty cases (77 child welfare agency cases and 3 probation department cases) were reviewed.

For each case, reviewers determined whether appropriate documentation existed to substantiate compliance with the following requirements:

1. Judicial determinations regarding
   - contrary to the welfare pursuant to Section 472(a)(2)(A)(ii) of the Social Security Act (SSA) and 45 CFR 1356.21(c);
   - reasonable efforts to prevent removal pursuant to Section 472(a)(2)(A)(ii) of the SSA and 45 CFR 1356.21(b)(1); and
   - reasonable efforts to finalize permanency pursuant to Section 472(a)(2)(A)(ii) of the SSA and 45 CFR 1356.21(b)(2);

2. Voluntary placement agreements pursuant to Sections 472(a)(2)(A)(i), 472(e), 472(f), and 472(g) of the SSA and 45 CFR 1356.22;

3. State agency responsibility for placement and care pursuant to Section 472(a)(2)(B) of the SSA;

4. Aid to Families with Dependent Children (AFDC) eligibility (as of July 16, 1996) pursuant to Section 472(a)(3) of the SSA;

5. Placement in a licensed foster family home or child care institution pursuant to Sections 472(b) and (c) of the SSA and 45 CFR 1355.20(a); and

6. Criminal records check and other safety requirements for foster care providers pursuant to Section 471(a)(20) of the SSA and 45 CFR 1356.30.

A case was determined to be in error if a title IV-E payment was made on behalf of a title IV-E ineligible child and/or to a title IV-E ineligible provider during the PUR. A case was determined to be a "non-error case with ineligible payments" if there were title IV-E payments made on behalf of a child, and/or made to a provider, who were ineligible for title IV-E for a period of time solely outside the PUR. The review also determined whether the correct amount was paid to a provider and thus whether an underpayment or an overpayment existed in or outside the PUR.

In Substantial Compliance

Four cases (Case Sample #s 13, 55, 66, and 69) were determined to be in error for either part or all of the PUR for reasons that are identified in the body of this report and summarized in Enclosure B. **Since no more than four cases were in error, California's title IV-E foster care maintenance program is therefore in substantial compliance with the Federal child and provider eligibility requirements for the period October 1, 2005 through March 31, 2006.**

The reviewers also determined that there were 3 non-error cases with ineligible payments (Case Sample #s 17, 40, and 51) and 12 cases with overpayments only, e.g., foster care maintenance payments made to two out-of-home care providers on behalf of a child for the same period of time (Case Sample #s 4, 12, 14, 27, 33, 34, 35, 46, 47, 54, 59, and 68). Note that two error cases (Sample Case #s 55 and 66) also had ineligible payments and/or overpayments and one non-error case with ineligible payments (Sample Case # 40) also had an overpayment. Thus, in total, there were 15 cases with overpayments.

Case Record Summary

Enclosure B lists the error cases, reasons for the errors, and the applicable Federal statutory and/or regulatory requirement.

Enclosure C lists the non-error cases that had ineligible payments and/or overpayments, reasons for the unallowable payments, and applicable Federal statutory and/or regulatory requirement.

Enclosure D identifies the payments associated with the error cases, the cases with ineligible

payments, and the cases with overpayments.

Strengths

We applaud the State for the following practices noted during the review which appear effective in operating the State's title IV-E foster care maintenance program.

Obtaining Judicial Determinations

- Judicial determinations about whether the agency is making reasonable efforts to prevent a child's removal are being obtained within 60 days of the child's removal from home and are generally occurring in the first order at the same time the contrary to the child's welfare determination is rendered.

- The practice of seeking judicial determinations at 6-month rather than 12-month intervals about whether reasonable efforts were made by the agency to finalize a child's permanency plan continues to be a noteworthy practice in helping to ensure that permanency plans are assessed timely.

- Reviewers also noted that reports to the court were generally comprehensive and well-written, that court orders often reflected visitation with grandparents and/or siblings, and that the courts often ordered that the agency place siblings together.

Aid to Families with Dependent Children (AFDC) Eligibility
All cases demonstrated that the AFDC linkages were properly established at initial removal and that re-determinations were performed regularly. Generally, re-determinations were done every six months rather than annually, which continues to be a noteworthy practice in helping to ensure timely re-determinations of AFDC linkages.

Background Clearances
Reviewers noted that the results from the fingerprint checks of the California criminal records, the FBI records, and the California Child Abuse Index (CACI) in most cases were received the same day.

Areas in Need of Improvement

Judicial Determination Regarding Contrary to Welfare of Child to Remain in the Home

Pursuant to Section 472(a)(2)(A)(ii) and 45 CFR 1356.21(c), removals pursuant to a court order must be the result of a judicial determination that it is contrary to the child's welfare to remain in the home. For removals occurring on or after March 27, 2000, if the judicial determination is not made in the first court order sanctioning and coinciding with the child's removal, the child is title IV-E ineligible for the duration of the foster care episode. A court order containing the requisite determination but permitting the child to remain in the home is not a valid removal.

The following case did not meet the contrary to the welfare judicial determination requirement and is thus cited in error:

- Case Sample # 69. Although due to the petition filed, the court determined on April 23, 2004 that it was contrary to the child's welfare to remain at home, it detained the child in the home. Four days later, the social worker found the father in the home, violating a restraining order, and physically removed the child on April 27, 2004. The social worker did not file another petition. Thus, at the next court hearing, which was held on May 12, 2004, following this removal, the resultant court order did not contain the contrary to the welfare judicial determination. Although the State subsequently obtained a copy of the court transcript for the May 12, 2004 hearing, it did not substantiate a contrary to the welfare judicial determination.

  The review team believes that had the social worker filed a petition to remove the child, it would have likely initiated the proper judicial oversight and determinations. Additionally, the eligibility workers need to know that when a judge makes a finding that it is contrary to the child's welfare to remain in the home and yet detains the child in the home, this does not constitute a valid removal. As a result, $28,095 in FFP associated with the foster care maintenance payments paid for this case through April 2006 and associated administrative costs are disallowed. Additional dollars continue to be at stake since this child continues to be in foster care but ineligible for title IV-E.

Initially, Case Sample # 31 was also cited in error because the court order from the September 11, 2003 hearing sanctioning the child's removal did not contain the requisite contrary-to-the-welfare finding. The State subsequently obtained the court transcript from that September 11 hearing in dependency drug court. We reversed the initial error finding because we consider the judge's following statements as satisfying the contrary-to-the welfare finding: "[i]t's impossible for you right now while you're using methamphetamine and other illegal substances for you to care properly for all of your children and I think you know that. I know you love your children and you don't want to be separated from them, but the reality is that this is a point we've reached."

In discussing both of these cases among the review team members, the challenges eligibility workers face in discerning eligibility nuances, e.g., the date of a physical removal, foster care episodes, and what constitutes a valid removal surfaced. Although other scenarios that eligibility workers find equally challenging did not surface in the cases reviewed, e.g., court orders that re-instate dependencies dismissed years ago to permit legal guardians to adopt children in their care, the need for technical assistance and training became evident. We also note that the State has not developed a statewide standardized training curriculum for new and seasoned eligibility workers which could help ensure eligibility workers are properly trained and applying title IV-E requirements consistently across counties. Also, it was not clear the extent to which counties provide training to their eligibility workers.

Recommendations:

1. We encourage the State to develop and implement statewide standardized training for eligibility workers.

2. We encourage the State, in collaboration with the Judicial Council, to explore further not only the identified error case but also the other complex scenarios that eligibility workers find challenging. A particular example is determining when a foster care episode begins and ends so that the appropriate order for the contrary-to-the-welfare determination can be utilized.

3. We also encourage the State to collaborate with the Judicial Council to inform all courts that making a determination that it is contrary to the child's welfare to remain at home and yet detain the child in the home does not constitute a valid removal for title IV-E purposes. It would also be helpful for the Judicial Council to inform judicial officers presiding over the drug courts that, whenever they order a parent into residential drug treatment and the parent's children into foster care, to be mindful of the need to make an explicit finding in the court order that remaining in the home is contrary to the child's welfare.

Judicial Determination Regarding Reasonable Efforts to Prevent Removal

For children removed on or after March 27, 2000, 45 CFR 1356.21(b)(1) requires the State agency to obtain a judicial determination no later than 60 days from the date the child is physically or constructively removed from home that the agency made reasonable efforts to prevent a child's removal. If this finding is not made within the 60-day timeframe, the child is ineligible for the entire foster care episode. If the determination is obtained within 60 days, title IV-E cannot be claimed until the month in which the judicial determination is rendered and all other eligibility requirements are met.

There were no cases found in error due to a lack of obtaining this judicial determination within 60 days of removal. However, the following two cases had ineligible payments because title IV-E was claimed prior to the month in which this eligibility criterion was met:

- Case Sample # 40. The child was physically removed February 21, 2002. It wasn't, however, until the hearing held April 18, 2002 (56 days after removal) that the court rendered the determination that the agency made reasonable efforts to prevent removal. Therefore, since all other eligibility criteria were also met, the earliest title IV-E could have been claimed was April 2002. Title IV-E was paid beginning February 2002. Thus, payments and associated administrative costs claimed for February and March 2002 are title IV-E ineligible.

- Case Sample # 69. This is the error case mentioned above whereby the court hearing on April 23, 2004 "detained" the child in the home and the child was subsequently physically removed a few days later. The court order from the next hearing held on May 12, 2004 lacked not only the contrary to the welfare determination, but also a determination that the agency made reasonable efforts to prevent the child's removal. The court transcript of the May 12 hearing that was subsequently made available did not substantiate a reasonable efforts finding. This reasonable efforts finding was not made until a hearing held on June 3, 2004, which is within 60 days of the child's removal on

April 27, 2004. Therefore, even if the case were to have had the contrary to the welfare judicial finding, the earliest title IV-E could have been claimed would have been June 2004. (Title IV-E payments were made for April and May 2004.)

Recommendations

1. Remind eligibility workers that even if the reasonable efforts to prevent removal finding is made within 60 days of removal, title IV-E cannot be authorized for a period prior to the month in which the criteria is met.

2. Develop standardized training for new eligibility workers that includes the expectation that title IV-E not be authorized for months prior to the month in which all eligibility requirements are met.

Judicial Determination Regarding Reasonable Efforts to Finalize Permanency

Section 472(a)(2)(A)(ii) of the SSA and 45 CFR 1356.21(b)(2) require the State agency to obtain a judicial determination within 12 months of the date the child is considered to have entered foster care that the agency has made reasonable efforts to finalize the permanency plan that is in effect. For children who entered care prior to March 27, 2000 (the effective date of the regulations implementing the Adoption and Safe Families Act), the first of these determinations must have occurred by no later than March 27, 2001. Subsequent determinations must be obtained at least every 12 months. If a determination is not obtained timely, the child is ineligible at the end of the month in which the determination was due and remains ineligible until the month in which the determination is made.

45 CFR 1355.20(a) defines the date a child is considered to have entered foster care as the earlier of 60 days from the date of removal or the first judicial finding that the child has been subjected to child abuse or neglect. During the initial primary review, the State raised a concern that since court orders do not often explicitly state a finding of abuse or neglect, eligibility workers were accustomed to using 60 days from the date of removal as the date of entry into foster care to start the clock ticking for this 12-month requirement. We clarified that, for purposes of the date of entry into foster care, the judicial finding that a child has been subjected to abuse or neglect does not have to explicitly state in the court order that there was a "finding of abuse or neglect." A court order that states, for example, that the child abuse/neglect "allegations or counts in the petition are sustained," as is often found in the jurisdictional orders, constitute the finding of abuse or neglect. The "prima facie" finding, which is often made at the detention order, does not constitute a judicial finding that abuse or neglect occurred. We are pleased that, subsequent to the initial primary review, the State clarified for eligibility workers what constitutes the date of entry into foster care.

Cases are cited in error if the judicial determination was due prior to or during the period under review (PUR) but was not made during the PUR and a title IV-E payment was claimed for the ineligible period. Cases in which the determination was late but was made prior to or during the period under review were not to be cited as errors, even if title IV-E was claimed -- these cases were, however, to be identified as having ineligible payments for the ineligible period of time. However, reviewers were instructed to look for the most recent determination that was made

prior to the PUR and thus did not systematically review whether all cases obtained the finding timely throughout the child's entire stay in foster care. Reviewers were also instructed that if they should identify instances when earlier determinations were not obtained timely, they were to also identify those as ineligible payments.

The review team found no cases in error and two non-error cases with ineligible payments (Case Sample #s 17 and 51) because the judicial determinations that reasonable efforts were made to finalize permanency were not obtained within a 12-month period. Reviewers noted that judicial determinations regarding reasonable efforts to finalize permanency are generally obtained more frequently than every 12 months. This practice of seeking the determination at the six-month periodic reviews is noteworthy and helpful in mitigating the impact of continuances.

Regarding the two cases with ineligible payments, one (Case Sample # 17) had orders with court findings that "reasonable services have been provided to meet the needs of the minor." The team surmised that the judge, the social worker, and the eligibility worker may have thought this satisfied "the agency made reasonable efforts to finalize the permanency plan" determination when it does not. For the other case (Case Sample # 51), although the finding was initially due September 2004, the finding was not made until August 31, 2005. However, the information in the case record did not shed light about why the finding was not obtained timely or why the eligibility worker continued to authorize title IV-E payments.

Reviewers also noted prototype court order language that states "the court finds [agency] has complied with the case plan by making reasonable efforts to enable the child's safe return and to complete whatever steps are necessary to finalize the permanent placement of the child." While this language would be appropriate for children for whom reunification is the goal or a concurrent goal, this language raises questions about the meaningfulness of the court's oversight when the goal is not or has not been reunification for the prior 6 to 12 months.

Although assessing the appropriateness of a permanency goal was not in the scope of this review, reviewers noted some concerns. For example, in one case (Case Sample #60), long term foster care was identified as the goal for a sibling group of children under age six. In another case (Case Sample # 13), long term foster care was identified for a child age two.

Recommendations

1. Ensure that eligibility workers review court orders to ascertain the timeliness of determinations "regarding reasonable efforts to finalize the permanency plan were made by the agency" and to reverse timely title IV-E payments for periods of time when the judicial determination to finalize permanency was late.

2. Develop standardized training for new eligibility workers that includes how to determine whether the reasonable-efforts-to-finalize-permanency-judicial-determination requirement was met.

3. Collaborate with the Judicial Council in ensuring courts are aware that orders need to reflect the court's judgment whether the agency's efforts during the

previous 6-12 months since the last determination was made were meaningful in bringing about permanency for the child. It should pertain clearly to the permanency plan that was in effect at the time the State agency sought the judicial determination, a permanency plan that had been in effect for a brief period of time immediately preceding the judicial ruling, or the activities related to achieving permanency that took place over the 12 months immediately preceding the judicial ruling, even if the plan had been abandoned during that 12-month period.

4. We encourage the State to remind counties and to work with the Judicial Council to remind the courts that long term foster care should not be a permanency goal, especially for young children.

Responsibility for Placement and Care

In all but one of the cases reviewed, either the child welfare agency or the probation department was appropriately vested with responsibility for placement and care as required by Section 472(a)(2)(B) of the SSA. For Sample Case # 55, the child was placed with the father mid-October 2005 and the case was closed. The child was placed at home, no longer under the placement and care authority of the county, and therefore ineligible for further foster care maintenance payments. The county issued title IV-E foster care maintenance payments to the foster family with whom the child was previously placed for all of October (issued October 24, 2005), November (issued November 23, 2005), and December 2005 (issued December 23, 2005). Although the county discovered the payment errors in February 2006, documentation was not provided to demonstrate that the payments were not claimed for title IV-E Federal financial participation (FFP) or, if claimed, that the payments were subsequently downwardly adjusted in a claim for FFP prior to May 19, 2006, the date we provided the State with the listing of cases to be reviewed.

Although not causing any of the cases to be in error, we note that the agreement between the Santa Barbara child welfare agency and the county probation department has not been updated to include the information articulated in the State's All County Letter (ACL) 00-22. This ACL was issued as a result of a December 22, 2000 Office of Inspector General (OIG) audit report (A-09-99-00057) regarding *Protections Provided to Foster Care Children through the Juvenile Justice System in California* (A-09-99-00057) to help ensure probation departments afford foster children in their care the same protections child welfare agencies afford foster children in their care, including those related to the case review system and case plan requirements.

Recommendations

1. Ensure that title IV-E foster care maintenance payments are not paid to providers once the agency has closed the case and no longer has responsible for placement and care and, if an unallowable payment is made, that the Federal share of such payments are promptly returned to the Federal government.

2. Explore Sample Case # 55 to better understand from the County the circumstances that resulted in issuing the unallowable payments and develop a strategy to preclude future similar unallowable payments from occurring in the future in that county and in other counties.

3. Ensure the Santa Barbara agreement between the county child welfare and probation departments is updated to reflect the requirements articulated in ACL 00-22. The State should consider requesting agreements from all counties to ensure they have all been appropriately updated.

Licensing/Approval of Foster Family Homes and Child Care Institutions

Pursuant to Sections 472(b) and (c) of the SSA and 45 CFR 1355.20(a), foster family homes and child care institutions must be fully licensed (or in California, approved as meeting licensing standards) to be title IV-E eligible placements. Title IV-E cannot be claimed until the month in which the placement is fully licensed/approved. Cases were to be determined to be in error if a child was placed in a home or institution and title IV-E payments were made prior to the month in which the home or institution was fully licensed/approved during the PUR. Placements out of State must also be licensed by, and in accordance with the licensing standards of, the receiving State if the State wishes to claim title IV-E.

One case (Case Sample # 13) was found in error because the home was not licensed. The child was placed with a relative in another State (Illinois). There were two other cases in the review in which children were placed out of State. In all three cases, we note that the State/counties were scrambling to gather licensure documentation from the resident States. It became evident during this review that the State/counties believe that the Interstate Compact on the Placement of Children (ICPC) form suffices for licensure (as well as background clearances); they do not. With respect to this error case, according to the receiving State's ICPC contact, had California requested that the home be licensed, he would have initiated that process. He was unaware that California planned to claim title IV-E for the placement.

There was also one error case (Case Sample # 55) that also incurred an ineligible payment because the child was placed with a non-relative extended family member (NREFM) foster family home prior to the home being fully approved and title IV-E was claimed for the foster care maintenance payment. Although this occurred prior to the PUR and thus was not the cause for citing this case in error, we note that this is similar to what was found in the initial primary review, i.e., a case was cited in error for placing a child with a NREFM prior to full approval and title IV-E was claimed.

Recommendations

1. Inform child welfare workers, eligibility workers, and ICPC liaisons that placements out of State also need to be properly licensed by the resident State if title IV-E is to be claimed.

2. Routinely obtain copies of the licenses for the files to ensure the child's out-of-State placement is and continues to be fully licensed.

3. Develop a mechanism to ensure that title IV-E is not claimed until the foster family home, including NREFM foster family homes, is fully licensed/approved.

Safety Requirements of Provider

Foster Family Homes
Section 471(a)(20) of the SSA requires States to conduct criminal record checks for prospective foster families beginning November 19, 1997, the effective the date of the Adoption and Safe Families Act (ASFA) or the approved delayed effective date if the State required legislation to implement the provision. California submitted its request to delay the effective date until January 1, 1999 at which time the State opted out of the Section 471(a)(20) criminal records requirement. Therefore, foster families who are licensed/approved on or after March 27, 2000 have to meet the State's other safety considerations pursuant to 45 CFR 1356.30(e): California's background clearances pursuant to California's Health and Safety Code (HSC) 1522.

For foster families that were licensed or approved prior to March 27, 2000, if there was no documentation that the families cleared the background checks, these cases were not to be cited in error. For families licensed or approved on or after March 27, 2000, if a child was placed in the home prior to all adults in the home clearing the background checks, cases were to be cited in error if the clearances were never obtained or were not obtained until sometime during or after the PUR and title IV-E payments were made for the period that the home did not meet the safety requirements. Cases were to be cited as non-error cases with ineligible payments if the background clearances were obtained after the child's placement but prior to the PUR and title IV-E was claimed for the period the provider did not meet the safety requirements.

There was one case cited in error (Case Sample # 66) because, even though this was a home approved by the Tribe, the home must meet the State's safety requirements in their entirety but did not. It is our understanding that it was the county's responsibility to ensure the home met the HSC 1522 requirements, including the subsequent arrest service from Department of Justice. The county neglected to request the "rap-back" service. Once this service is established, and the individual home is clear according to California policy, title IV-E payments can resume.

There was one non-error case with ineligible payments (Case Sample # 40) because the child was placed November 23, 2002 with an approved NREFM foster family home for approximately two years before the caregivers cleared the background checks, i.e., cleared September 23, 2004. This case is not cited as in error because the clearances were obtained prior to the PUR. The reviewer could not ascertain from the case file information why the NREFM was approved if the background checks for all adults in the home were not cleared.

Child Care Institutions
45 CFR 1356.30(f) requires that child care institutions licensed on or after March 27, 2000 (the effective date of the regulations implementing the ASFA) must also meet the State's safety considerations pursuant to the State's HSC 1522 with respect to the staff of the institution. During our initial primary review, we learned that a number of group homes employed staff prior

to their clearing the background checks. We are pleased to learn that, shortly after our review and effective July 16, 2003, all individuals have to be cleared through the State's criminal records and child abuse central index, in accord with HSC 1522 safety requirements, before they are allowed to work in a licensed facility. Reviewers did not find any cases in error due to a lack of safety clearances for child care institution staffs.

However, we bring to the State's attention that reviewers noted discrepancies between the information provided on Community Care Licensing (CCL) "Facility Personnel Report Summary" of staff and their clearance status, and the information provided on the "Personnel History Report" for each individual. That is, some individuals were noted as not cleared on the Summary report, but were cleared on the individual report, which we understand is automatically populated by the Department of Justice. We provided the State staff with specific information in order that they can explore with CCL the discrepancies.

We also note that in other cases, the individuals did fingerprint-clear the State's criminal records and the State's child abuse central index. However, there were a few where an individual's FBI clearance was identified on the Personnel History Report as pending after a number of years. Although we did not cite these cases in error, we left the specific names of staff where this occurred in order for the State program staff to explore with CCL why the status for these individuals is still pending. (In accord with the other HSC 1522 safety requirements, the individuals did fingerprint-clear the State's criminal records and did clear the State's child abuse central index.)

Recommendations

1. Explore with the county the reasons why the background clearances for Sample Case # 40 were not obtained until almost two years after the home was approved.

2. Explore with CCL the discrepancies between the "Facility Personnel Report Summary" and the "Personnel History Reports."

3. Explore the noted longstanding pending FBI clearances and revise the State's policy to include a clearance of the FBI records for licensure to ensure child safety.

Overpayments

There were a total of 15 cases with overpayments: 12 cases had overpayments only (Case Sample #s 4, 12, 14, 27, 33, 34, 35, 46, 47, 54, 59, and 68); 2 cases were also error cases (Case Sample #s 66 and 55); 1 was also a non-error case with ineligible payments (Case Sample # 40). The majority of these overpayments entailed paying two providers foster care maintenance for the same time period. Twelve of the 22 counties with cases in the review had at least one case in which an overpayment was made, suggesting this may be systemic in nature. We note that the largest county, Los Angeles, had no such overpayments.

The review team believes that these overpayments likely occurred because the eligibility workers may not have been notified timely of a change in placement in order to pro-rate the payment for the month for the placement from where the child was moved. Also, we noted that some counties issue payments before the end of the month (service period), thus paying for services not yet rendered.

We are aware that the counties have been instructed by the State not to pursue overpayments made to foster family homes that occur because of agency error. However, once a child has been moved and if an overpayment was issued, the State/county must ensure that the overpayment not be claimed for Federal financial participation, regardless of the type of provider or whether the overpayment is recouped.

In Case Sample # 14, the child was placed in a title IV-E ineligible facility (a juvenile detention center) in mid-January 2006 and the group home where the child resided was properly paid a pro-rated amount for January. However, this group home was subsequently paid for February 2006 on behalf of this child even though the child remained in juvenile hall. Although a title IV-E payment was thus improperly made during the PUR to the group home provider on behalf of a child who is ineligible for title IV-E by virtue of being placed in a title IV-E ineligible facility (a juvenile detention facility), we did not cite this as an error case. Although a payment was inadvertently issued to the group home for February 2006, the county discovered the error when verifying the February automated system conversion to CalWIN and initiated corrective action prior to our undertaking the title IV-E review.

Recommendations:

1. Explore further with counties why the overpayments occurred, develop a strategy to minimize such overpayments, and ensure that when a child is moved, payments are properly pro-rated.

2. Make counties aware that payments made in error for a service not rendered cannot be claimed for Federal financial participation and if claimed, FFP must be returned to the Federal government at the time the county becomes aware of the overpayment, regardless of the type of provider overpaid or whether the overpayment is ever recouped. We suggest that counties not pay for services until after they are provided.

3. The State should ensure that all other Counties that converted to CalWIN also reviewed their cases to ensure that providers were properly paid at the time of conversion and, if improperly paid, that the Federal share claimed be returned promptly.

Disallowance

The State must return the Federal share of the foster care maintenance payments and, if applicable, administrative costs that are associated with the cases in error and the non-error cases with ineligible payments. Administrative cost disallowances are not associated with the

overpayments. As indicated above, Enclosure D identifies the disallowed FFP associated with each case.

Please note that there are two error cases (Case Sample #s 66 and 69) in which the children continued in foster care following the PUR. Therefore, in addition to the disallowance, we expect the State to assure us that FFP has not been claimed for these cases in the fiscal claims beginning with May 2006. For Sample Case # 66, claims for FFP may resume for payments made beginning with the month in which the foster family home fully meets the State's safety requirements. For Sample Case # 69, payments beyond April 2006 must never be claimed for FFP.

Since the amount of the $122,015 (see Enclosure D) of Federal funds disallowed was previously included in Federal payments made to the State, you must repay these funds by including a prior period decreasing adjustment on the Quarterly Report of Expenditures (Form ACF-IVE-1), Part 1, Line 1, Columns (c) and (d). A supplemental IVE-1 form must be submitted to us within 30 days of the date of this letter in order to avoid the assessment of interest. A supplemental submission must contain only the adjustment described above and identified in Enclosure D; other claims or revisions must not be included and will not be accepted unless they relate to Case Sample #s 66 and 69.

Payment of the disallowance must be made within 30 days from the date of the cover letter of this report to avoid the assessment of interest. (See 45 CFR 30.12(a) and 30.13.) California has the right to dispute the debt. CDSS will be liable for interest on the amount of funds disallowed by the Department in accordance with the provisions of 45 CFR 30.13(a) if the disallowance is not paid within 30 days from the date of this letter. Regulations at 45 CFR 30.14 provide guidance on paying the debt or accruing interest while pending a formal review of the debt. California may appeal this disallowance to the Departmental Appeals Board within 30 days from receipt of the accompanying letter in accordance with regulations at 45 CFR 16.7(a). Please refer to 45 CFR Part 16 for procedures for appealing this disallowance.

Enclosure B

Summary of Error Cases

	Case Sample Number	*Reason for Error*	*Social Security Act (SSA) and Code of Federal Regulations*	*Period of Ineligibility*
		Child Ineligible -- Lack Requisite Judicial Determination		
1	69	➢ The contrary to the welfare judicial determination was not made in the first court order that coincided with the child's physical removal from home. ➢ Ineligible payments claimed because, although the judicial determination regarding reasonable efforts to prevent removal was obtained within 60 days from child's removal, title IV-E was claimed before the month in which the finding was made (Child removed April 27, 2004, finding made June 3, 2004).	SSA 472(a)(2)(A)(ii) 45 CFR 1356.21(c) 45 CFR 1356.21(b)(1)	4/27/2004 to Present 4/27/2004 through 5/31/2004
		Child Ineligible – Agency Did Not Have Responsibility for Placement and Care		
2	55	Foster family home paid for all of October thru December 2005 even though the case was closed October 18, 2005.	SSA 472(b) and (c) 45 CFR 1356.71(d)(1)(iv) 45 CFR 1356.71(d)(2)	10/18/2005 through 12/31/2005
		Provider Ineligible -- Not Licensed		
3	13	Child placed with relative residing in Illinois on July 19, 2005. (Child re-placed February 8, 2006.)	SSA 472(c) 45 CFR 1355.20(a)	7/19/2005 to 2/8/2006
		Provider Ineligible -- Safety Check Not Complete (and Overpayments)		
4	66	➢ The Department of Justice Criminal Record Subsequent Arrest Service was not secured for the Tribal Foster Family Home. ➢ Two group homes were paid for August 26-31, 2004 for the same title IV-E activity/cost. ➢ Two foster family homes were paid for November 21-30, 2005 for the same title IV-E activity/cost.	SSA 471(a)(20) 45 CFR 1356.30 45 CFR 92.22 45 CFR 92.22	11/21/2005 to Present 8/26/2004 through 8/31/2004 11/21/2005 through 11/30/2005

Enclosure C

Summary of Cases with Ineligible Payments and/or Overpayments

# of Cases	*Case Sample Number*	*Reason for Ineligible Payment or Overpayment*	*Social Security Act (SSA) and Code of Federal Regulations*	*Period of Ineligibility*
		Title IV-E Claimed Prior to Month in Which All Eligibility Criteria Met, Child Placed Before Prospective Foster Family Criminal Records Clearances Obtained, and Provider Overpaid		
1	40	➢ Although judicial determination regarding reasonable efforts to prevent removal was obtained within 60 days from child's removal, title IV-E was claimed before the month in which the finding was made. (Child removed February 21, 2002, finding made April 18, 2002.)	45 CFR 1356.21(b)(1)	2/21/2002 through 3/31/2002
		➢ Also, child was placed with a Non-Relative Extended Family Member (NEFRM) Foster Family Home on November 23, 2002, before the home met the safety requirements (September 23, 2004).	SSA 471(a)(20) 45 CFR 1356.21(b)(1)	11/23/2002 through 8/30/2004
		➢ Two providers were paid for November 23, through 30, 2002 for the same title IV-E activity/cost.	45 CFR 92.22	11/23/2002 through 11/30/2002
		Reasonable Efforts To Finalize Permanency Not Obtained Timely		
2	17	Judicial finding that agency made reasonable efforts to finalize the child's permanency was not rendered between March 27, 2001 and March 10, 2003.	SSA 472(a)(2)(A)(ii) 45 CFR 1356.21(b)(2)	4/1/2001 through 2/28/2003
3	51	Judicial finding that agency made reasonable efforts to finalize the child's permanency was not rendered between September 24, 2004 and August 31, 2005 (i.e., the finding was made on August 31).	SSA 472(a)(2)(A)(ii) 45 CFR 1356.21(b)(2)	10/1/2004 through 7/31/2005
		Child Placed Prior to Home Licensed/Approved and Providers Overpaid		

# of Cases	Case Sample Number	Reason for Ineligible Payment or Overpayment	Social Security Act (SSA) and Code of Federal Regulations	Period of Ineligibility
4	55	➢ Child placed with Non-Relative Extended Family Member (NEFRM) Foster Family Home (FFH) July 12, 2005, prior to home being fully approved (September 8, 2005). Title IV-E claimed beginning August 26, 2005.	SSA 472(c) 45 CFR 1355.20(a)	08/26/2005 through 8/31/2005
		➢ Foster family home paid entire month of July 2005 even though child was moved to another placement on July 12, 2005.	45 CFR 92.22	7/12/2005 through 7/31/2005
		➢ Two providers paid for September 2-30, 2000 for the same title IV-E activity/cost.	45 CFR 92.22	9/2/2000 through 9/30/2000
		Overpayments Only		
1	4	Two out-of-home care providers paid for November 17 through 30, 2002 for the same title IV-E activity/cost.	45 CFR 92.22	11/17/2002 through 11/30/2002
2	12	Two out-of-home care providers paid for February 24-28, 2006 for the same title IV-E activity/cost.	45 CFR 92.22	2/24/2006 through 2/28/2006
3	14	Group home was paid for February 2006 although the child was placed in juvenile hall in mid January (partial payment for January was paid to the group home accordingly) and remained in juvenile hall until released to the mother in May 2006. Error occurred solely because of the conversion to CalWIN and corrective action taken prior to initiating IV-E review.	SSA 472(b) and (c) 45 CFR 1356.71(d)(1)(iv) 45 CFR 1356.71(d)(2)	2/01/2006 through 2/28/2006
4	27	➢ Two out-of-home care providers paid for November 22-30, 2004 for the same title IV-E activity/cost.	45 CFR 92.22	11/22/2004 though 11/30/2004
		➢ Two out-of-home care providers paid for December 1-13, 2004 for the same title IV-E activity/cost.	45 CFR 92.22	12/1/2004 through 12/13/2004
5	33	Two out-of-home care providers paid for July 21-31, 2005 for the same title IV-E activity/cost.	45 CFR 92.22	7/21/2005 through 7/31/2005

# of Cases	Case Sample Number	Reason for Ineligible Payment or Overpayment	Social Security Act (SSA) and Code of Federal Regulations	Period of Ineligibility
6	34	➢ Two out-of-home care providers paid for December 30-31, 2005 for the same title IV-E activity/cost. ➢ Two out-of-home care providers paid for February 27-28, 2006 for the same title IV-E activity/cost.	45 CFR 92.22 45 CFR 92.22	12/30/2005 through 12/31/2005 2/27/2006 through 2/28/2006
7	35	FFA paid for all of August 2005 even though child moved on August 22, 2005.	45 CFR 92.22	8/22/2005 through 8/31/2005
8	46	➢ Issued pro-rated infant supplement to Foster Family Agency twice for September 20 through 30, 2004. ➢ Issued Foster Care Maintenance and infant supplement to FFA twice for month of October 2004. ➢ Two out-of-home care providers paid for August 8-31, 2005 for the same title IV-E activity/cost. ➢ Two out-of-home care providers paid for September 2005 and October 2005 for the same title IV-E activity/cost.	45 CFR 92.22 45 CFR 92.22 45 CFR 92.22 45 CFR 92.22	9/20/2004 through 9/30/2004 10/1/2004 though 10/30/2004 8/8/2005 through 8/31/2005 9/1/2005 through 10/31/2005
9	47	Two out-of-home care providers paid for January 1-5, 2005 for the same title IV-E activity/cost.	45 CFR 92.22	01/01/2005 through 01/05/2005
10	54	Two out-of-home care providers paid for June 27-30, 1997 for the same title IV-E activity/activity/cost.	45 CFR 92.22	6/27/1997 through 6/30/1997
11	59	➢ Two out-of-home care providers paid for June 21 - 30, 2005 for the same title IV-E activity/cost. ➢ Two out-of-home care providers paid for July 2005 for the same title IV-E activity/cost.	45 CFR 92.22 45 CFR 92.22	6/21/2005 through 6/30/2005 7/1/2005 through 7/31/2005
12	68	Two out-of-home care providers paid for March 26 - 31, 2005 for the same title IV-E activity/cost.	45 CFR 92.22	3/26/2005 through 3/31/2005

Enclosure D

California IV-E Review 2006	ERRORS CASES				NON-ERROR CASES WITH INELIGIBLE PAYMENTS				OVERPAYMENTS															
FISCAL YEAR AMOUNTS	13	55	66	69	17	40	51	55	4	12	14	27	33	34	35	40	46	47	54	55	59	66	68	TOTAL
2006 Maintenance Disallowance	$ 791	$ 606	$ 1,662	$ 1,631						$ 42	$ 2,648			$ 169			$ 806					$ 77		$ 8,432
2006 Admin Disallowance	0	1931	5,794	6,760						0				0			0					0		$ 14,485
2005 Maintenance Disallowance	446			2,691			5,559	47				269	106		168		2,237	79		169	398		107	$ 12,276
2005 Admin Disallowance	0			11,068			9,224	-				0	0		0		0	0		0	0		0	$ 20,292
2004 Maintenance Disallowance				1,550		2,671											113					278		$ 4,612
2004 Admin Disallowance				4,395		9,670											0					0		$ 14,065
2003 Maintenance Disallowance					2,830	2,592										62								$ 5,484
2003 Admin Disallowance					4,253	8,506										0								$ 12,759
2002 Maintenance Disallowance					7,112	2,741			273															$ 10,126
2002 Admin Disallowance					9,865	822			0															$ 10,687
2001 Maintenance Disallowance					3,544																			$ 3,544
2001 Admin Disallowance					4,823																			$ 4,823
2000 Maintenance Disallowance																				372				$ 372
2000 Admin Disallowance																				0				$ -
1997 Maintenance Disallowance																			58					$ 58
1997 Admin Disallowance																			0					$ -
TOTAL MAINTENANCE DISALLOWED	1,237	606	1,662	5,872	13,486	8,004	5,559	47	273	42	2,648	269	106	169	168	62	3,156	79	58	541	398	355	107	$ 44,904
TOTAL ADMIN DISALLOWED	-	1,931	5,794	22,223	18,941	18,998	9,224	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	$ 77,111
	No admin dis - rel caretaker	Ineligible payments 10/19/2005 through 12/30/2005	Ineligible payments 11/2005-5/31/2006 and continuing	Ineligible payments 4/2004-4/2006 and continuing	Ineligible payments 4/2001-2/2003	Ineligible payments 11/2002-8/2004 & 3/2002	Ineligible payments 10/2004-7/2005	Ineligible payment was for only 6 days therefore no admin disallowed																
	SUBTOTAL ERROR CASES			$ 39,325	SUBTOTAL NON-ERROR INELIGIBLE			$ 74,259									SUBTOTAL OVERPAYMENTS						$ 8,431	
TOTAL FFP DISALLOWED	$ 122,015																							

Enclosure E

California Title IV-E Foster Care Eligibility Review Team

CDSS

1. Linda Shill
2. Ty Starks
3. John Sanfilippo
4. Susan Morrison
5. Barbara Tripplett (off-site)
6. Lynette Stueve (off-site)

Counties

7. Judy Edmundson	Orange County
8. Frank Hernandez	San Joaquin
9. Eva Magness	Ventura County
10. Teresa Arevalo	Los Angeles County
11. Jung Hae Lee	Los Angeles County (Case file gatekeeper)

Judicial Council of California

12. Kerry Doyle

Administration for Children and Families

13. Vicki Wright	ACF, Children's Bureau
14. Debi O'Leary	ACF, Region IX
15. Pat Pianko	ACF, Region IX
16. Barbara Dobbyn	Federal Peer Consultant Reviewer
17. Dana Hollingshead	Federal Peer Consultant Reviewer