

**District of Columbia  
Title IV-E Foster Care Eligibility  
Secondary Review  
Report of Findings  
October 1, 2011 – March 31, 2012**

## **Introduction**

During the week of September 24, 2012, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a secondary review of the District of Columbia's (the District) title IV-E foster care program. The review was conducted in collaboration with the District's Child and Family Services Agency (CFSA) and was completed by a review team comprised of representatives from CFSA, District agencies, CB Central and Regional Offices, ACF Regional Grants Management, and a peer reviewer.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether the District's title IV-E foster care program was in compliance with the eligibility requirements as outlined in 45 CFR §1356.71 and section §472 of the Social Security Act (the Act) and (2) to validate the basis of the District's financial claims to ensure that appropriate payments were made on behalf of eligible children.

This secondary review was conducted as a result of the findings of the primary review completed during the week of September 21, 2009. At that time, the District was determined not to be in substantial compliance with title IV-E eligibility requirements for the period under review (PUR) of October 1, 2008 through March 31, 2009. As required, CFSA submitted a Program Improvement Plan (PIP) to correct the areas found deficient in its title IV-E foster care program. The PIP was jointly developed by the District and CB's RO staff and approved in CB correspondence to CFSA dated June 23, 2010. The CB's approval of the PIP completion was based on the District's periodic reports of progress and final report of the planned improvements, which outlined the completion of the identified goals and action steps in the PIP. The PIP goals and activities included, but were not limited to the following:

- Revising the District's payment system to accurately reflect the child's actual placement for each day claimed;
- Instituting a mechanism to track youth who had absconded from placement;
- Researching causes for duplicate payments;
- Updating the online title IV-E eligibility determination module to assign eligibility as of the first day of the month in which all title IV-E eligibility criteria are met;
- Developing a management report to highlight cases where foster care payments are made erroneously after the child has achieved permanency;
- Modifying the communications process between the DC Family Court and CFSA to improve the transportation of finalization decrees; and
- Establishing a protocol to adjust title IV-E maintenance claims quarterly to ensure that inappropriate foster care maintenance claims are not made.

## Scope of the Review

The secondary review encompassed a sample of the District's foster care cases that received a title IV-E maintenance payment during the six-month PUR of October 1, 2011 through March 31, 2012. A computerized statistical sample of 205 cases (150 cases plus 55 oversample cases) was drawn from the District's data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. One hundred-fifty (150) cases were reviewed, which consisted of 125 cases from the original sample plus 25 oversample cases. Twenty-five (25) cases were excluded from the original sample because either no title IV-E foster care maintenance payment was made during the PUR, because the payment was returned to the Federal government prior to the State's receipt of the review sample or because the child was 18 years or older at some point during the PUR. The District provided documentation to support excluding these cases from the review sample and replacing them with cases from the oversample.

In accordance with Federal provisions at 45 CFR §1356.71, the District 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) and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A)(i) and (d) – (g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with the 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 1356.71(d)(1)(iv); and
- Safety requirements for the child's foster care placement as required at §471(a)(20)(A) and 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 was also 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 were reviewed to verify that 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 District 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 District agreed that, subsequent to the onsite review, the District would have two weeks to submit additional documentation for a case

that during the onsite review was identified as in error, in undetermined status or to have an ineligible payment. Based on the supplemental documentation, the improper payment findings for sample cases 6, 15, 47, 107, 117, 120 & 135 were changed to non-error cases.

### Compliance Finding

The review team determined that 141 of the 150 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Nine (9) cases were determined to be in error for either part or all of the PUR resulting in a case error rate of 6 percent. An additional 13 non-error cases were found to be ineligible for Federal funding for a period of claiming. The total dollar value of the maintenance payments and administrative costs in the review sample was \$846,744 in Federal financial participation (FFP) for the PUR of which \$89,194 FFP represents maintenance payments for the 22 error and non-error cases with ineligible payments. This resulted in a total dollar error rate of 10.5% percent.

Based on these review findings, CB has determined that the District’s title IV-E foster care program is in substantial compliance with Federal eligibility requirements for the PUR. Substantial compliance in a secondary review is achieved when either the case error rate or dollar error rate does not exceed 10 percent. States are found not in substantial compliance with Federal title IV-E program requirements when both the case error rate and the dollar error rate exceed 10 percent. Additionally, one case was identified in the review sample that had a period of eligibility for which the District did not claim allowable title IV-E maintenance payments. The next review of the District’s title IV-E eligibility program will be a primary review, conducted within three years.

### Case Summary

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

### Error Cases

Sample Number	Improper payment Reason & Ineligibility Period	Improper Payments (FFP)	
		Maintenance	Administration
OS-3	Foster care (FC) maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a) (2)(A) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 2/29/12	\$36.04	\$0
46	Safety considerations with respect to the foster family home were not met. [§471(a)(20)(a) of the Act; 45 CFR 1356.30(a)&(b)] Ineligible: 10/18/10 – 3/16/12	\$20,684.86	\$21,230
50	Child did not live with specified relative from	\$31,372.21	\$13,715

Sample Number	Improper payment Reason & Ineligibility Period	Improper Payments (FFP)	
		Maintenance	Administration
	whom judicially removed within 6 months of removal; AFDC financial eligibility not met [§472(a)(3) of the Act; 45 CFR §1356.21 (l) and 45 CFR §1356.71(d)(1)(v)] Ineligible entire FC episode: 2/23/10 – 5/31/12		
54	FC maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 10/29/11 – 10/31/11	\$179.59	\$0
57	Child did not live with specified relative from whom judicially removed within 6 months of removal; AFDC financial eligibility not met [§472(a)(3) of the Act; 45 CFR §1356.21(l) and 45 CFR §1356.71(d)(1)(v)] Ineligible entire FC episode: 8/26/10 – 5/31/12	\$42,647.82	\$25,009
88	FC maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 10/31/11	\$10.74	\$0
111	Safety considerations with respect to the foster family home were not met. [§471(a)(20)(a) of the Act; 45 CFR 1356.30(a)&(b) and 1355.20 Ineligible: 9/16/11 – 5/31/12	\$14,853.59	\$7,640
130	FC maintenance payment made for the month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 1/31/12	\$36.04	\$0
142	FC maintenance payment made for a period after responsibility for care and placement of the child was removed from the agency [§472(a)(2)(B) of the Act; 45 CFR §1356.71(d)(1)(iii)] Ineligible: 2/01/12	\$41.20	\$0
<b>Total</b>		<b>\$109,862.09</b>	<b>\$67,594</b>

## Non-Error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)	
		Maintenance	Administration
5	Safety considerations with respect to the foster family home were not met. [§471(a)(20)(a) of the Act; 45 CFR 1356.30(a)&(b) and 1355.20] Ineligible: 4/11/10 – 7/31/10	\$8,209.29	\$3,620
27	FC provider was not fully licensed. [§472(b)&(c) of the Act; 45 CFR §1356.71(d)(1)(iv)] Ineligible: 6/19/08 – 6/30/08	\$534.75	\$0
OS-11	FC maintenance payment was made to two providers for the same time period and activity. [§475(4) of the Act; 45 CFR §1356.60(a)(i)] Ineligible: 7/29/11 – 7/31/11	\$182.00	\$0
42	FC maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 5/29/10 – 5/31/10	\$58.41	\$0
OS-12	FC maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 8/29/11 – 8/31/11	\$185.66	\$0
52	FC provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR §1356.71(d)(1)(iv)] Ineligible: 8/12/09 – 10/31/11	\$43,308.64	\$29,216
78	FC maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 7/26/10 – 7/31/10	\$128.50	\$0
100	FC maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 8/31/10	\$39.23	\$0
103	Duplicate FC maintenance payment was made to the same provider for the same time period and activity. [§475(4) of the Act; 45 CFR §1356.60(a)(i)] Ineligible: 6/18/10 – 6/30/10 & 6/03/11 – 6/30/11	\$1,610.83	\$1.232

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)	
		Maintenance	Administration
132	Duplicate FC maintenance payment was made to the same provider for the same time period and activity. [§475(4) of the Act; 45 CFR §1356.60(a)(i)] Ineligible: 11/07/11 – 11/30/11	\$988.68	\$1,273
136	FC maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 1/29/07 – 1/31/07	\$35.73	\$0
OS-30	FC maintenance payment made for month prior to judicial findings of contrary to the welfare and reasonable efforts to prevent removal. [§472(a)(2) of the Act; 45 CFR §1356.21(b)&(c)] Ineligible: 8/29/10 – 8/31/10	\$117.68	\$0
148	FC maintenance payment was made to two providers for the same time period and activity. [§475(4) of the Act; 45 CFR §1356.60(a)(i)] Ineligible: 12/21/11 – 12/31/11	\$236.08	\$0
Total		<b>\$55,635.48</b>	<b>\$35,341</b>

### Underpayment Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP) Maintenance
114	Title IV-E was not claimed for allowable day care costs during a period in which the child was otherwise eligible. [§475(4) of the Act; 45 CFR §1356.60(a)]  Eligible: 3/1/12 – 3/31/12	\$245.97
Total		<b>\$245.97</b>

### Areas in Need of Improvement

The findings of this review indicate the District needs to further develop and implement procedures to improve program performance in the following areas. For each issue, there is a discussion of the nature of the area needing improvement, the specific title IV-E requirement to which it relates, and the corrective action the District should undertake.

### **Issue #1: Unallowable Program Costs**

In four (4) cases reviewed it was determined that title IV-E payments were made for items outside the definition of allowable program costs. The review found two cases where the ineligible payments consisted of duplicate claiming of foster care board for the same child, for the same days in two different foster care placements as verified by the payment history. There were also two cases where more than one foster care maintenance payment was made to the same provider for the same period of time and the same activity. Foster care maintenance payments may not be made to two providers for the same period nor can one provider be paid twice for the same activity for the same period of time.

In ten (10) cases reviewed, foster care maintenance payments were made prior to the month in which all eligibility requirements were met. Federal financial participation (FFP) may not begin until the first day of placement in the month in which all eligibility requirements are met.

### **Title IV-E Requirement**

Consistent with the Federal provisions at 45 CFR §1356.60(a)(i), title IV-E foster care maintenance assistance payments may be claimed only for the cost of providing those expenditures that meet the Federal definition of foster care maintenance at §475(4) of the Act. The District must document that foster care maintenance payments claimed for title IV-E reimbursement are for allowable expenditures in accordance with the statutory definition, are in amounts conforming to the State established payment rates for the type and level of care provided, and reflect non-duplicative amounts of the costs of daily maintenance. In addition, in accordance with Federal provisions at 45 CFR §1356.21, title IV-E foster care maintenance assistance payments may not begin until the first day of a child's placement in the month in which all eligibility requirements are satisfied, including judicial findings for contrary to the welfare and reasonable efforts to prevent removal, AFDC eligibility, State agency placement and care responsibility, licensure, and safety.

### **Recommended Corrective Action**

The District should review its payment system to determine whether adequate financial controls and edits are in place and properly functioning to prevent payments for unallowable program costs. Since CFSA uses an automated system, an automated quality assurance module should be included to periodically review and track payments for accuracy and compliance with Federal requirements. Staff should be further trained on payment and cost requirements so payment authorizations will not be inputted for dates prior to a child meeting all title IV-E eligibility requirements.

### **Issue #2: Licensing**

The review found two (2) cases for which the District could not verify that the child was placed in a licensed foster home. The two cases were determined to be non-error cases with ineligible payments when title IV-E payments were made for periods outside the PUR that were prior to the home meeting all of the District's standards for issuance of a license. In order for a child to be eligible for title IV-E foster care maintenance payments, the foster family home must be fully licensed by the State licensing authority in the State in which the home is situated. Additionally, although no case was determined to be ineligible or in error for this reason, reviewers found

cases in which not all adult household members providing regular care for a child were listed on the license.

#### Title IV-E Requirement

Section §472(c)(1) of the Act defines foster family home as a “foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing.” Consistent with Federal provisions at §472(b) and (c) of the Act and 45 CFR §1355.20, in order to receive title IV-E foster care maintenance payments, an eligible child must be placed in a title IV-E reimbursable foster care home or facility and that home or facility must meet the standards for full licensure established by the State.

#### Recommended Corrective Action

The CFSA should ensure that the foster family home provider’s licensure file contains the licensure history and copies of the provider license that include the provider name, type, starting and ending date of licensure and some indication of the agency’s endorsement. Eligibility and licensing staff should work together to ensure that licensing information is shared and establish a system for reviewing compliance with this requirement periodically. The District should also implement steps to ensure that all adult household members providing the day-to-day care for the child are listed on the license to ensure safety considerations are met. In addition, CFSA’s automated system should be reviewed to determine if there are adequate edits in place to prevent title IV-E from being claimed when a child is placed with an unlicensed provider.

#### **Issue #3: Safety Checks**

Two (2) cases were determined to be in error during the review when the criminal records checks showed that the foster parent was the subject of criminal charges but the District could not provide verification that neither of the foster parents had been convicted of one of the prohibited felonies listed in §471(a)(20)(A)(i) and (ii) of the Act. An additional case was found to be ineligible when IV-E payments were made prior to the foster parent meeting all of the safety standards.

#### Title IV-E Requirement

The State agency must document that the foster care provider meets the established safety standards before a child is placed and before title IV-E foster care maintenance payments are claimed as required in §471(a)(20)(A) of the Act and 45 CFR §1356.30. Documentation must clearly show that a criminal records check was conducted and that the prospective foster parent had not been convicted of any of the prohibited felonies listed in §471(a)(20)(A)(i) and (ii) of the Act.

#### Recommended Corrective Action

The District should require that the foster family home provider’s licensure file contains the results of the criminal records checks or other official evidence that clearly verifies that a criminal records check was conducted along with the date of the check and substantiates that the foster parent had not been convicted of any of the prohibited felonies. In addition CFSA’s automated system should be reviewed to determine if there are adequate edits in place to prevent

title IV-E from being claimed when a child is placed with a provider who has not met the criminal records check requirements.

#### **Issue #4: Placement and Care Responsibility**

During the onsite review, cases are examined to ensure that the title IV-E agency maintained responsibility for the placement and care of the child for the PUR. Placement and care responsibility may be granted in the removal court order or in a subsequent court ruling for a judicial removal. The review found one case where the District no longer maintained responsibility for the placement and care of the child. Title IV-E funds were claimed for the period after the child had been reunified with family.

#### **Title IV-E Requirement**

Section §472(a)(2) of the Act requires that the responsibility for placement and care of a child be with the State agency administering the title IV-E plan approved under Section §471 of the Act, or any other public agency with whom the State agency has a written agreement in effect. The State agency must present documentation that it has responsibility for placement and care of the child for the entire period under review. The court order or voluntary placement agreement must indicate that the agency has this responsibility.

#### **Recommended Corrective Action**

The District should implement appropriate fiscal controls that ensure that the District no longer receives title IV-E foster care maintenance payments for children who have achieved their permanency plan goal. It is strongly urged that the District conduct systematic monitoring of its programmatic and financial operations to determine that required actions and supporting documentation are completed timely and that title IV-E claims are submitted only for those cases meeting all applicable requirements.

#### **Issue #5: AFDC Eligibility**

During the onsite review cases were evaluated to determine compliance with the requirements for the AFDC program as it was in effect on July 16, 1996. The review identified two (2) cases that were found to be in error because they did not meet the requirements for AFDC. In one case, the child was removed on the court order from a parent the child had not lived with for more than five years. In the other error case, the court removed the child from a non-relative in a third-party placement case over the objection of CFSA. Also, court orders did not consistently identify the relative from whom the child was being removed making the AFDC determination challenging.

In addition, reviewers found that the District's automated title IV-E eligibility process was using the date of the removal order rather than the date the removal petition was filed to determine a child AFDC eligibility. No cases were determined to be errors or to have ineligible payments due to this practice as the District was able to reconstruct AFDC eligibility for the correct month.

#### **Title IV-E Requirement**

A child must have been physically or constructive removed from the home of a specified relative either through a court order or voluntary placement agreement and must have lived with that same specified relative within six months of removal according to §472(a)(2)(A) and (a)(3) of

the Act. The AFDC determination must be based upon the circumstances of the home of the specified relative from whom the child was removed.

In accordance with 45 CFR §1356.21(l)(1), financial need must be established based on the circumstances that existed in the home of the family unit during the month the court proceedings leading to the child's removal were initiated or the voluntary placement agreement was signed. It must be determined a child would have been AFDC eligible in the month the removal petition was filed, or the voluntary placement agreement was signed, using the State's AFDC plan as in effect on July 16, 1996.

#### Recommended Corrective Action

The District should ensure that proper steps are taken to verify the removal home before making its decision about eligibility. The CFSA should work with the District's Family Court to ensure the court's findings regarding the removal home are clearly stated in the court orders. Staff should be further trained on this eligibility requirement.

### **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 have led to improved program performance and successful program operations.

#### Multidisciplinary Collaboration

The review found that CFSA has built collaborative relationships with many of its stakeholders to better serve children and families through the title IV-E foster care program. Representatives from the District's Court Improvement Program, Office of Attorney General, direct service staff, and private provider staff participated in the review. The review was an opportunity for those involved to broaden their understanding of title IV-E and to foster the continued assistance of partners in meeting the Federal title IV-E requirements. It will also assist CFSA in coordinating programs that serve the same children and families in the future.

#### Court Orders

Many of the court orders that were examined as part of the review included child-specific determinations. This is attributed to the CFSA's positive collaboration with the Court Improvement Program and the training of court staff and judiciary. These orders often stated specifically why a child entered foster care, why it was contrary to the child's welfare to remain in the home, and how the District made reasonable efforts to prevent the removal from the child's home. In addition, the court orders frequently stated the child's permanency plan and what efforts were made by the agency to finalize the permanency plan. All of the cases reviewed had judicial determinations of contrary to the welfare and reasonable effort to prevent removal as well as judicial determinations of reasonable efforts to finalize a child's permanency plan.

## **Disallowances**

A disallowance in the amount of \$109,862.09 in maintenance payments and \$67,594 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error cases. Additional amounts of \$55,635.48 in maintenance payments and \$35,341 in related administrative costs of FFP are disallowed for title IV-E foster care payments claimed improperly for the non-error cases. The total disallowance as a result of this review is \$268,432.57 in FFP. The District must also 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 District's ongoing efforts to improve its title IV-E foster care eligibility determination process, CB recommends that CFSA examine identified program deficiencies and develop measurable, sustainable strategies that target the key issues hindering the State from operating a fully accurate foster care eligibility program. In general, it is noted that many of the cases reviewed were determined to be errors or have ineligible payments for the same reasons that were addressed in the District's previous PIP. Therefore, CB strongly urges CFSA to examine these cases to determine why the corrective action measures were not successful in eliminating improper payments.