

**Delaware Title IV-E Foster Care
Secondary Eligibility Review
Final Report
April 1, 2008 – September 30, 2008**

Introduction

During the week of April 20, 2009, staff from the Children's Bureau (CB) Central and Regional Offices, peer reviewers, and representatives of the Delaware Department of Services for Children, Youth and Their Families (DSCYF) conducted a secondary eligibility review of Delaware's title IV-E foster care program. The review was conducted at the DSCYF office in Wilmington, Delaware. The purposes of the title IV-E foster care eligibility review were to determine whether Delaware was in compliance with eligibility requirements as outlined in regulation and statute at 45 CFR 1356.71 and Section 472 of the Social Security Act, and to validate the basis of Delaware's financial claims to ensure that appropriate payments were made on behalf of eligible children placed in licensed or approved foster family homes and childcare institutions.

This secondary review was conducted as a result of the findings of the primary title IV-E foster care review that was performed the week of August 14, 2006 in which Delaware was determined not to be in substantial compliance with title IV-E eligibility requirements for the period of October 1, 2005 through March 31, 2006. As required, Delaware submitted a title IV-E Program Improvement Plan (PIP) to address areas found deficient in its foster care eligibility program. The PIP was approved on April 5, 2007, and a final report on PIP activities was submitted by the State on June 10, 2008. The goals contained in the PIP included:

- To ensure that title IV-E payments are accurately reported in Adoption and Foster Care Analysis and Reporting System (AFCARS) element #59.
- To reduce the backlog of title IV-E applications, and redeterminations, and to address the underpayment issues.
- To begin claiming title IV-E funds appropriately and timely.
- To automate the adjustments of title IV-E payments in the current Family, Adult, and Child Tracking System (FACTS).
- To use the end-of-the-month date to make eligibility determination and redeterminations.
- To include relatives as the respondent in petitions and court orders.
- To ensure consistency in licensing practices in such areas as timeframes for approval, approval dates, and the use of certificates for initial and annual review.
- To revise its foster home licensing and approval process to assure that provisional approvals are only awarded to new homes and facilities and are not awarded to homes and facilities with deficiencies.

- To ensure that court orders addressing reasonable efforts to finalize the permanency plan are obtained for all children in care, including those for whom a termination of parental rights has been obtained, at least every twelve months until the child's permanency goal is achieved.
- To maximize claiming for all children eligible for title IV-E services.
- To ensure timely judicial reviews and timely determinations/redeterminations.

Delaware did not achieve all of its PIP goals. In the final report on PIP activities, DSCYF reported that the backlog of title IV-E applications had been reduced by 74% which was 26% short of the PIP goal. Progress reportedly was slowed in part due to restricted access to Department of Health and Social Services (DHSS) systems. It was noted in this report that more modifications are needed to Delaware's statewide automated system, FACTS, to streamline the process further and align FACTS with new Federal regulations. DSCYF was encouraged to address the changes necessary for timely determination and redetermination of title IV-E eligibility.

Scope of the Review

The Delaware secondary title IV-E foster care eligibility review encompassed a sample of all of the title IV-E foster care cases that received a foster care maintenance payment during the period of April 1, 2008 through September 30, 2008. A computerized statistical sample of one hundred and fifty cases and a computerized statistical over-sample of thirty cases were drawn from the AFCARS data submission which was transmitted by the Delaware agency to the Administration for Children and Families for the period under review (PUR). Three of the over-sample cases were selected for review to replace cases which had not received a title IV-E foster care payment during the PUR.

During the on-site review the case record of each child in the selected sample was reviewed to determine that all of the eligibility requirements were met for the PUR. The provider file of each foster home or childcare institution in which the child was placed during the PUR was examined to ensure that the provider was fully licensed or approved throughout the PUR and that safety considerations were appropriately addressed. Payments on behalf of each child also were reviewed to verify that the expenses were allowable under title IV-E. In addition, efforts were made to identify any underpayments that may exist in the reviewed cases.

An agency is determined in substantial compliance in a secondary review if either the case error rate does not exceed ten percent of the cases reviewed or the dollar error rate does not exceed ten percent of the title IV-E maintenance funds claimed during the PUR for the cases reviewed. As a result of the secondary title IV-E foster care eligibility review conducted in Delaware, twenty-one cases or fourteen percent of the cases reviewed, were found to be in error for either part or all of the PUR for reasons that are identified in the Case Record Summary section of this report. The dollar value of the maintenance claim for the PUR for the cases reviewed was \$465,527 in

Federal Financial Participation (FFP). The dollar value of the maintenance payments claim for the PUR for the cases found to be in error was \$35,780 in FFP which is 7.69% of the maintenance claim for the cases reviewed. Although the case error rate exceeded the ten percent threshold for substantial compliance, the dollar error rate fell below the ten percent threshold. Therefore, Delaware has been found in substantial compliance with title IV-E eligibility requirements as outlined in 45 CFR 1356.71.

Case Record Summary

Error Cases

The following chart provides the details for the twenty-one error cases, reasons for the errors, appropriate Federal citations, dates of ineligibility, and disallowance amounts.

Case Number	Reason For Ineligibility Ineligibility Period	Federal Citation Statute/Regulation	Maintenance Payment FFP	Administrative Cost FFP
DE-14	AFDC Eligibility Financial Need Not Established (09/24/07 – 02/28/09)	472(a)(3) 1356.71(d)(1)(v)	\$6,033	\$7,773
DE-39	AFDC Eligibility Financial Need Not Established (01/01/08 – 02/28/09)	472(a)(3) 1356.71(d)(1)(v)	\$16,037	\$10,854
DE-41	Invalid Removal, Child Remained In Removal Home After Court Authorized Removal (03/01/07 – 04/11/08)	472(a)(1) 1356.21(k)(2)	\$1,953	\$6,046
DE-43	Placement In an Unlicensed Foster Family Home (10/01/07 – 03/31/09)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$3,938	\$13,116
DE-59	Placement In an Unlicensed Foster Family Home (04/01/08 – 04/17/08)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$485	\$763
DE-63	Placement In an Unlicensed Foster Family Home (11/14/07 – 11/30/08)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$2,752	\$8,424
DE-76	Payment While Child Placed In a Facility Not IV-E Reimbursable	1356.60 1356.71(d)(2)	\$245	

Case Number	Reason For Ineligibility Ineligibility Period	Federal Citation Statute/Regulation	Maintenance Payment FFP	Administrative Cost FFP
	(03/28/08 – 04/10/08)			
DE-78	Reasonable Efforts to Prevent Removal Not Obtained (07/01/08 – 12/31/08) AFDC Eligibility Financial Need Not Established (07/01/08 – 12/31/08)	472(a)(2)(A) 471(a)(15)(B)(i) 1356.21(b)(1) 472(a)(3) 1356.71(d)(1)(v)	\$1,399	\$3,900
DE-84	AFDC Eligibility Financial Need Not Established (08/29/03 – 12/31/08)	472(a)(3) 1356.71(d)(1)(v)	\$15,535	\$37,231
DE-98	Placement In an Unlicensed Foster Family Home (05/09/08 – 11/25/08)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$1,386	\$5,399
DE-103	Placement In an Unlicensed Foster Family Home (05/01/08 – 06/18/08)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$2,186	\$1,527
DE-105	Payments Made for Periods Child In Detention and Psychiatric Treatment Facilities, Which Were Not Foster Care Facilities. Safety Requirements for Foster Care Provider Not Met (04/21/08 – 10/30 /08)	471(a)(10) 471(a)(20) 472(b) & (c) 1356.60 1356.71(g)(2) 471(a)(20) 1356.30	\$6,497	\$3,844
DE-109	AFDC Eligibility Financial Need Not Established (05/01/08 – 03/31/09)	472(a)(3) 1356.71(d)(1)(v)	\$5,690	\$7,773
DE-114	Placement In an Unlicensed Foster Family Home (10/01/07 – 10/08/08)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$3,349	\$9,159
DE-120	Child over 18 Not Expected To Graduate Before 19 th Birthday (05/01/07 – 06/30/08)	406(a) As In Effect on July 16,1996 472(a)(1) 1356.71(d)(1)(v)	\$20,426	\$9,771

Case Number	Reason For Ineligibility Ineligibility Period	Federal Citation Statute/Regulation	Maintenance Payment FFP	Administrative Cost FFP
DE-133	AFDC Eligibility Financial Need Not Established (07/11/08 – 11/30/08)	472(a)(3) 1356.71(d)(1)(v)	\$3,422	\$3,872
DE-136	Placement In an Unlicensed Foster Family Home (09/01/07 – 05/31/08)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$2,631	\$6,839
DE-137	AFDC Eligibility Child Did Not Live With a Specified Relative Within 6 Months Of Removal (11/01/06 – 06/30/08)	472(a)(3) 1356.71(d)(1)(v)	\$5,887	\$14,933
DE-138	Child Not In a Licensed Foster Care Placement; Child On Trial Home Visit and Did Not Return To Placement (07/01/08 – 07/31/08)	1356.60 1356.71(g)(2)	\$202	\$763
DE-143	Child over 18 Not Expected To Graduate Before 19 th Birthday (01/01/07 – 04/30/08)	406(a) As In Effect on July 16,1996 472(a)(1) 1356.71(d)(1)(v)	\$17,532	\$9,650
DE-146	Child Ineligible For Period Foster Care Payments Made After Adoption Finalized (04/01/08 – 05/08/08)	472(a)(3) 1356.71(d)(1)(v) 1356.60 1356.71(a)(2)	\$219	\$763
Total			\$117,804	\$162,400
Total for Error Cases				\$280,204

Ineligible Payment Cases

The following chart provides details for the eight cases containing ineligible payments, the reasons for ineligibility, the appropriate citations, the dates of ineligibility, and the disallowance amount.

Case Number	Reason for Ineligibility Ineligibility Period	Federal Citation Statute/Regulation	Maintenance Payment FFP	Administrative Cost FFP
DE-21	Reasonable Efforts to Make and Finalize a Permanency Plan Finding Not Timely (04/01/01 – 08/31/02) (10/01/05 – 08/31/07)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$19,498	\$16,773
DE-55	Ineligible Duplicate Payment (08/22/08)		\$25	
DE-75	Adoption Assistance Payments Prior to Signed Adoption Assistance Agreement (06/15/07 – 12/31/07)	473(a)(3) 1356.40(b)	\$4,294	\$4,459
DE-98	Safety Requirements for Foster Care Provider Not Met (07/21/05 – 08/11/05)	471(a)(20) 1356.30	\$898	
DE-111	Adoption Assistance Payments Prior to Signed Adoption Assistance Agreement (04/12/06 – 02/28/07)	473(a)(3) 1356.40(b)	\$2,807	\$7,167
DE-118	Placement in an Unlicensed Foster Family Home (11/01/08 – 03/31/09)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$1,164	\$3,956
DE-119	Placement in an Unlicensed Foster Family Home (09/01/07 – 02/29/08)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv)	\$3,053	\$4,549
DE-142	Reasonable Efforts to Make and Finalize a Permanency Plan Finding Not Timely (08/01/07 – 11/30/07)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$3,558	\$2,993
Total			\$35,297	\$39,897

Case Number	Reason for Ineligibility Ineligibility Period	Federal Citation Statute/Regulation	Maintenance Payment FFP	Administrative Cost FFP
Total Ineligible Payments				\$75,194

Underpayment Cases

The following chart provides details for the forty-six cases containing underpayments in which title IV-E eligibility requirements were met but a title IV-E maintenance payment was not claimed by the State. Delaware may file a claim for these cases once the State verifies that all eligibility criteria were met. Reimbursement for these cases may be requested only for claims that are within the two year time limitation as described at 45 CFR 95.7.

Case Number	Maintenance Payment FFP
DE-1	\$642
DE-3	\$600
DE-5	\$500
DE-7	\$1,163
DE-8	\$1,408
DE-10	\$283
DE-12	\$3,682
DE-16	\$4,970
DE-17	\$2,445
DE-19	\$3,066
DE-22	\$567
DE-23	\$1,105
DE-27	\$2,208
DE-29	\$469
DE-31	\$398
OS-1 (for DE-34)	\$202
DE-40	\$3,330
DE-42	\$5,196
DE-48	\$593
DE-52	\$805
DE-54	\$1,716
DE-61	\$294
DE-65	\$1,771
DE-70	\$1,734
DE-72	\$5,300
DE-73	\$1,903
DE-77	\$648
DE-80	\$1,824
DE-81	\$3,195

Case Number	Maintenance Payment FFP
DE-82	\$858
DE-85	\$1,073
DE-97	\$245
DE-101	\$4,368
DE-107	\$866
DE-110	\$1,123
DE-113	\$914
DE-114	\$504
DE-116	\$209
DE-118	\$667
DE-119	\$3,065
DE-121	\$1,383
DE-126	\$1,967
DE-127	\$1,970
DE-131	\$2,177
DE-144	\$2,141
DE-150	\$1,967
Total FFP	\$77,513

Strengths and Model Practices

- The State has successfully resolved the issue of non-IV-E payments being listed in the Adoption and Foster Care Analysis and Reporting System (AFCARS) Element # 59 that existed for the primary review conducted in 2006. The selection of the one hundred and fifty case sample yielded only three cases which did not receive title IV-E payments during the PUR, and those three cases had been modified by claim adjustments implemented after the submission of the AFCARS report for the PUR. The resolution of the data reporting issues has led to a more accurate AFCARS.
- The case record review found that judicial determinations of contrary to the welfare were generally made on a timely basis and were child-specific, demonstrating active judicial involvement in assessing the welfare of the children coming before the court.
- Judicial determinations of reasonable efforts to finalize the child's permanency plan were generally timely. Frequently the hearings were held more often than every twelve months as required. The orders were child-specific and generally discussed and advanced the permanency goal for the child.

Areas of Concern

The review identified areas for improvement as discussed during the exit conference:

- The manual processes used by staff for determining eligibility of the child for AFDC do not include the required two-step determination of financial need: evaluating gross income in relation to 185 % of the standard of need and evaluation of income after application of appropriate disregards in relation to 100% of the standard of need as required in its July 16, 1996 AFDC State plan. It could not be established that FACTS, the automated case management system, was incorporating all necessary steps in AFDC determination. The reviewers used the two step income evaluation process in conducting the review. While no errors were identified that were caused solely by the single step process it does not comply with program requirements.
- The agency does not consistently ensure an accurate determination that a child is deprived of parental support and care during the month of the initiation of court proceedings for removal and throughout the foster care placement episode as required under title IV-E and the title IV-A state plan for Delaware in effect on July 16, 1996. The review of case records found eligibility workers determining deprivation based on the absence of a legal establishment of paternity even in situations where the putative father was in the home at the time of removal and was not denying paternity of the child. In addition, the child's absence from the home due to placement in foster care at the time of title IV-E eligibility redetermination was incorrectly used to meet the requirement for continuing deprivation.
- Youth who are otherwise eligible for title IV-E can remain eligible for a period after the month they reach their eighteenth birthday only if they are full-time students expected to complete their secondary schooling or equivalent training before reaching the age of nineteen. Two cases were identified in which title IV-E payments were made after the youth's eighteenth birthday and the youth either was not in school, had graduated, or was not reasonably expected to complete their education prior to the nineteenth birthday. When determining the continued title IV-E eligibility of a youth approaching their eighteenth birthday, the agency should note the educational status of the child and adjust title IV-E eligibility accordingly.
- A judicial finding that the agency made reasonable efforts to prevent the placement of a child was not consistently made within sixty days of the removal of a child from the home. Some court orders sanctioning the removal of a child, and subsequent orders issued within sixty days of removal, made a finding that reasonable efforts were being made by the agency to reunify the child with the family rather than prevent the removal, as required by Federal statute and regulation.
- Cases reviewed found some children were placed through child placing agencies in foster care homes licensed as adoptive homes, but not licensed as foster family homes. Title IV-E reimbursement is available only for eligible children placed in

- fully licensed or approved foster homes. Cases reviewed also found some children were placed in unlicensed, non-IV-E reimbursable facilities.
- The DSCYF system for documenting that foster parents are meeting the child safety requirements can be improved. The correspondence currently used to report the results of the safety checks does not contain all of the required information. The provider record of foster families should, at a minimum, document the date the abuse and neglect registry clearance was obtained for each adult member of the foster parent's household as well as the date the results of the criminal records check on each adult in the foster family home were received. The record should also include documentation about whether the results included a felony conviction of any household member for any of the crimes listed in 45 CFR 1356.30. The absence of this documentation impacts the agency's ability to assure safety requirements are met for children in foster care.
 - The large backlog in eligibility determinations and redeterminations identified in Delaware's August 2006 primary title IV-E review continues. Opportunities to increase Federal claiming for both foster care maintenance and administrative costs are missed due to this backlog. DSCYF apparently has insufficient resources to track cases through the eligibility and redetermination processes and make the necessary adjustments timely. The review team identified \$77,513 expended on forty-six cases that could have been claimed under title IV-E.
 - Cases reviewed found that short-term placements with interim caretakers are routinely not claimed for title IV-E foster care maintenance payments. If a provider is fully licensed or approved, and the child meets title IV-E eligibility requirements, maintenance costs associated with a brief stay with an interim, title IV-E reimbursable foster care provider are allowable when no other claim is made for that period of time.
 - The Cost Recovery unit reportedly does not have consistent access to the information necessary to complete title IV-E eligibility determinations and redeterminations. The unit no longer has access to information related to Social Security payments and other financial information available through the DHSS due to a July 2007 Social Security Administration clarification. The unit also reportedly does not have access to the most current information on licensing and safety check status from the Division of Family Services. These challenges are adding to the backlog of title IV-E determinations and redeterminations. Improved communication and coordination of activities among the operational units of DSCYF and with DHSS may facilitate the resolution of these issues and assist in a timely determination process.
 - The payment history for case DE-123 shows a charge to "title IV-E Adopt Assist" for a payment made on 06/10/2008 for the service period 05/01/2008 – 05/31/2008 in the amount of \$1,727.51. On 02/20/2009, an "EX Decreasing Adjust" to "title IV-E Foster Care" was entered on the payment history in the amount of \$1,727.51 for the service period of 05/01/2008 – 05/31/2008 and there

is no corresponding charge to title IV-E Foster Care for the time period. It would appear that the decreasing adjustment was applied to the incorrect funding source. DSCYF should review this case payment history and make any necessary case adjustments.

Disallowance

The review included a sample of one hundred and fifty cases with a total dollar value of \$465,527 for the PUR. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the six month AFCARS period April 1, 2008 through September 30, 2008. Twenty-one cases were not eligible for funding under title IV-E foster care; however, the dollar error rate for payments claimed during the PUR did not exceed the threshold of ten percent. Based upon the results of the review, the State of Delaware has been determined to be in substantial compliance with title IV-E eligibility requirements. Eight additional cases were identified as having ineligible payments. Therefore, a disallowance in the amount of \$355,398 FFP has been assessed for the entire period of time that these cases were determined to be in error and improperly paid. The total disallowance as a result of this review is \$355,398 FFP for title IV-E foster care maintenance payments and related administrative costs.

Underpayments

Reviewers identified forty-six cases with underpayments. Underpayments were identified in cases where expenditures eligible for FFP were not claimed, and where claim adjustments were not made when there was a delay in establishing initial or continuing eligibility. The total amount of potential underpayment claims is \$77,513 FFP.

Next Steps

The payment histories provided by DSCYF included adjustments in title IV-E payments that were not completed prior to the provision of the list of cases to DSCYF included in the sample. These adjustments to payments for children included in the sample cannot be included in the calculation of the disallowance because the post hoc revisions would result in an inaccurate representation of the payment error rate for the PUR. DSCYF must reverse any adjustment for these recipients that were included on the title IV-E Financial Report (Form IV-E-1) for the quarter ended March 31, 2009, to assure that DSCYF is not subjected to duplicate recovery of unallowable costs. The reversal of the adjustments should be submitted on the Form IV-E-1 for the quarter ending June 30, 2009.