Enclosure A

HAWAII TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW
APRIL 1 – SEPTEMBER 30, 2000

I. INTRODUCTION

During April 2 – 6, 2001, Administration for Children and Families' (ACF) staff from Region IX, Region X and Region II (representing Central Office) and State of Hawaii staff conducted an eligibility review of Hawaii's title IV-E foster care program in Honolulu.

The purposes of the title IV-E foster care eligibility review were (1) to determine if Hawaii was in compliance with the child and provider eligibility requirements as outlined in 45 CFR 1356.71 and Section 472 of the Act; and (2) to validate the bases of Hawaii's financial claims to assure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

II. SCOPE OF THE REVIEW

The Hawaii title IV-E foster care review encompassed a sample of all the title IV-E foster care cases that received a foster care maintenance payment during the period of April 1 to September 30, 2000. A computerized statistical sample of 88 cases (80 cases plus an over sample of 8) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which was transmitted by the Department of Human Services to ACF. Case files were reviewed for the determination of title IV-E eligibility and the corresponding provider files were reviewed to ensure that the foster home in which the child was placed was licensed for the period of the review.

During the initial primary review, all 80 cases plus one case from the over sample were reviewed. (Although one of the 80 cases was reported by the computer as being a foster care case, no claim for IV-E foster care was submitted for it for the review period.) Twenty-five (25) cases were determined to be in error for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report (See Enclosure B). Since the number of error cases exceeded eight, Hawaii is considered not to be in substantial compliance. Pursuant to 45 CFR 1355.71(i), Hawaii is required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed by the Hawaii Department of Human Services in consultation with Regional staff, and must be submitted to the Regional Office by 90 days from the date of the cover letter to this report. Hawaii will have a maximum of one year to implement and complete the PIP unless State legislative action is required to implement needed corrective action. (See 45 CFR 1356.71(i)(1)(iii).) Once the State has satisfactorily completed the PIP, a secondary review of a sample of 150 title IV-E foster care cases will be conducted. No more than 15 cases in the secondary review may be in error. In addition, the dollar error rate must

also be considered. Noncompliance for a secondary review means that both the case error rate and the dollar rate exceed 10 percent.

III. CASE RECORD SUMMARY

Enclosures B and C detail the error cases, reasons for the errors, erroneous dollars and appropriate citations.

IV. AREAS IN NEED OF IMPROVEMENT

Under title IV-E, criminal background records checks (CBRCs) and all other State licensing requirements must be completed and met in order for foster care payments made on behalf of a child to be eligible for Federal reimbursement. The child must be placed in a facility that meets all of the State agency standards of full licensure or approval established by the State.

The review disclosed 18 cases determined to be out of compliance with 45CFR 1356.30(b) because the children were placed with foster parents and payments were claimed for Federal funding before the CBRCs were completed. The majority of these 18 cases cited for CBRC errors were considered provisionally or conditionally licensed before the FBI check was received. With the exception of one foster home that was still provisionally licensed after September 27, 2000, the remaining foster homes did not have the local CBRCs completed before being re-licensed. (Foster homes provisionally licensed for non-CBRCs were required by Federal regulation to be fully licensed by September 27, 2000 to continue receiving Federal funding. Reference is 45 CFR 1355.20(a) and page 4033 of the preamble of the January 25, 2000 Federal Register.)

Hawaii statute requires that local CBRCs and a FBI check are completed before a foster home is licensed for the first time. A FBI check is not required for subsequent licensing of the same home. Hawaii cannot claim Federal funding for maintenance payments made on behalf of any child residing in a foster home or child care institution that has not had the CBRCs completed. During our exit conference, we recommended that Hawaii not claim title IV-E costs for these children until the FBI and other criminal background checks are completed. We also recommended that to comply with Federal regulations Hawaii should consider amending its statute to not require the FBI check at the time of the initial full licensure but require that it be completed within a specified period of time after the licensing.

There was no clear trend among the other ineligible cases. Three cases did not meet the Aid to Families with Dependent Children (AFDC) income eligibility requirements at 45 CFR 1356.21(l) and 1356.71(d)(1)(v)&(f). Using its criteria in effect in its July 16, 1996 title IV-A State plan (or, if removal was prior to the effective date of the Personal Responsibility and Work Reconciliation Act, the title IV-A State plan in effect at the time) the State must document that the child was removed from a specified relative, and that the child was financially needy and deprived of parental support at removal.

Deprivation must be by reason of death, absence, physical or mental incapacity of one parent or the unemployment of the principal wage earner.

It was determined that all three families had income that exceeded the Hawaii IV-A income eligibility limits at the time of the child's removal from the home, and one of the three also did not have deprivation of parental support. In this particular case, the father was supposed to be out of the home but was only out of the house for one week. Therefore, there was no deprivation and his earned income made the case ineligible for title IV-E. DHS Eligibility staff actually have an excellent understanding of the IV-A eligibility requirements, but there was confusion in one of the three cases in determining from which home the child was removed. Therefore, the issue was more of removal from the home of a parent or specified relative.

Two of the other non-licensing errors were the result of the reviewers determining that there was no physical or constructive removal of the children from the home. To be eligible for title IV-E, a child must be eligible for AFDC at home in the month the voluntary placement agreement was signed or the petition was filed. If this is not the case, the statute allows a six-month period during which the child may reside with an interim caretaker and still be eligible for title IV-E. If more than six months have elapsed from the date of the petition and the date the child last lived with the specified relative, the child is ineligible for title IV-E. The final Federal Regulations published on January 25, 2000 provide changes to the section on removal of children from the home. One of these two cases would not have been an error case if the child had been removed after March 27, 2000 when the new regulations became effective. The Regional Office will work with DHS to provide clarification on physical and constructive removals of children and which relative to consider for the removal. We recommend that DHS issue a policy clarification to all staff after receiving final clarification from ACF.

Another of the non-licensing error cases was a child that had been voluntarily placed with the State agency. Regulations at 45 CFR 1356.22(b) require that children voluntarily placed with the State agency must have a court order indicating the continued voluntary placement is in the best interests of the child. Federal funding is available up through the 180th day, but unless there is a judicial determination that continued voluntary placement is in the child's best interests rendered by the end of the 180th day, the Federal funding ends. The subject case did not have a court order indicating the best interests of the child were served by remaining in foster care within the 180 days. The State IV-E Eligibility staff has already developed a book that converts the 180 days to a specific calendar date to avoid future errors of this type.

The last error case involved a child that was in foster care at the beginning of the review period, discharged and then returned to foster care. There was no court order indicating that reasonable efforts had been made by the State agency within 60 days of returning to foster care as required by 45 CFR 1356.21(b)(1).

The only other area the reviewers thought that could be strengthened is recalculation of AFDC eligibility. When cases have documents missing and AFDC eligibility has to be

recalculated as a result, the workers should be clearer regarding the eligibility period in question that is being recalculated.

V. STRENGTHS AND MODEL PRACTICES

A. AFDC Eligibility Linkages

1. We noted that, with the exception of the three income AFDC eligibility errors, Hawaii has an excellent grasp of the AFDC eligibility linkage. Hawaii's performance in this area improved dramatically from prior reviews conducted by ACF where the majority of case errors had been due to AFDC ineligibility. Five of the State workers participating with ACF on the review were IV-E Eligibility Workers, and they displayed excellent knowledge of the eligibility requirements. They all had experience as AFDC Eligibility Workers, thus ensuring a knowledge of the IV-A income, assets and deprivation of parental support requirements. They began using DHS 1577 forms (with different suffixes) early in 1997 to determine and document initial and recertification eligibility. They are consistent in completing the forms and documenting how eligibility was confirmed. The Review team found the DHS 1577 forms to be very effective in completing the ACF IV-E review document, because the forms clearly show income eligibility and whether deprivation of parental support exists.

2. Another strength regarding eligibility is that Hawaii also conducts recertification eligibility reviews every six months. This results in more accurate claiming for Federal funding.

3. Hawaii basically follows a standard format for filing documents in case folders. It was generally easy for the reviewers to see the sequence of court orders regarding the children. Even if Hawaii had not tagged the court orders and other pertinent documents to speed up the review, it would have been relatively easy to find the appropriate documents because of adherence to the filing format. Using a standard filing format throughout the State makes it easier for receiving workers to quickly obtain an understanding of the child's history and current status when cases are transferred to other counties.

4. Children that are voluntarily placed into State custody must have a court determination rendered within 180 days of placement that is in their best interests to remain in custody (45 CRF 1356.22(b). Federal funding will discontinue after the 180th day if this is not accomplished. It is often a common mistake for workers to automatically convert the 180 days into 6 months and assume that the court determination can be rendered by the end of the sixth month. The IV-E Eligibility Workers created a book that calculates the 180th day from the date of voluntary placement, and they notify the social workers so that they can obtain the court determinations in a timely manner.

B. Licensing

1. Although there were 18 cases determined to be in error for licensing foster homes before CBRCs were completed, we did note the beginning of improvement in this activity later in calendar year 2000. We also noted that Hawaii's licensing requirements are very detailed to ensure that the safety of the children is paramount when issuing licenses. Licensing requirements include:

    - Both FBI and Hawaii State criminal clearances for every adult in the home for new licenses and Hawaii State criminal clearance not less than every two years thereafter for license renewals
    - Foster parents must have a physical exam within one year
    - TB clearances for every household member
    - The Foster family must have sufficient income to meet its needs
    - The home must be a safe place, without hazards, meet health and sanitation standards and have adequate space for the child(ren)
    - Licensing requirements are the same for relative versus non-relative foster parents
    - Licensing workers ensure the home meets the physical safety standards consistent with the needs of the children
    - Assessments/homestudies/evaluations of the foster family are conducted to determine that they are well-adjusted persons capable of acceptable caring for children and meeting their needs and that they are willing and able to work with the Department.

2. DHS was aware of the potential for cases being determined ineligible due to licensing errors and had done a pre-review of their own. As a result, we noted that DHS was already in the process of correcting the fiscal claims for some of the error cases and working on a plan to modify the computer system to prevent licenses being issued if all of the required licensing requirements are not met, such as when CBRCs are not complete.

C. Court Activity

1. There were only two errors for failure to obtain timely judicial determinations. In all other cases, Hawaii had obtained the required judicial determinations for contrary to welfare determination and reasonable efforts to prevent removal and/or to achieve reunification of children within the required time limits. In addition, Hawaii showed great progress starting October 2000 in obtaining subsequent judicial determinations regarding reasonable efforts to finalize the permanency plan. In order to sustain ongoing title IV-E foster care eligibility, there must be a judicial determination every 12 months subsequent to the initial judicial determination of reasonable efforts to finalize the permanency plan while the child is in foster care. This was most evident by reading the checklist format for court orders used by the court for approving permanency plans. The newer court orders clearly reference the permanency plans.

2. Another strength we noted was the high rate of placing children with relatives. Hawaii really makes a concerted effort to ensure linkage for children to their relatives when they are removed from their homes.

D. Pre-review and Review Activities

1. Hawaii did an excellent job of preparing the cases for review. They had tagged the most important documents to assist in the review process. Specifically, they tagged the voluntary placement agreements and court orders that authorized removal, identified efforts and contrary to the welfare declarations and approved or amended permanency plans. In addition, they brought in eligibility determination documents to support the AFDC linkage and licensing documentation. All cases had sufficient information either in the records or provided well before the end of the onsite review so that eligibility determinations could be rendered for all cases before the exit conference.

2. The control of the cases during the review was exceptional. When cases were reviewed, the State person charged with case control automatically checked to see if all volumes had been returned and then established a system for case review status. We were easily able to determine cases that had been reviewed, cases awaiting review, cases ready for a quality control review and those with completed quality control reviews. She even had cases categorized by the day the initial reviews were completed.

3. DHS staff actively participated in reviewing the cases. There were five IV-E Eligibility Workers reviewing cases on a full-time basis and three other workers from the State Division of Social Services assisting in reviewing as their other activities associated with the overall review permitted. They were instrumental in verifying the accuracy of the ineligible cases and the periods of ineligibility. This made the weeklong review truly a team effort between the State and ACF.

VI. DISALLOWANCES

In accordance with 45 CFR 1356.71(j)(2), Hawaii DHS is found not to be in substantial compliance with recipient and provider eligibility provisions of title IV-E. Enclosure C provides the error dollar amount for each of the 25 error cases by Federal fiscal year and total amounts for all 25 cases. The total dollars in error are $258,415.12 of which $131,773.27 are Federal funds.

Payment of the disallowance claim must be paid 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.) Hawaii has the right to dispute the debt. DHS 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. Hawaii 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.