

Hawaii
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
April 1, 2009 – September 30, 2009

Introduction

On June 14 through June 17, 2010, the Children’s Bureau (CB) of the Administration for Children and Families (ACF), in collaboration with the Hawaii Department of Human Services (DHS), conducted a *primary* review of Hawaii’s title IV-E foster care program. This was Hawaii’s third *primary* review. (The *initial primary* review was conducted in April 2001, a subsequent *secondary* review was conducted in March 2004, and a second *primary* review was conducted in June 2007.)

The review team was comprised of representatives from the State agency, the State’s Court Improvement Program, the CB Region IX Office, the CB Central Office, and four peer reviewers from other States (Alaska, Oregon, Wisconsin, and New Jersey). See Enclosure A for a complete listing of the review team members.

The purposes of the title IV-E foster care eligibility reviews are (1) to determine whether the Hawaii DHS was in compliance with the eligibility requirements as outlined in Federal statute at sections 471 and 472 of the Social Security Act (the Act) and Federal regulations at 45 CFR 1356.71 and (2) to validate the basis of the State’s financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

The primary review encompassed a sample of the State’s foster care cases for which a title IV-E foster care maintenance payment was made for services rendered during the six-month period under review (PUR) of April 1, 2009 through September 30, 2009. A computerized statistical sample of eighty (80) cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data transmitted by the State agency to the CB for the PUR. Although an additional twenty (20) cases were drawn as an oversample for use should any of the original eighty (80) cases be excluded, none of the oversample cases had to be reviewed.

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

1. Judicial determinations regarding whether
 - it is contrary for the child’s welfare to remain at home pursuant to Section 472(a)(2)(A)(ii) of the Act and 45 CFR 1356.21(c);
 - the agency made reasonable efforts to prevent removal pursuant to Section 472(a)(2)(A)(ii) and 471(a)(15) of the Act and 45 CFR 1356.21(b)(1); and
 - the agency made reasonable efforts to finalize permanency pursuant to 45 CFR 1356.21(b)(2)(i);

2. Voluntary placement agreements as set forth in Sections 472(a)(2)(A)(i) and 472(d)-(g) of the Act and 45 CFR 1356.22;
3. Responsibility for placement and care vested with the State agency as stipulated in Section 472(a)(2)(B) of the Act;
4. Eligibility for Aid to Families with Dependent Children (AFDC) under the State plan in effect July 16, 1996 as required by Section 472(a)(3) of the Act;
5. Placement in a licensed foster family home or child care institution as defined in Sections 472(b) and (c) of the Act and 45 CFR 1355.20(a); and
6. Safety requirements for the child's foster care placement as required at Section 471(a)(20)(A) of the Act and 45 CFR 1356.30.

Information in the case files of each child in the selected sample was reviewed to verify title IV-E eligibility. Information also was examined to determine whether the foster family home or childcare institution where the child was placed during the PUR was fully licensed and that safety requirements were appropriately documented. In addition, payments made on behalf of each child were reviewed to ascertain whether the expenditures were allowable under title IV-E and to identify whether payments were appropriately claimed.

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 foster care maintenance was paid. A sample case was cited as non-error with an ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in or outside the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity, such as duplicate payments made to two providers for the same period of time. In addition, underpayments were identified for a sample case when an allowable title IV-E maintenance payment was made but not claimed by the State on behalf of an eligible child during the two-year filing period specified in 45 CFR §95.7, unless the title IV-E agency had elected not to claim the payment or the filing period had expired.

The State was afforded two weeks following the onsite review to submit additional documentation for a case that, during the onsite review, was identified as in error or not in error but with ineligible payments. Supplemental licensing information was submitted and, as a result, sample case numbered 79 changed from an error to a non-error case.

Compliance Finding

The review team determined that seventy-seven (77) of the eighty (80) cases met the title IV-E foster care eligibility requirements (i.e., deemed non-error cases) for the PUR. Thus, three (3) cases were found to be in error (case samples numbered 3, 52, and 56) for either part of all of the PUR for reasons that are identified in the body of this report. Because the number of cases in error is fewer than four (4), Hawaii's title IV-E foster care maintenance program is found to be in substantial compliance with the Federal title IV-E foster care eligibility requirements for the period April 1, 2009 through September 30, 2009.

Additionally, two (2) of the non-error cases (case samples numbered 12 and 44) had foster care maintenance payments that were claimed on behalf of children *ineligible* for title IV-E during a period of time limited to outside the PUR. Also, five (5) of the non-error cases (case samples numbered 18, 38, 49, 51, and 54) had overpayments that were improperly claimed for title IV-E Federal Financial Participation (FFP). Accordingly, Federal funds claimed for title IV-E foster care maintenance payments, including administrative costs associated with the error cases and non-error cases with ineligible payments, are being disallowed. Administrative costs are not associated with the overpayments.

There were also seven (7) non-error cases (sample cases numbered 23, 24, 28, 29, 32, 44, and 79) identified as having periods of eligibility for which the State did not claim allowable title IV-E maintenance payments. (Sample case numbered 44 also had ineligible payments as noted above.)

Case Findings Summary

The following three (3) tables record the error cases; the non-error cases with ineligible payments and overpayments; and the non-error cases for which payments could have been claimed for title IV-E FFP. They include the reasons for the improper payments, the improper payment amounts, and the Federal statutory and regulatory provisions for which the State did not meet the compliance mandates. The third table excludes the four cases in which children were placed in child placing organization (CPO) licensed homes during the PUR because the State purposely does not routinely claim title IV-E for such placements. If the State chooses to claim FFP for the payments made for these four (4) cases, please contact Debi O’Leary in the Region IX office for further instructions.

Error Cases (Table 1)

	<i>Case Sample Number</i>	<i>Reason for Error</i>	<i>Social Security Act or Code of Federal Regulations</i>	<i>Period of Ineligibility</i>	<i>Improper Payment Amounts (FFP only)</i>
		<i>Removal not Pursuant to a Voluntary Placement Agreement or Court Order</i>			
1	3	Child was removed without a voluntary foster custody agreement or court determinations that remaining in home was contrary to the child’s welfare and that the agency made reasonable efforts to prevent removal. (The child was removed from a family receiving title IV-E adoption assistance and the Federal eligibility code in the automated system that was used for adoption assistance payment was not	§472(a)(2)(A) and §472(d)-(g) of the Act 45 CFR 1356.21(b) and (c) and 45 CFR 1356.22	04/14/2009 through 04/17/2009	\$132 Maint. \$0 Admin.

	<i>Case Sample Number</i>	<i>Reason for Error</i>	<i>Social Security Act or Code of Federal Regulations</i>	<i>Period of Ineligibility</i>	<i>Improper Payment Amounts (FFP only)</i>
		changed by the social worker when authorizing the foster care maintenance payment. The eligibility worker was not notified of removal to determine eligibility.)			
		<i>Child Ineligible for Aid to Families with Dependent Children as in effect July 16, 1996</i>			
2	52	Financial need and deprivation did not exist in the month of entering into the voluntary foster custody agreement. (The child was removed from a family receiving title IV-E adoption assistance and the Federal eligibility code in the automated system that was used for adoption assistance payment was not changed when authorizing the foster care maintenance payment. The eligibility worker was not notified of removal to determine eligibility.)	§472(a)(3) of the Act	07/11/2009 through 08/11/2009	\$429 Maint. \$2,118 Admin.
		<i>Provider not Fully Licensed</i>			
3	56	Claimed FFP for payments made to provisionally-licensed provider. (It appears that the licensing worker may have entered incorrect information into the automated system.)	§472(c) of the Act 45 CFR 1355.20(a)	04/01/2009 through 04/30/2009	\$332 Maint. \$2,118 Admin.

Total Maintenance: \$893
Total Administrative: \$4,236

Non-Error Cases with Ineligible Payments, Including Overpayments (Table 2)

	<i>Case Sample Number</i>	<i>Improper Payment Reason</i>	<i>Social Security Act & Code of Federal Regulations</i>	<i>Period of Ineligibility</i>	<i>Improper Payment Amounts (FFP)</i>
		<i>Payments Claimed For Services Provided Prior to the Month in Which all Eligibility Criteria Were Met</i>			
1	12	The child was removed in April 1998. The judicial findings regarding contrary to the child's welfare and reasonable efforts to prevent removal or reunify child were obtained 06/12/1998. However, title IV-E funds were claimed for part of April and all of May.	45 CFR 1356.21(b) and (c)	04/23/1998 through 05/31/1998	\$400 Maint. \$1,386 Admin.
2	44	The child was removed in March 2008. Judicial finding regarding reasonable efforts to prevent removal was obtained in April 2008. However, the March payment was claimed for title IV-E FFP.	45 CFR 1356.21(b)	03/17/2008 through 03/31/2008	\$145 Maint. \$2,083 Admin.
		<i>Overpayments</i>			
3	18	Two providers were paid for the same month.	45 CFR 92.22	05/01/2007 through 05/31/2007	\$304 Maint. \$0 Admin
4	38	The child changed placement and two providers were paid for the same ½ day.	45 CFR 92.22	02/02/2007	\$5 Maint. \$0 Admin.
5	49	Two providers were paid for the same day.	45 CFR 92.22	05/01/2008	\$10 Maint. \$0 Admin.
6	51	Two providers were paid for the same day.	45 CFR 92.22	07/07/2009	\$11 Maint. \$0 Admin.
7	54	Although the basic maintenance payment was prorated, the supplemental Difficulty of Care Payment was not pro-rated based on days the child was in placement.	45 CFR 92.22	11/21/2009 through 11/30/2009	\$91 Maint. \$0 Admin.

Total Maintenance: \$966
Total Administrative: \$3,469

Underpayment Cases (Table 3)

	<i>Case Sample Number</i>	<i>Reason for Underpayment</i>	<i>Social Security Act & Code of Federal Regulations</i>	<i>Period of Eligibility</i>	<i>Improper Payment Amounts (FFP)</i>
		<i>Child Eligible, but Payments not Claimed for Title IV-E</i>			
1	23	The child met all eligibility requirements for the months in which payments were not claimed. The child was placed in a licensed out-of-State placement. It appears that the licensing information was not entered into the system.	§472 and §471(a)(20)(A) of the Act 45 CFR 1355.20(a) 1356.21 and 1356.30	06/01/2009 through 03/31/2010	\$4,746 Maint.
2	24	The child met all eligibility requirements for the months in which payments were not claimed. It appears that a new case number was created without the social worker realizing an existing case number existed until a few months later; the eligibility worker was not notified.	§472 and §471(a)(20)(A) of the Act 45 CFR 1355.20(a) 1356.21 and 1356.30	05/08/2008 through 07/31/2008	\$923 Maint.
3	28	The child met all eligibility requirements for the months in which payments were not claimed. It appears that the case number was changed and the social worker inadvertently changed the Federal eligibility code rather than transfer the information.	§472 and §471(a)(20)(A) of the Act 45 CFR 1355.20(a) 1356.21 and 1356.30	08/01/2009 through 03/31/2010	\$5,097 Maint.
4	29	The child met all eligibility requirements for the months in which payments were not claimed. The reason for not claiming the payments is unknown.	§472 and §471(a)(20)(A) of the Act 45 CFR 1355.20(a) 1356.21 and 1356.30	11/20/2008 through 11/30/2008	\$122 Maint.
5	32	The child met all eligibility requirements for the months in which payments were not claimed. The reason for not	§472 and §471(a)(20)(A) of the Act 45 CFR 1355.20(a)	02/01/2010 through 02/23/2010	\$689 Maint.

	<i>Case Sample Number</i>	<i>Reason for Underpayment</i>	<i>Social Security Act & Code of Federal Regulations</i>	<i>Period of Eligibility</i>	<i>Improper Payment Amounts (FFP)</i>
		claiming the payments is unknown.	1356.21 and 1356.30		
6	44	The child met all eligibility requirements for the months in which payments were not claimed. It appears that the eligibility worker reversed payments due to a lack of a timely judicial determination to finalize permanency and court orders subsequently became available. It is not clear why the eligibility determination was not subsequently changed accordingly.	§472 and §471(a)(20)(A) of the Act 45 CFR 1355.20(a) 1356.21 and 1356.30	07/2009 through 10/2009	\$1,327 Maint.
7	79	The child met all eligibility requirements for the months in which payments were not claimed. The child was placed in licensed out-of-State placement. It appears that the licensing information was not entered into the system.	§472 and §471(a)(20)(A) of the Act 45 CFR 1355.20(a) 1356.21 and 1356.30	1/2005 through 12/2005 and 05/2009 through 08/2009	\$2,756 Maint.

Total Maintenance: \$15,660

Strengths and Suggestions for Further Improvements

The following identifies strengths and suggestions for further improving the State's compliance with the title IV-E foster care maintenance program eligibility requirements and its ability to submit accurate and complete claims for FFP.

Automation and Licensing: The State's automated system that has been modified to ensure that payments will not be charged to title IV-E unless and until all eligibility criteria are met, especially unconditional licensure status, continues to be helpful for ensuring title IV-E is not claimed for ineligible payments on behalf of children placed in provisionally-licensed homes or childcare institutions. It is, therefore, highly dependent upon the accuracy of the licensing information entered into the system by licensing staff. The one (1) error case and the two (2) cases with underpayments that are related to the licensing requirements appear to have been a result of inaccurate or incomplete data entry. There is, however, no mechanism in place to help ensure data accuracy and we understand that the unit responsible for monitoring has experienced significant staff reductions and, thus, is no longer able to routinely verify the accuracy of eligibility determinations, including licensing information.

There were four (4) additional non-error cases (sample cases numbered 5, 8, 70, and 72) in which otherwise title IV-E eligible children were placed in homes licensed by child-placing organizations (CPO) but for which payments made were not charged to title IV-E. However, we did not, as requested by your staff, include these in the count of non-error cases with underpayments. We understand that the State has opted, as a general rule, not to routinely claim title IV-E for payments made on behalf of otherwise eligible children placed in CPO-approved homes primarily because the State does not have the staffing resources needed to ensure the necessary licensing information is entered into the State's automated system and to ensure that documentation is adequately maintained and updated.

We are unable to discern the proportion of Hawaii's children in foster care placed in CPO homes. Of the eighty (80) cases reviewed, only the four above ones had placements with CPO homes during the PUR, but they comprised about \$10,773 in maintenance payments for which FFP was not claimed. In addition, since these cases would not be known to the system as Federally-eligible, the State's Federal foster care case ratio used to claim costs allocated to training, other administrative costs, including those associated with managing in-home cases of children at imminent risk of removal (i.e., candidates for foster care), also are adversely affected.

Additionally, a number of licensed child-specific homes of related or Hanai (fictive kin) foster parents are not being renewed timely and the State is issuing and re-issuing temporary provisional licenses until the foster parents complete the renewal process to ensure that they continue to meet the State's licensing standards. Although the State is appropriately excluding payments from its claims for FFP while the family is in a provisional licensure status, we encourage the State to consider starting the renewal process earlier. Currently, the process generally begins 90 days prior to licensure expiration; perhaps six months in advance may afford these foster families adequate time to demonstrate continued compliance with the State's standards.

Recommendations:

1. The State should consider implementing a process to routinely ensure licensing information entered into the system is accurate. For example, since annual re-determinations of AFDC eligibility are no longer required, perhaps the time could be used instead to verify licensure information for cases when the eligibility worker is verifying the ongoing judicial determinations annually.
2. The State should also consider establishing ongoing title IV-E eligibility reviews of all foster care cases (Federal and non-Federal) to strengthen accuracy of eligibility determinations.
3. The State may want to ascertain the extent to which children are placed in CPO-licensed homes and the costs and benefits to the State to properly enter the information into and routinely update that information in the State's automated system. Additionally, although we did not include these four (4) cases in the count of non-error cases with underpayments due to the State's practice, the State is permitted to claim the eligible payments for these cases by filing an increasing adjustment on its Quarterly Report of Expenditures (Form ACF-IV-E-1) in the next quarter, but no later than two (2) years after the calendar quarter in which the State made the expenditures.
4. The State should consider beginning the licensure renewal process earlier than the current 90 days.

Eligibility Determinations: In general, the Foster Care Income Maintenance (FCIM) eligibility workers continue to excel in accurately determining whether a child meets the title IV-E eligibility requirements related to AFDC (as in effect July 16, 1996), albeit they do not routinely validate licensure given that information is entered into the system directly by licensing workers and the automated system is programmed to pay only while a placement is fully-licensed. The eligibility forms developed by the State and the process for supervisors to concur with the worker's determinations continue to be helpful in ensuring accurate eligibility determinations.

However, given that two (2) of the error cases (case samples numbered 3 and 52) were ones in which children were removed from families receiving title IV-E adoption assistance, and given that the State's automated system has only one code that identifies a child as title IV-E eligible regardless whether he/she is eligible for the title IV-E adoption assistance program or the title IV-E foster care maintenance program, additional care should be taken when children are removed from such homes to preclude improper claiming. (It was not clear in the files whether the social worker obtained the concurrence of the adoptive family to stop or reduce its adoption assistance payments. It would be prudent for the State to ensure and document that concurrence was obtained as required.) Eligibility for title IV-E adoption assistance does not equate to eligibility for title IV-E foster care and vice versa. It is our understanding that generally, in new removals, social workers authorize foster care maintenance payments with a code that charges the payments to the State-funded foster care program. Eligibility workers are then notified of these new removals in order to ascertain whether and when they meet the title IV-E eligibility criteria related to the requisite initial judicial determinations or voluntary placement agreements and AFDC linkages. The information in the case files does not illuminate why the correct code was not used and why the FCIM unit was not made aware of the new removals.

It was also noted during the review that there is no standard training for new eligibility workers. And, although there is an AFDC manual, the State's child welfare procedures manual, which

includes sections regarding eligibility for the Federal foster care maintenance program, is not kept current and thus is not useful for current or future FCIM workers. We understand that the State is in the process of updating its procedures manual and/or developing a manual specifically for the eligibility workers.

Recommendations:

5. The State should consider developing a management report to periodically identify new removals in cases in which children are receiving title IV-E adoption assistance to ensure that eligibility for such children are determined accurately, as well as ensure that adoption assistance payments are not reduced or stopped without the concurrence of the adoptive family.
6. The State should also consider establishing separate codes specific to eligibility for title IV-E foster care versus title IV-E adoption assistance, as well as title IV-E guardianship assistance if the State implements that optional title IV-E program.
7. The State should develop and implement standard eligibility training for new eligibility workers to ensure that the knowledge of current workers is institutionalized and transferred to future workers. The State should also implement a process to keep its procedures manual current and consider including a section for frequently asked/answered questions.

Judicial Determinations: In general, judicial determinations regarding contrary to the welfare and reasonable efforts to prevent removal, as well as reasonable efforts to finalize permanency are being rendered timely. However, given that there were two (2) non-error cases with ineligible payments due to establishing an incorrect effective date for eligibility that is prior to the month in which the requisite judicial determinations were obtained, additional attention to ensuring the correct eligibility effective date is established may be warranted. It is not clear from the files why the effective dates were wrong, although for one of the cases (case sample numbered 44), it appears that the supervisor may not have reviewed the worker's determination as expected.

Recommendation:

8. The State should consider the costs and benefits of developing an automated method to help ensure that the effective date for title IV-E eligibility begins the month in which all eligibility requirements are met. For example, in addition to entering the effective date of full licensure, the dates of the hearings in which the requisite findings are made could be entered into the system (along with the court orders) and the date of placement so that the system could be programmed to determine the effective date of title IV-E initial eligibility and not authorize a payment for a period prior to the month in which all eligibility requirements are met.

Voluntary Placements and Responsibility for Placement and Care: Voluntary Foster Custody Agreements (VFCA) are generally established for a 90-day period and are either renewed for an additional 90 days or the agency obtains a judicial determination by no later than the 180th day of the child's placement into foster care that it is in the child's best interest to remain in out-of-home care.

Recommendation:

9. The State should ensure that if a second 90-day VFCA will not be established but a safe reunification is not yet feasible, the judicial determination to maintain the child in out-of-home care should be obtained prior to the expiration of the agreement, rather than after the agreement expires, but before the 181st day of placement. In this way, the State will ensure that its responsibility for the child's placement and care is continuous.

Safety: The State is consistently ensuring that prospective foster parents meet background check requirements. Information pertaining to child caring institutions (group homes and shelters) also showed that employees obtained the background clearances prior to being employed, which is more stringent than the State's requirement for requesting the background clearances within five working days of employment pursuant to the Hawaii's Administrative Rule at 17-894-4(g). It, however, became evident during the review that there is a lack of standardization for documenting whether employees' clearances are requested and obtained timely.

Recommendation:

10. The State should clarify its expectations for the childcaring institutions regarding how they should be documenting when an employee is hired, when the employee is permitted to work, and when the employee has requested and then cleared each of the background checks required. This should also make it easier for the licensing staff that review the group homes to ensure that the group homes are complying with the safety standards.

Overpayments:

The majority of the overpayments were because more than one provider was paid for the same period of time.

Recommendation:

11. The State should consider looking into creating an edit in the automated system so that payments cannot be made in excess of the number of days in any given month, or to more than one provider on any given day.

Additional Findings

In response to the State's interest in fully leveraging FFP, we also bring to the State's attention the following areas in which the State may wish to reconsider its policies:

Although the State's Aid to Families with Dependent Children (AFDC) plan that was in effect July 16, 1996 permits the State to claim foster care maintenance payments made on behalf of otherwise title IV-E eligible youth up to age 19 if the youth are full-time students in secondary school, or vocational training and are reasonably expected to complete the program by age 19, the State has elected not to exercise this option. We understand that the State continues to pay foster care maintenance payments for such youth beyond their 18th birthday, albeit charging the payments to the State-funded foster care program. The State may want to reconsider the cost benefit of exercising this State plan option in the future. Please note, however, that if the State does implement this option, it must obtain continued placement and care responsibility either through the courts or explicitly from the youth, such as through a written agreement or the

youth's independent living plan. Title IV-E for such youth would end at the earlier of the end of the month the youth reaches age 19 or the month of graduation.

The State has opted to pro-rate claims for title IV-E up through a youth's 18th birthday even when the State pays a full month of foster care maintenance when the youth continues to reside with the foster family through the end of that month. As indicated on page 36 in Chapter 4 of the *Title IV-E Foster Care Eligibility Review Guide*, for States that have not exercised the option to extend foster care beyond age 18, "...eligibility for title IV-E foster care ceases at the end of the month the child turns 18." Thus, it is not necessary to prorate such payments nor is the State required to obtain the youth's explicit authorization to give the State continued placement and care responsibility through the end of the month of the child's 18th birthday. Again, the State may want to reconsider its policy of prorating such payments.

Disallowance

A disallowance in the amount of \$893 in maintenance payments and \$4,236 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error cases. Additional amounts of \$966 in maintenance payments and \$3,469 in related administrative costs of FFP are disallowed for title IV-E foster care payments claimed improperly for the non-error cases, including those with overpayments. The total disallowance as a result of this review is \$9,564 in FFP.

Next Steps

Pursuant to 45 CFR 1356.71(h)(4), the State's next *primary* review will be held within three years. In the meantime, we encourage the State to further strengthen its title IV-E foster care maintenance program as recommended above. The CB regional office program and fiscal staff are available to assist.

**Hawaii Title IV-E Foster Care Eligibility Review
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