

**State of Iowa
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
October 1, 2012 through March 31, 2013**

Introduction

During the week of July 29 – August 2, 2013, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the State's title IV-E foster care program. The review was conducted in collaboration with the State of Iowa Department of Human Services (DHS) and was completed by a review team comprised of representatives from Iowa DHS, Iowa Children's Justice, CB Central Office (CO) and Regional Office (RO), cross-State peer reviewers, and ACF Regional Grants Management Office. The review was conducted at the Hoover State Office Building located in Des Moines, Iowa.

The purposes of the title IV-E foster care eligibility review were: (1) to determine whether the Iowa DHS title IV-E foster care program was in compliance with the eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); 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 that received a title IV- E maintenance payment during the six-month period under review (PUR) of October 1, 2012 – March 31, 2013. A computerized statistical sample of 110 cases (80 cases plus 30 oversample cases) was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which included seventy eight (78) from the initial sample. Two (2) oversample cases were reviewed when two (2) sample cases were excluded from the original sample drawn because no title IV-E maintenance payments were made for a period during the PUR. The State provided documentation to support excluding each of the two cases from the review sample and replacing these with cases from the oversample.

In accordance with Federal provisions at 45 CFR §1356.71, the State was reviewed according to 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)(1) and (2), and (c), respectively;
- Voluntary placement agreements as set forth in §472(a)(2)(A) and (d)-(g) of the Act and 45 CFR §1356.22;

- Responsibility for placement and care vested with 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 title IV-A plan in effect on 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
- Safety requirements for the child's foster care placement as required at 45 CFR §1356.30.

The case file information of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider's file information also was examined to ensure the foster family home or child care institution where the child resided 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 the expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating if the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was claimed. 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 the PUR on the service date of an unallowable activity and title IV-E maintenance was claimed for the unallowable activity. In addition, underpayments were identified for a sample case when allowable title IV-E maintenance costs were not claimed by the State for an eligible child during the two-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.

Compliance Finding

The review team determined that all of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. No cases were identified as in error for either part or all of the review period. In addition, there were two non-error cases with identified underpayments.

Based on these review findings, CB has determined that the Iowa DHS title IV-E foster care program is in substantial compliance with Federal eligibility requirements for the PUR. Substantial compliance in a primary review is achieved when four or fewer cases are in error. The next review of Iowa's title IV-E eligibility program will be a primary review, conducted within three years from the date of this review.

Case Record Summary

The following chart records the two (2) cases with an underpayment, reasons for the underpayment, payment amounts, and federal provisions under which the State could have claimed.

Underpayment Cases

Sample Number	Underpayment Reason & Eligibility Period	Payment
IA 24	Title IV-E maintenance was not claimed for an eligible child placed with a fully licensed provider. [§472(b) and (c) of the Act and 45 CFR §1355.20 and §1356.71(d)(1)(iv)] Eligible period: 11/18/2011– 11/30/2011	\$2,124.28 Maintenance

Total: \$2,124.28

Recommendations for Further Improvement

Even though Iowa is in substantial compliance in this primary review, the findings of this review indicate the State could further develop and implement procedures to improve program performance in the areas listed below. Steps the State takes now to improve quality will support positive outcomes for future reviews. We have provided a discussion below regarding the nature of the area's needing improvement, the specific title IV-E requirement to which it relates and the improvement area the State should undertake.

Issue #1 Underpayments:

One case in the Iowa review resulted in an underpayment. In this case, title IV-E funds were not claimed for a child residing with a foster care provider who was paid and was fully licensed at the time of child's placement.

A second case (IA 37) while technically not resulting in an underpayment due to the State agency choosing not to claim the title IV-E maintenance funds as early as allowed, is noted to bring to the State's attention that it is forgoing the claiming of funds that are available and readily accessible to it.

To determine the deadline for the initial judicial finding of reasonable efforts to finalize the permanency plan, Iowa calculates the start date of removal from the home beginning with the date the child is physically removed from the home. However, it only claims funds beginning from the adjudication date or 60-day date. Although the reasonable efforts finding to finalize the permanency plan was completed timely, Iowa could have claimed title IV-E maintenance for an eligible child for two additional months- the period of time between the physical removal and the 60-day date.

Title IV-E Requirement:

Federal Regulations at 45 CFR 1356.60 provide that title IV-E foster care maintenance payments may be claimed for allowable costs of expenditures that are covered by the federal definition of foster care maintenance found at §475(4) of the Act. Under §472 of the Act title IV-E maintenance payments may be claimed from the first day of the foster care placement in the

month in which all title IV-E eligibility criteria are met. The payment may be claimed for the entire month when an eligible child has resided in the foster care placement for the entire month. However, if the eligible child is placed on a date in the month other than the first of the month, title IV-E funds may be claimed for the period beginning with the actual date of foster care placement.

Recommendations for Quality Improvement:

We recommend that Iowa enhance the Continuous Quality Improvement (CQI) system to include the review of title IV-E cases to ensure that Iowa is maximizing its potential of claiming title IV-E maintenance funds for eligible children including when they are in fully-licensed placements. This will help Iowa identify gaps and ensure complete and proper claiming for children in fully licensed placements. While Iowa is being conservative in tracking the timeliness of judicial findings as a means of ensuring compliance, as a means for maximizing its reimbursement of title IV-E maintenance funds the State can claim title IV-E funds from the date of physical removal of an eligible child.

Issue # 2 Judicial Determinations:

The 2007 and 2010 Iowa title IV-E eligibility review reports indicated that the State has made steady progress for improvement in court orders with regard to findings for "contrary to the welfare" and "reasonable efforts" from the previous reviews. In the 2013 review all reviewed cases were determined to have sufficiently satisfied the judicial determination eligibility requirements at §472(a)(2)(A) of the Act. However, there were general concerns about the quality of the court orders. Reviewers found in a number of the cases that court orders appeared to utilize boiler plate language that did not address the child-specific facts of the case, the circumstances that were responsible for the child being in care, or the agency's efforts to achieve the child's specific permanency plan. For example, court orders were often unclear regarding the circumstances that led to the judicial determination that continuation in the home with the specified relative would be contrary to the child's welfare. We noted that judicial determinations could have been more specific to each case circumstance in relation to "contrary to the welfare" determinations particularly for Juvenile Court Service (JCS) cases.

Some court orders were unclear regarding the basis for determining that the lack of efforts to prevent the child's removal from the home was reasonable. Some DHS and JCS court orders also were unclear regarding the case specific efforts made to finalize the permanency plan and did not explicitly address the child's specific permanency goal such as adoption, independent living, or reunification. In addition, court orders commonly used the same standardized pre-printed reasonable efforts language for both removal orders and ongoing orders, blurring the distinction between findings for reasonable efforts to prevent placement and reasonable efforts to finalize the permanency plan.

Title IV-E Requirement:

Title IV-E eligibility requirements include protections for children and families as an important aspect of eligibility criteria. The title IV-E protections related to judicial determinations were

developed to ensure that children are placed in foster care as a last resort and that children are provided timely outcomes for permanency. A removal pursuant to a court order must be the result of a judicial determination of "contrary to the welfare" and "reasonable efforts" as specified in §472(a)(2)(A) of the Act. A judicial determination must be made on a case-by-case basis and explicitly stated in the court orders. A judicial determination that relies solely on references to State statutes in an attempt to substantiate the requisite judicial finding or implies that the judicial finding is not explicit is not sufficient for title IV-E eligibility. The court orders must definitively articulate the judge's child-specific ruling pertaining to "contrary to the welfare" and "reasonable efforts" determinations. While the exact terms are not required, the courts findings should provide documentation that the judge reviewed the particular facts and circumstances of the specific child. For example, the findings may reference "the facts in a court report, related psycho-social report, or sustained petition." [See the preamble to the final Rule, 65 FR 4020, 4056 (January 25, 2000)].

Recommended for Quality Improvement:

We encourage Iowa to enhance court orders to reflect judicial determinations that are specific to the circumstances and events of each child's case as part of their continuous quality improvement process for the title IV-E eligibility program. Including in the court order the facts upon which the "contrary to the welfare" and "reasonable efforts" determinations are based significantly improves the quality of the court order and provides a historical accounting of the child's situation leading to judicial decisions. As such, each court order should include child-specific determinations starting with the emergency order for removal, and continuing into orders for permanency hearings, reunification and adoption. We are encouraged by the Iowa Children's Justice past initiatives to improve judicial determinations and timeliness in the court orders. Based on this review, we recommend a continued focus on strategies to make all court orders meaningful and specific to the unique circumstances of the children and families involved as continued efforts in this area would be beneficial

We recommend that the State ensures that all DHS and Juvenile Court Services (JCS) court orders are child-specific and explicit. Through collaboration with the Court Improvement Program (CIP), the State can educate the judiciary and other court officials about drafting court orders that adequately reflect State and title IV-E criteria of legal sufficiency and findings of "contrary to the welfare" and "reasonable efforts", for example, by ensuring that the court language clearly separates reasonable efforts to prevent placement findings from reasonable efforts to achieve the permanency plan findings. It is very clear that DHS has a strong working relationship with Iowa Children's Justice. The CIP Director participated as a case reviewer in this review and collaborates with staff at all levels of DHS. It is recommended that DHS continue this collaboration with the State CIP to improve the quality of the court orders for child welfare and juvenile justice cases. Iowa clearly has some exemplary orders on which to model continued State-wide improvement efforts. Examples of these orders as well as those marginally meeting requirements will be utilized in the RO's efforts to provide technical assistance to DHS and Iowa Children's Justice.

Iowa has the opportunity at the agency level to incorporate continuous quality improvement goals for the title IV-E foster care eligibility process through enhancement of the Iowa CQI system to include the review of title IV-E eligibility cases as well as review of the court orders on DHS and JCS children.

Strengths

Eligibility Determinations

Iowa has a well-trained, knowledgeable, and tenured eligibility unit. The eligibility unit is housed throughout Iowa in both the State office and in various county offices while being centrally supervised at the State office level. The eligibility unit works well with the various field staff throughout the State in ensuring that the case files and documentation are thorough and complete.

The path to eligibility was documented in each case reviewed. For example, the eligibility unit has access to multiple databases to provide verification of income and resources such as earned wages, child support, family support services, and Social Security benefits. Iowa does not utilize an automated title IV-E eligibility process. However, eligibility forms 470-3839, 470-3837 and Desk Aid RC-0033 ensure DHS is conducting the AFDC two-step process to determine the income and resources using the Iowa 1996 title IV-A State plan and adequately support the eligibility determinations. The eligibility unit has a clear understanding of title IV-E foster care eligibility requirements related to the AFDC requirements of financial need, deprivation, and living with and removal from a specified relative. As evidenced by the cases reviewed, eligibility staff are verifying and clearly documenting the persons in the home at the time of removal.

Foster Care Placement Safety Requirements of Provider:

Foster Family Homes-

Iowa has a strong process in place for the licensing of family foster homes. The prospective foster parents had their safety and background checks completed prior to the license being issued and a child being placed in their home. The State has an effective process renewing the foster home licenses in a timely manner. The State does not issue temporary foster home licenses so family foster homes are always fully licensed which ensures all of the licensing standards are met and decreases the potential for safety risks.

Facilities-

Documentation and support provided for the 2013 eligibility review related to safety checks for child care facility staff demonstrated that all cases reviewed in which a child was placed in a facility met the State safety requirements. For this review, Iowa provided a detailed checklist on all facilities which included the hire date and background check completion date.

Comprehensive documentation of the safety checks provided for the review illustrated that the State is ensuring that facilities are conducting safety checks on institutional facility staff before

they are hired. Currently, before a facility staff is hired, safety checks include criminal background checks through the Iowa Division of Criminal Investigation and DHS child abuse registry checks. Reviewers often found documentation of providers going above and beyond this requirement by conducting checks from other States in which prospective staff have resided or completing checks in following years of employment and not just prior to the hire date.

The Iowa Department of Inspections and Appeals (DIA) staff are responsible for conducting unannounced monitoring visits to each facility every year to include a review of staff safety requirements. During these visits, licensing staff review personnel files, including safety and background checks on facility staff members employed by the facility. DIA also has a system in place to address circumstances in which a criminal history is identified. Should any background check come back with a conviction, then the potential employee must submit a written narrative regarding the conviction to DHS which is then evaluated and DHS makes the final determination if the facility will be allowed to hire this individual and work with children in foster care. This process ensures that the policy and safety provisions are followed resulting in safer placements for children.

Next Steps

CB staff will continue to monitor the issues identified through the title IV-B and IV-E State Plans and the Court Improvement Project. We look forward to the continued partnership with Iowa. CO and RO staff remain available to provide technical assistance as requested by the State.