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INFORMATION MEMORANDUM

To: Title IV-E Agencies (State, Tribal and Territorial Agencies) Administering or Supervising the Administration of Title IV-E of the Social Security Act

Subject: Issuance of the revised Title IV-E Foster Care Eligibility Review Guide and Title IV-E Foster Care Eligibility On-Site Review Instrument

Legal and Related References: Title IV-E, Sections 472(a) of the Social Security Act (the Act); implementing regulations at 45 CFR 1355 and 1356 and ACYF-CB-PI-10-02, dated March 26, 2010.

Purpose: The purpose of this information memorandum (IM) is to transmit to title IV-E agencies the revised Title IV-E Foster Care Eligibility Review Guide (Review Guide) which includes within it an updated version of the Title IV-E Foster Care Eligibility On-Site Review Instrument (Review Instrument).

Information: The Review Guide can be used by Federal staff and title IV-E agency staff to assist title IV-E agencies in complying with applicable statutory and regulatory provisions of the Federal foster care program (42 U.S.C. 672 and 45 CFR 1356.71, respectively). It contains suggestions and guidance on planning, conducting, and completing a foster care eligibility review. The Review Guide is intended to complement, not supplant, applicable statutory and regulatory provisions.

The Review Instrument is used when conducting the on-site eligibility review to assist in validating a child's eligibility under title IV-E and the accuracy of the title IV-E agency's claim for reimbursement of payments made on behalf of a child in foster care. We have modified the Review Instrument and the accompanying instructions and have included them in the revised Review Guide.

The primary goal in revising the Review Guide and Review Instrument is to add material that reflects current policies and procedures within the Children’s Bureau. The major changes consist of:

- clarifying our expectations regarding documentation that pertains to the judicial requirements of “contrary to the welfare”, “reasonable efforts to prevent removal” and “reasonable efforts to finalize the permanency plan” (section 472(a)(2) of the Act and 45 CFR 1356.21);
- clarifying our expectations regarding identifying and reporting improper payments, which are underpayments and overpayments, duplicate payments, erroneous and otherwise ineligible title IV-E payments (sections 472 and 474 of the Act);
- clarifying conditions under which title IV-E agencies may claim title IV-E maintenance payments for an eligible child (sections 472 and 474 of the Act);
- incorporating the Federal criminal record check requirement and other safety requirements for foster family homes and childcare institutions, as articulated in Program Instruction ACYF-CB-PI-10-02, issued on March 26, 2010;
- incorporating revisions regarding the change to the policy on re-determination of eligibility in the former AFDC program provided for in the State’s title IV-A plan in effect on July 16, 1996, as articulated in the CB Child Welfare Policy Manual, section 8.4A, Question and Answer #24; and
- clarifying eligibility requirements regarding the title IV-E agency’s options under title IV-A and title E of the Social Security Act to extend assistance to youth age 18 and older, as articulated in Program Instruction ACYF-CB-PI-10-11, dated July 9, 2010.

The December 2012 version of the Review Guide and Review Instrument is the one we will be using for the title IV-E foster care eligibility reviews in FY 2013 and thereafter. These review tools will be used beginning with eligibility reviews that have the Adoption and Foster Care Analysis and Reporting System reporting period of 04/01/2012–09/30/2012 as the period under review. The March 2006 version of the Review Guide and Review Instrument is superseded by the review documents transmitted with this IM.

The December 2012 Review Guide and Review Instrument also will be available separately on the CB website in the near future.

Effective Date: December 2012.

Inquiries: Children's Bureau Regional Program Managers

/s/
Bryan Samuels
Commissioner

Attachments

- Attachment A – Children’s Bureau Regional Office Program Managers
- Attachment B – Title IV-E Foster Care Eligibility Review Guide

Attachment A - Regional Program Manager Contact List

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR

CHILDREN & FAMILIES

Administration on Children, Youth and Families
Children's Bureau

Title IV-E Foster Care Eligibility Review Guide

December 2012



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Preface

This Title IV-E Foster Care Eligibility Review Guide provides a consistent and uniform approach for Federal and title IV-E agency staff to use in complying with requirements set forth in 42 U.S.C. § 672 and 45 CFR § 1356.71. The guide contains policy and procedural guidance on planning, conducting, and completing a title foster care eligibility review (IV-E review). It is intended to complement, not supplant, applicable statutory and regulatory provisions. In the event of a conflict or inconsistency between this guide and the Federal statutes or regulations, the latter govern.

This guide applies solely to the periodic IV-E review. It does not apply to other types of reviews or checks

on eligibility, such as those that may be conducted by the Office of the Inspector General or that arise out of the Administration for Children and Families Regional Office's reviews of title IV-E claims filed by title IV-E agencies.

Finally, throughout this guide commentaries are used to clarify and explain certain issues, concepts, or problems as well as to give concrete examples of typical situations. The commentaries are intended to be illustrative, but they are *examples only*. The commentaries and examples should not be read more broadly than the expressed facts presented and should not be applied to factual situations different from those specifically described.

Chapter 1: Framework for the Title IV-E Foster Care Eligibility Reviews

Purpose of the Reviews

Title IV-E foster care funds enable States and Tribes (referred to as title IV-E agencies) to provide foster care for children determined eligible for assistance from the Aid to Families With Dependent Children (AFDC) program under the State's approved title IV-A plan (as in effect on July 16, 1996). The Social Security Act (the Act) includes requirements that define the circumstances under which the title IV-E agency must, in accordance with an approved title IV-E plan, make foster care maintenance payments [§ 472(a)] and mandates a child's placement in an approved or licensed foster care setting [§ 472 (b) and (c)] that meets the safety requirements.

The periodic title IV-E foster care eligibility review (IV-E review) assists in the validation of the accuracy of the title IV-E agency's claim for reimbursement of payments made on behalf of eligible children placed in approved or licensed foster family homes and child care institutions. The validations are made most effectively by an examination of the case records of the child and provider and payment documentation. Payment eligibility also is monitored and reviewed by audits conducted by the Office of the Inspector General and the Administration for Children and Families (ACF) Regional Office, Office of Grant Management (OGM), when conducting a claims review.

In conducting foster care eligibility reviews, the Children's Bureau (CB) is fulfilling its financial and programmatic stewardship responsibilities, while also complying with statutory provisions mandated in the Improper Payments Information Act (IPIA) of 2002, Executive Order 13520 of 2009 and the Improper Payments Elimination and Recovery Act (IPERA) of 2010. These measures for fiscal accountability require Federal agencies to prevent, identify and recover improper payments in Federal programs. Title IV-E agencies are the CB's integral partners in reducing errors and ensuring program access for eligible beneficiaries.

Ultimately, the measures that are actualized partly through the IV-E reviews will enable the Federal

Government to provide accurate financial assistance to title IV-E agencies, will enable the programs of these agencies to service additional eligible recipients without increasing their budgets, and will reduce program costs.

In short, the periodic IV-E reviews:

- help determine whether Federal funds are spent on behalf of eligible children and are in accordance with Federal statute, regulation, and policy;
- help identify improper payments. An improper payment is any title IV-E foster care maintenance payment that should not be made or that is made in an incorrect amount under a requirement applicable to title IV-E. Incorrect amounts are underpayments and overpayments, duplicate payments, erroneous and otherwise ineligible payments;
- provide a link to the joint planning, technical assistance, and program improvement processes that exist between the CB and the title IV-E agencies; and
- provide timely and specific feedback to title IV-E agencies that can directly affect the proper and efficient administration and implementation of their title IV-E foster care maintenance payment programs.

Review Process

The IV-E review is a collaborative effort between the Federal Government and the title IV-E agency. It is conducted by review teams composed of both Federal and title IV-E agency staff. The IV-E review is conducted on site, typically where the agency's central office is located. The title IV-E agency may negotiate an alternative location with the CB Regional Office, if warranted due to record access or other logistical concerns.

Primary Review. The review process begins with a primary review of foster care cases to ensure that children for whom title IV-E foster care

maintenance payments are made meet the eligibility requirements at § 472(a) of the Act and the implementing regulations at 45 CFR Parts 1355 and 1356. (However, the first IV-E review conducted following the passage of the final rule in the *Federal Register* on January 25, 2000, was an initial primary review. This initial primary review afforded States an opportunity to implement the various requirements in the regulations. During the initial primary review, 80 cases were reviewed and 8 or fewer error cases were allowed for a State to be found in substantial compliance with the eligibility requirements. A subsequent primary review was conducted within 3 years from the date of the initial primary review or of the secondary review, if the State was determined not in substantial compliance in the initial primary review).

During the subsequent primary review, the review team examines 80 cases. If five or more cases are in error, the title IV-E agency is not in substantial compliance and is required to develop a Program Improvement Plan (PIP). The title IV-E agency has a maximum of 1 year to implement and complete the provisions of the PIP unless legislation governing the title IV-E agency's implementation of the PIP is required. In such instances, an extension may be granted, with the CB and the title IV-E agency negotiating the terms and length of the extension, not to exceed the last day of the first legislative session after the projected date of PIP completion. Title IV-E agencies determined in substantial compliance based on the primary review are reviewed at 3-year intervals.

Secondary Review. A secondary review is conducted whenever a title IV-E agency is determined not in substantial compliance based on the findings of a primary review. During the secondary review, 150 sample cases are reviewed following the CB approved end date for the title IV-E agency's implementation of the PIP. If a title IV-E agency exceeds the error threshold of more than 10 percent for both the case error rate and the dollar error rate, the agency is not in substantial compliance. Title IV-E agencies will undergo their next primary review 3 years from the date of the secondary review, regardless of the compliance finding for that secondary review.

Following the evaluation of the title IV-E agency's performance in achieving compliance with the eligibility requirements, the CB will determine and calculate the extent to which the title IV-E agency is improperly paid title IV-E Federal financial participation (FFP) for those cases the agency should not have claimed the title IV-E funds or should have claimed but did not. [See discussion on compliance and improper payments later in this chapter of the guide.]

Requirements Subject to Review

Title IV-E agencies are reviewed against the requirements of title IV-E of the Act and Federal regulations regarding:

The eligibility of the children on whose behalf foster care maintenance payments are made, to include:

- Judicial determinations regarding “reasonable efforts” and “contrary to the welfare,” in accordance with § 472(a)(2)(A)(ii) of the Act and 45 CFR §§ 1356.21(b) and (c), respectively;
- Voluntary placement agreements, in accordance with §§ 472(a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR § 1356.22;
- Responsibility for placement and care vested with the title IV-E agency, in accordance with § 472(a)(2)(B) of the Act and 45 CFR § 1356.71(d)(iii);
- Eligibility for AFDC under the State plan in effect on July 16, 1996 and meets the age requirement, in accordance with § 472(a)(3) of the Act and 45 CFR § 1356.71(d)(1)(v));
- Placement in a fully licensed foster family home or childcare institution, in accordance with §§ 472(b) and (c) of the Act and 45 CFR §§ 1355.20(a) and 1356.71(d)(1)(iv); and
- Safety requirements met by the child's foster care placement, in accordance with § 471(a)(20)(A) of the Act and 45 CFR § 1356.30.

The IV-E review does not assess the title IV-E agency's compliance with various title IV-E plan requirements such as development and implementation of case plans in accordance with § 471(a)(16), permanency hearings in accordance with § 475(5)(C) and termination of parental rights in accordance with § 475(5). Compliance with title IV-E plan requirements is assessed to a limited extent during the course of the review of the title IV-E agency's child and family services program. However, the CB reserves the right to initiate the partial review process in accordance with 45 CFR § 1355.32(d) if, during the course of the IV-E review, CB identifies a title IV-E plan compliance issue.

The reviewers will use the most current On-Site Review Instrument and Instructions (checklist) to determine compliance with the title IV-E eligibility requirements. [See Appendix 1.] The CB may periodically update the review instrument and guide. These monitoring tools are available to title IV-E agencies through the CB Regional Offices and are posted on the Children's Bureau Web site.

Sampling Guidance

Selecting the Sample

The sample of cases read for the review is drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data that are transmitted by the title IV-E agency to the CB Central Office. The CB Central Office statistical staff will draw the sample using probability sampling methodologies, such as simple random sampling, to make sure the case record of each child in the title IV-E agency's title IV-E foster care maintenance payment program will have an equal and independent chance of being selected for inclusion in the review sample. Other probability methodologies may be used, when necessary, to ensure that the review sample represents to a greater degree the characteristics of the child population that makes up the title IV-E agency's foster care maintenance payment program for title IV-E. For example, in selecting cases for the primary review, the sample may be stratified to make sure the sample includes a sufficient representation of children who receive title IV-E foster care maintenance payments through a

placement and care agreement between the title IV-E agency and another public agency such as the juvenile justice agency or Tribal child welfare agency.

To make sure a sufficient number of sample cases are available for review, an oversample that consists of 10 percent or more cases will be randomly selected in addition to the 80 sample cases that must be drawn for the primary review or the 150 cases that must be drawn for the secondary review.

In summary:

- For primary reviews, a sample of 80 cases (plus at least a 10 percent oversample) will be selected from the most recent AFCARS data submission using a probability sampling methodology. An alternate data source may not be substituted for the AFCARS for sample selection purposes.
- For secondary reviews, a sample of 150 cases (plus at least a 10 percent oversample) will be drawn from the most recent AFCARS data submission using a probability sampling methodology. An alternate data source may not be substituted for the AFCARS for sample selection purposes.

The CB Central Office draws the review sample and provides it to the title IV-E agency within 60 calendar days before the on-site review. The title IV-E agency may negotiate with the CB Regional Office to obtain a review sample that is drawn closer to the scheduled date of the on-site review. Under no circumstance will the review sample be provided to the title IV-E agency later than 4 weeks before the on-site review. The CB Regional Office should consult with the CB Central Office statistician or Team Leader for IV-E reviews before approving the title IV-E agency's request to draw a sample that is close to the begin date of the on-site review.

Period Under Review (PUR). The sample and oversample drawn for the IV-E review will consist of cases of individual children for whom a title IV-E foster care maintenance payment is made for a period of activity in the 6-month reporting period reflected in the title IV-E agency's most recent AFCARS data submission. The AFCARS 6-month reporting period is the period under review (PUR). The PUR is the period for which a title IV-E agency is reviewed against the Federal statutory and regulatory eligibility requirements and is used to focus attention on recent practices in an effort to fairly evaluate the current status of the title IV-E agency's implementation of and compliance with the title IV-E eligibility requirements. The AFCARS 6-month PUR also serves as a reference point for assessing compliance with the eligibility requirements and for determining whether a sample case is considered a case in error.

The "most recent AFCARS data submission" is usually the reporting period that ends at least 3 to 6 months before the date of the on-site review. The AFCARS data are submitted by the title IV-E agency to the CB Central Office within 45 calendar days following the end of the reporting period and are not available for use until 30 calendar days later. Therefore, to make sure there is adequate time for drawing the sample, the AFCARS data submission for the October 1 through March 31 reporting period must be transmitted to the CB Central Office no later than May 15. The AFCARS data for the April 1 through September 30 reporting period must be transmitted no later than November 14.

Sample Validity. The validity of the sample and oversample depends on the accuracy with which the title IV-E agency completes the AFCARS data element #59, Title IV-E Foster Care. The AFCARS foster care data element #59 inquires whether title IV-E is a source of income and whether title IV-E foster care maintenance payments are paid on behalf of a child in foster care. If title IV-E foster care maintenance payments are paid for the child at any point during the 6-month period on behalf of the child, the data element should be coded "1". If title IV-E foster care maintenance payments are not paid on behalf of the child, the data element should be coded "0".

Sampling Universe. The sampling universe for the eligibility review consists of the cases of all children the title IV-E agency coded with "1" in AFCARS data element #59 for the PUR. It is critical, therefore, that title IV-E agencies report data element #59 accurately.

Verifying the Sample

The title IV-E agency must verify, before the review is conducted, that a title IV-E foster care maintenance payment is made for a period of activity in the PUR for each child coded as a "1" in data element #59.

Payment Back-Outs. Payments are considered rescinded, or backed-out, if any adjusting claim submitted by the title IV-E agency to reflect these payments is received by the CB or ACF Grants Management Regional Office before the sample is provided to the title IV-E agency. The payment back-out is verified by the payment history and the receipt of a payment adjustment on its quarterly financial report (Form ACF-IV-E-1 for claiming periods before Federal Fiscal year 2011 or Form CB-496 for claiming periods beginning in Federal fiscal year 2011).

Payment back-outs may not be made in sample cases and the sample cases may not be excluded from the review sample if the title IV-E foster care maintenance payments in question are backed-out after the review sample is electronically transmitted to the title IV-E agency. This restriction is based on long-standing Federal policy to ensure that the determination of substantial compliance is not affected by the removal of a known ineligible case or payment from the review sample after it is identified in the sample. The removal of known ineligible cases from the sample (rather than the sampling pool) voids the underlying statistical validity of the sampling process. Omissions from the defined sample tend to produce bias and distort the review findings. The regulations at 45 CFR § 1356.71(c)(1) provide the sampling protocol.

Sample Verification. Before the on-site review, the title IV-E agency must provide the CB Regional Office with a list of all cases eliminated from the sample and the supporting documentation to substantiate the case elimination. Full explanation

must be provided for any case in the sample that is not reviewed. The CB Regional Office must verify the accuracy of the information included on the elimination list and determine the appropriateness of eliminating a case from the review sample. Therefore, the title IV-E agency must make sure the relevant case documentation and case file are available to the CB to determine whether a case is properly excluded. The ACF Regional Fiscal Specialist can assist the CB Regional Office in examining the information from the title IV-E agency.

Using the Oversample

When it is established that a case is coded with a “1” in data element #59, but has not had a maintenance payment for an activity that has taken place during the PUR, the case is replaced with a case from the oversample, under limited circumstances.

Sample cases are not replaced with an oversample case because of difficulties in performing the review or because of problems in obtaining the necessary information about the case. If the case file or information documenting the child’s eligibility cannot be located or is otherwise not made available for the review, an oversample case cannot be used as a substitute for the unavailable sample case. An unavailable case is in error and associated costs are disallowed. [See ACYF-PA-85-2.] In addition, an oversample case may not be used as a substitute for a closed adoption case (CB Child Welfare Policy Manual Section 5.2)¹ or for a sample case in which the title IV-E agency retained placement and care responsibility of a child the title IV-E agency placed with an out-of-State foster care provider.

Sample Case Exclusions. The oversample is used only when there is a valid reason to replace a case from the original sample. Cases from the

sample may be replaced with oversample cases in certain circumstances, such as:

- There has been no title IV-E foster care maintenance payment made for the case during the PUR. However, the case remains in the sample if the payment history shows that a title IV-E foster care maintenance payment made after the PUR is for an activity period in the PUR (e.g., October payment after the PUR is made for the September activity month in the PUR). When completing the disallowance spreadsheets for a case in this situation that is determined ineligible for the claimed activity in the PUR, the associated payment outside the PUR will be treated as if it is made for the activity month in the PUR.
- The only payment in the PUR is for administrative costs.
- Compliance with the title IV-E eligibility requirements is excluded under a federally approved title IV-E waiver demonstration project.
- Documentation verifies that all title IV-E payments in the PUR are rescinded before the eligibility review sample is provided to the title IV-E agency.
- The youth is 18 years old or older in the PUR and title IV-E eligibility is covered under the title IV-E plan option under § 475(8)(A) of the Act.

Each case in the sampling frame is numbered and assigned to reviewers consecutively and the consecutive order of selection from the oversample is maintained.

The guidance about using and excluding cases in the sample is specifically for the title IV-E eligibility review sample, and it may differ with instructions given regarding AFCARS, improper payment calculations for the national foster care error rate, or other data reporting protocols.

Any instructions to the title IV-E agency by the CB Central Office statistician or Regional Office

¹ The Child Welfare Policy Manual may be accessed at http://www.acf.hhs.gov/programs/cb/laws_policies/.

regarding the case sample will be provided in writing, either electronically or in hard copy. The CB Regional Office should receive copies of all correspondence related to sampling and participate in all necessary conference calls between the CB Central Office statistician and the title IV-E agency staff.

Payment History

For each of the sample and oversample case records, the title IV-E agency must provide the CB Regional Office with the complete payment history before the on-site review [45 CFR § 1356.71(b)(2)]. The complete payment history consists of all foster care payments, which includes title IV-E maintenance payments and administrative costs, claimed by the title IV-E agency for the most recent foster care episode.

Most Recent Foster Care Episode. The most recent foster care episode refers to the period that begins with the date of the child's last removal from the home in accordance with a judicial order or voluntary placement agreement before the end of the PUR and continues to the child's discharge from foster care for such removal. If a child has multiple foster care episodes during the PUR, a complete payment history is required and the child's title IV-E eligibility is examined for each foster care episode. If a child has remained in foster care since the original removal from the home and the court order or voluntary placement agreement that sanctioned the removal has remained in effect for that period of time, the duration of this foster care event is considered the most recent episode.

Payment History Assessment. The CB Regional Office or ACF Regional Fiscal Office will look at the payment history to make a preliminary assessment of the accuracy of the payment profile to determine whether a case should be removed from the review sample. The payment history also will be examined to determine whether there are improper payments such as overpayments and duplicate payments. While on site, the title IV-E agency must provide an updated payment history for each sample and oversample case record to help identify payments claimed between the time the sample is drawn and the on-site review. The updated payment history

must include all title IV-E foster care maintenance payments and administrative costs that are made before the beginning of the on-site review and continuing through the end of the service month that is before the month in which the on-site review is conducted.

All payments in the payment history should include:

- the invoice number or other financial record identifier,
- the date of the invoice,
- the amount paid and activity period covered,
- the type of activity and funding source,
- the date of payment,
- the date of payment adjustment and period covered,
- the child's name and case number, and
- the provider's name and number.

Record Retention

Retaining Records by Title IV-E Agency

In accordance with the regulations at 45 CFR § 92.42, the title IV-E agency must retain its records for 3 years from the day the agency submits its final claims for title IV-E payments on behalf of the child.

Retaining Records by CB Regional Office

The CB Regional Office will keep in an accessible location all relevant materials pertaining to the title IV-E agency's eligibility review, including but not limited to: (1) documentation on the review process, including the pre-site, on-site and post-site review phases; (2) documentation used in calculating and determining the amount of title IV-E funds disallowed in accordance with the identification and assessment of improper payments; (3) documentation related to the development and implementation of the title IV-E agency's PIP (if applicable); and (4) documentation on the determination of the title IV-E agency's need for, and provision of, technical assistance. The relevant materials should be retained in accordance with the CB record retention schedule for the IV-E reviews. At the close of the retention period, the Regional

Office should transfer the material to the Federal Records Center for archiving, unless the Regional Office determines the records contain issues of interest that should be readily accessible to the office. The record retention requirement relates to documentation from primary and secondary reviews.

Compliance Standards

Compliance is based on the number of cases or amount of payments (when applicable), that are in error during a IV-E review. A sample case is in error when a review of the case record indicates that a title IV-E eligibility criterion is not met at the time of the child's removal from home, or any time during the PUR, and a title IV-E foster care maintenance payment is made for the ineligible period.

An eligibility criterion that must be satisfied at removal, such as "contrary to the welfare" or "reasonable efforts to prevent removal" that is not met as required will render the child ineligible for the entire foster care episode.

Substantial Compliance. Substantial compliance means that the error threshold is not exceeded. For primary reviews held subsequent to the initial primary review, the total number of error cases must be four or fewer. (For the initial primary review, the total number of error cases must have been eight or fewer.) For the secondary review, substantial compliance means that either the case error rate or dollar error rate is 10 percent or less for the review sample. Although it is not necessary to calculate the dollar error rate when the case error rate is less than 10 percent, computing and providing this figure in the review's Final Report can assist the title IV-E agency in making informed management decisions about program resources, budgetary concerns and program priorities.

Non-Substantial Compliance. Non-substantial compliance means not in compliance. For primary reviews, if five or more cases are in error, the title IV-E agency is not in substantial compliance. (For the initial primary review, nine or more sample cases meant the title IV-E agency was noncompliant.)

For secondary reviews, noncompliance means both the case error rate and the dollar error rate exceed 10 percent for the review sample. The case error rate is determined by dividing the number of cases in error by the total number of cases in the review sample. The dollar error rate is determined by dividing the maintenance and administrative dollars associated with the ineligible payments during the PUR by the total dollar value claimed during the PUR for the maintenance payments and administrative costs associated with the cases in the review sample.

Improper Payments

Title IV-E eligibility is determined based on whether the child meets eligibility criteria that are delineated in the Act and in Federal regulation. When looking at the title IV-E agency's decisions on the child's eligibility, an assessment is made about whether there are instances of improper payments.

Eligible Child. A child is considered eligible when all title IV-E criteria pertaining to the child and the child's foster care placement are met.

When Payments May Begin. In general, if eligibility is attained in the month, the child is considered eligible for the entire month; however, foster care maintenance can be claimed only for the period the eligible child is in the foster care placement during the month. As such, if eligibility is attained after the first of the month, title IV-E maintenance payments may be claimed retroactive to the first day of the eligible child's foster care placement during the same month. If an 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. Eligibility, then, is based on a month-to-month basis unless otherwise specified in Federal provisions, such as the 180-day timeframe noted at § 472(e) of the Act and 45 CFR §1356.22(b) regarding the determination of best interest in a voluntary placement.

When Payments Must End. Consistent with § 472 of the Act, title IV-E foster care maintenance payments may not be claimed on behalf of a child for a period that is before the month all title IV-E eligibility criteria are met. In addition, title IV-E

foster care maintenance payments may not be claimed on behalf of a child for a period that is after title IV-E eligibility ceases, unless an exception is specified in Federal provisions. For example, one such exception is permitting payments to continue to the end of the month an otherwise eligible child reaches the age limit for title IV-E eligibility.

The IV-E review, as stated earlier, helps determine whether Federal funds are spent on behalf of eligible children and helps manage improper payments. An improper payment is any title IV-E foster care maintenance payment that should not be made or that is made in an incorrect amount under a requirement applicable to title IV-E. Incorrect amounts are overpayments, duplicate payments, erroneous and otherwise ineligible payments and underpayments.

Disallowing Ineligible Payments

When a title IV-E agency receives a title IV-E foster care maintenance payment that it should not have claimed, the CB will take a disallowance. A disallowance refers to the amount of Federal funds identified for recovery by the CB and is determined by the extent to which a title IV-E agency is not in substantial compliance with the eligibility provisions of title IV-E or applicable regulations in 45 CFR Parts 1355 and 1356.

Payment Disallowance. A payment disallowance is assessed when a title IV-E eligibility criterion is not met and title IV-E foster care maintenance payment is made for the ineligible period. A payment disallowance also is assessed when a title IV-E foster care maintenance payment is made for an unallowable title IV-E program cost or is made in an incorrect amount such as duplicate payment.

The payment disallowance includes the ineligible title IV-E foster care maintenance payments and associated administrative costs² of the error cases

² Federal financial participation is permissible for the administrative costs associated with an otherwise title IV-E eligible child placed in an unlicensed foster family home, but only in specified circumstances for a limited period. See Program Instruction ACYF-CB-PI-06-06.

and non-error cases that occur during the foster care episode. It also includes ineligible payments that occur in each foster care episode when there are multiple episodes during the PUR. [See the subsequent section in this section and “Final Report,” Chapter 5 for the period of the payment disallowance that is included in the final report of review findings.]

Ineligible Child. A child is considered ineligible when a title IV-E criterion pertaining to the child or the child’s foster care placement is not met.

Ineligible Payment. An ineligible title IV-E foster care maintenance payment includes a payment that is made for an ineligible child, for an ineligible service, for duplicate payments, for services not received, for overpayments or for any cost unallowable under title IV-E. In addition, when the reviewer is unable to discern whether a payment is properly claimed because of insufficient or lack of documentation, this payment also is considered ineligible until the title IV-E agency adequately documents that the claimed payment is allowable.

To determine whether there are ineligible payments, the reviewer must determine whether all eligibility criteria are met for the child and determine whether there are title IV-E maintenance payments claimed for a period that the child does not meet an eligibility criterion. The reviewer also should determine whether there are ineligible payments made for an eligible child. Such payments include duplicate payments and overpayments. (Refer to the information that follows and in Chapter 5, “Final Report” for information on reporting the improper payments).

Error Case. An error case occurs when a review of the sample case record indicates that a title IV-E maintenance payment is made for an activity in the PUR on behalf a child ineligible on the date of the activity. The case also is in error if the title IV-E maintenance payment is made for an activity in the PUR before the child meets all eligibility criteria. For example, if (within the same year) (1) the eligibility review’s PUR is April 1 through September 30; (2) the “contrary to the welfare” judicial finding and removal date is June 7; (3) the “reasonable efforts to prevent removal” judicial finding date is August 1; and (4) the title IV-E maintenance payments are

made for June or July, the case is in error because the child's eligibility may not begin before the judicial requirement of "reasonable efforts to prevent removal" is met. As such, the associated payments are for a period in the PUR that the child is not eligible.

To determine whether a case is an error case, the reviewer must determine whether all eligibility criteria are met for the PUR. If an eligibility criterion is not met for the PUR, the reviewer must determine whether a title IV-E maintenance payment is made for an activity in the PUR when the child is not eligible. If a title IV-E maintenance payment is made for an activity in the PUR on behalf of an ineligible child, as stated above, the case is in error. The title IV-E maintenance payments and associated administrative costs are disallowed for the periods of ineligibility.

Non-Error Case with Ineligible Payments. A non-error case with ineligible payments occurs when a review of the sample case record indicates that an unallowable title IV-E maintenance payment is made for a period in or outside the PUR for a child who is eligible. A non-error case with ineligible payments also occurs when an unallowable title IV-E maintenance payment is made for a period solely outside the PUR on behalf of an ineligible child.

Substantial Compliance Disallowance. For title IV-E agencies that are in substantial compliance following either a primary or secondary review, a disallowance is assessed on the basis of maintenance payments and associated administrative costs pertaining to the error cases and non-error cases with ineligible payments for all title IV-E payments made for activities during the entire period in which these cases are not eligible for the title IV-E payments. The findings and payment disallowances that pertain to the non-error cases are not considered in the determination of the title IV-E agency's substantial compliance with Federal requirements in a primary review. However, they are included in the determination of the dollar error rate for compliance in a secondary review when such payments are for periods during the PUR.

If a child has multiple foster care episodes during the PUR and case errors are identified for more

than one episode, the sample case is counted as one error case in determining substantial compliance regardless of the number of foster care episodes deemed in error during the PUR. However, a disallowance will be assessed for the applicable payments or costs associated with any of these foster care episodes deemed as in error.

Non-Substantial Compliance Disallowance. For title IV-E agencies that are not in substantial compliance during a primary review, a disallowance is assessed on the basis of maintenance payments and administrative costs associated with error cases and non-error cases for all title IV-E payments made for activities during the entire period in which these cases are not eligible for title IV-E payments. The findings and payment disallowances that pertain to the non-error cases are not considered in the determination of the title IV-E agency's substantial compliance with Federal requirements.

For title IV-E agencies that are not in substantial compliance following a secondary review, an extrapolated disallowance is assessed for the PUR on the basis of the universe of claims paid for activities during the PUR. The universe of claims paid refers to the Federal share of maintenance payments and associated administrative costs expended and claimed by the title IV-E agency for the period in the PUR that a case is ineligible. The extrapolated disallowance is equal to the lower limit of a 90 percent confidence interval for the population's total dollars in error for the amount of time corresponding to the PUR.

Disallowance of foster care maintenance and administrative payments for non-error cases determined to have ineligible title IV-E payments for activities during the PUR are included in the computation of the extrapolated disallowance. (These cases are excluded in the determination of the case error rate for the secondary review).

If a child has multiple foster care episodes during the PUR and errors are identified for more than one episode, the maintenance and administrative dollars identified as payments made for all of the episodes are included when calculating the dollar error rate.

In addition to the secondary review's extrapolated disallowance, a case specific disallowance is assessed on the basis of maintenance payments and administrative costs associated with error and non-error cases for ineligible payments that have occurred before and after the PUR.

Reporting Disallowance. The CB or ACF Regional Office will calculate maintenance payment and administrative cost disallowances on an individual case basis. The CB Central Office statistician will calculate the extrapolated disallowances following a secondary review, at the request of the CB Regional Office staff.

The disallowances reported in the final findings of the on-site review will consist of all ineligible foster care maintenance payments and related administrative costs that occurred during the period of ineligibility (1) beginning with the first month of ineligibility and (2) continuing through the date that is the earlier of the end of the month that immediately precedes the month of the on-site review or when the ineligibility ceases for the most recent foster care episode. Any ineligible payments claimed for non-error cases also must be included in the disallowances reported.

If the period of ineligibility continues beyond the date of the on-site review, the title IV-E agency is instructed, and expected, to remove the ineligible payments from its financial claiming system and suspend claiming the payments until the child becomes eligible again. These post on-site review costs are identified separately in the Final Report letter to the title IV-E agency.

A summary of the disallowance of foster care maintenance payments and administrative costs that differentiates the error cases, non-error cases with ineligible payments, and payment extrapolations is included in the Final Report of findings of the IV-E review. [See "Final Report," Chapter 5.]

Guidance on the methodology for computing payment disallowances for the primary and secondary reviews is available through the CB Regional Office.

Identifying and Reporting Underpayments

As noted, the fundamental purposes of the IV-E review are to determine compliance with the Federal requirements for title IV-E reimbursement and to systematically correct improper payments, which include ineligible payments and underpayments.

Underpayment. An underpayment refers to an allowable title IV-E maintenance payment for an eligible child that the title IV-E agency either unintentionally fails to claim or does claim for less than the correct amount within the two-year filing limit as specified at 45 CFR § 95.7. An underpayment has not occurred when the title IV-E agency chooses not to claim an allowable title IV-E payment for an eligible child (for example, because it opts to use an alternate funding source in lieu of title IV-E funds). An underpayment also has not occurred if the regulatory filing limit, as specified at 45 CFR § 95.7, has expired.

Reporting Underpayments. When an underpayment is identified during the review of the case record or payment history, the CB Regional Office will consult with the title IV-E agency to verify the child-specific underpayment, the payment period and the child's eligibility for the payment period. After documenting this information, the specific underpayment amounts will be reported in the final findings of the IV-E review. [See "Final Report," Chapter 5.] The amount reported will consist of the documented underpayments that occur in the period (1) beginning with the first month of underpayment and (2) continuing through the date that is the earlier of the end of the month immediately preceding the month of the on-site review or when the eligible expenditure period ceases.

Claiming Underpayments. The title IV-E agency may claim an eligible underpayment by filing an increasing adjustment on its Title IV-E Programs Quarterly Financial Report (Form CB-496) in the next quarter, but no later than 2 years after the calendar quarter in which the title IV-E agency made the expenditure (45 CFR § 95.7). There are no financial penalties assessed against the title IV-E agency for the identified underpayment and the underpayments are not included in the

disallowance calculation to reduce the amount of funds that will be recovered from the title IV-E agency.

Steps in the Review Process

The following general steps in the review process include both Federal and title IV-E agency roles, and some joint Federal/title IV-E agency responsibilities. [See also “Time Frames for Title IV-E Foster Care Eligibility Review Activities,” Appendix 10.]

1. **Determine the dates for the review.** The CB Regional Office consults with the title IV-E agency officials and the CB Central Office Team Leader for the IV-E reviews to determine the dates for the on-site review. A date for the on-site review should be determined at least 4 to 6 calendar months before the Federal fiscal year in which the review must be conducted. Reviews must be conducted within the time frames specified in the regulations governing the frequency of the IV-E reviews. [See 45 CFR § 1356.71(a)(3).] The CB Regional Office must give the title IV-E agency written confirmation of the review date no later than 120 calendar days before the scheduled date of the on-site review.
2. **Identify the review team.** This involves identifying the Federal and title IV-E agency members of the review team. The title IV-E agency determines which agency staff will participate on the review team. The CB determines which CB Regional and Central Office staff will participate on the review team. [See “The Review Team,” Chapter 2.]
3. **Select the sample.** On the basis of the review to be conducted (that is, either primary or secondary), 80 or 150 case records (plus at least a 10 percent oversample) are selected by the CB Central Office from the title IV-E agency’s most recent AFCARS submission. The CB Central Office statistician works with the CB Regional Office and the title IV-E agency to determine the sample. The sample is drawn at least 60 calendar days before the on-site review.
4. **Arrange the on-site review logistics.** The CB Regional Office collaborates with the title IV-E agency to plan logistical arrangements for the review, including hotel accommodations and transportation for review team members, and space for meetings and review activities. One large room is preferable for the on-site review to enable Team Leaders to provide technical assistance to reviewers which can increase consistency in the review process and findings.
5. **Organize sample cases for review.** Before the on-site review, the title IV-E agency assembles the sample cases in accordance with the list of random numbers provided by the CB Central Office statistician. Both the CB Central and Regional Offices will work with the title IV-E agency to resolve issues regarding the selection and preparation of cases before the on-site review. Title IV-E agencies are not to tag, label, remove or segregate sample case documents to identify specific material pertaining to the PUR or IV-E review. Similarly, the title IV-E agencies are not to make or present separate case folders that are established primarily for the IV-E review. The entire, official case record of the child under review must be accessible on-site to help resolve issues pertaining to case-specific eligibility that may arise during the on-site review. The entire case record includes the official records pertaining to eligibility, child welfare services, and foster care provider licensure and safety.
6. **Conduct pre-review conference calls.** At least 45 calendar days before the beginning of the on-site review, the CB Regional Office arranges and leads the telephone conference calls that the CB Regional Office has with the title IV-E agency, the member of the CB Central Office team for the on-site IV-E review (CB Central Office Co-Leader) and other key individuals assigned to the review. The purpose of the conference calls is to discuss relevant title IV-E agency policies and practices, the on-site review logistics, and the review schedule of

activities. Before the call, team members should review policy and reference material submitted by the title IV-E agency. [See “Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review,” Appendix 3 and “Recommended Topics for Discussion During the Pre-Review Conference Call and Before Reviewing Records On-Site,” Appendix 4.] It is recommended that a minimum of two conference calls be held between the Federal and title IV-E agency review team members. Additional calls are encouraged and should be scheduled as needed.

7. **Conduct entrance conference.** An entrance conference on the first day of the on-site review will be convened with the review team and the title IV-E agency officials identified by the title IV-E agency. Representatives from the court improvement program, licensing agency, and foster care program should be invited by the title IV-E agency to attend the conference to assist with discussions pertaining to their respective programs. The CB Regional Office, in collaboration with the CB Central Office Co-Leader, will provide an overview of the eligibility review process, including the purpose and scope, partnership between the CB and title IV-E agency, standards of substantial compliance, and agenda for the review week.
8. **Provide orientation and/or training for review team members.** Typically, the CB Regional Office provides this on-site. The CB Central Office Co-Leader will assist in providing the on-site training to reviewers when necessary. The training will consist of a focused discussion of the On-Site Review Instrument and Instructions and will be supplemented with pertinent laws and policies on eligibility. [See “On-Site Review Instrument and Instructions,” Appendix 1; “Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review,” Appendix 2; and “Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team During the Pre-

Review Conference Call and Before Reviewing Records On-Site,” Appendix 3.]

9. **Conduct the on-site review.** The on-site review is conducted in a central locality or other site as negotiated between the CB Regional Office and the title IV-E agency. The review is completed within 5 working days by the combined Federal and title IV-E agency review team. The case record, provider documentation and payment documentation tied to the sample cases are reviewed by the team to verify title IV-E funds are paid for eligible children; to identify any ineligible payments, including any erroneous payments; and to provide technical assistance to help improve the title IV-E agency’s foster care maintenance payment program. The review team also will examine the case record, provider documentation, and payment documentation of the sample cases to identify and record underpayments to assist the title IV-E agency in accurately claiming title IV-E funds. A sample case in which eligibility is in question because the title IV-E agency’s documentation is insufficient or not available during the on-site review may be assigned a preliminary finding of undetermined at the exit conference. [See the discussion below on completing the Final Report for additional information on resolving a sample case finding of undetermined.]
10. **Conduct exit conference.** An exit conference at the conclusion of the on-site review will be held with the review team and title IV-E agency officials identified by the title IV-E agency. Representatives from the title IV-E agency should include the child welfare director and senior management staff. The CB Regional Office will: (1) provide a summary of the review week and the tentative findings, including a determination of substantial compliance, estimated disallowances, error case findings, estimated underpayments, and other eligibility issues; (2) provide observations about the title IV-E agency’s foster care maintenance payment program

focusing on strengths, areas needing improvement and technical assistance for program enhancements; and (3) identify the next steps in the review process.

11. Complete and disseminate the Final Report.

The CB Regional Office consults with the CB Central Office Co-Leader and Team Leader for the IV-E reviews to prepare the Final Report of the review that includes the written determination regarding compliance. The Final Report is sent to the executive officer of the title IV-E agency within 30 calendar days of the completion of the on-site review.

The CB Regional Office may negotiate with the title IV-E agency regarding an opportunity for submitting additional documentation to change an ineligible case rating or to resolve an undetermined case. If title IV-E agency documentation is not provided within 30 calendar days of the completion of the on-site review, the case finding is changed from an undetermined sample case to an ineligible error sample case (or error if ineligibility is in the PUR) and the Final Report is issued. [See "Final Report," Chapter 5.]

The CB Associate Commissioner signs the Final Report and an electronic copy of it is sent to the CB Central Office Team Leader for the IV-E reviews and the CB Regional Program Manager. The CB Regional Office sends the CB Central Office Team Leader for the IV-E reviews an electronic copy of the spreadsheets for calculating the improper payments (ineligible payments and underpayments).

If additional documentation is received after the Final Report is issued, and the documentation results in a change to the review compliance determination or payment disallowance, written notification of the revised finding must be provided to the title IV-E agency. This addendum to the Final Report of findings is prepared by the CB Regional Office and signed by the CB Associate Commissioner. An electronic copy of the report's addendum is sent to the CB Central Office Team Leader for the IV-E

reviews and the CB Regional Program Manager. The CB Regional Office sends the CB Central Office Team Leader for the IV-E reviews an electronic copy of the revised spreadsheets for the new improper payment amounts.

- 12. Recover Federal funds.** The amount of funds disallowed is determined by the extent to which the title IV-E agency complies with the title IV-E eligibility requirements. If title IV-E eligibility is not established, all maintenance payments and associated administration costs claimed on behalf of a child are disallowed. Disallowances also are taken in cases where title IV-E eligibility is established, but a foster care maintenance payment made on behalf of the child is claimed for an ineligible service, for duplicate payments, for services not received or for any cost unallowable under title IV-E.

Title IV-E agencies determined in substantial compliance during the primary or secondary review will have disallowances taken on the basis of individual cases reviewed and deemed in error or not in error with ineligible payments. The amount of the disallowance will be computed on the basis of title IV-E maintenance payments and associated administrative costs for the entire period that an ineligible payment is claimed in each case.

Title IV-E agencies found in noncompliance during the primary review will have disallowances taken on the basis of individual cases reviewed and deemed in error or not in error with ineligible payments; will enter into a PIP; and will undergo a secondary review of 150 cases following the PIP completion date. If both the case and dollar error rates of a secondary review exceed 10 percent for the sample, a disallowance that includes maintenance payments and administrative costs will be determined on the basis of extrapolation from the sample to the universe of claims paid for the duration of the PUR. An additional disallowance is assessed for individual cases with periods of ineligibility that occur outside the PUR. If neither the

case error rate nor dollar error rate exceeds 10 percent for the sample, an extrapolated disallowance is not assessed. However, the amount of the disallowance will be computed on the basis of title IV-E maintenance payments and associated administrative costs for the entire period that an ineligible payment is claimed in each case.

If funds are disallowed, a disallowance notification, with instructions for appeals (45 CFR Part 16), will be a part of the transmittal letter of the Final Report of review findings.

13. Conduct subsequent primary review.

Once title IV-E agencies are determined in substantial compliance following the completion of a primary or a secondary review, subsequent primary reviews will be conducted at 3-year intervals. A subsequent primary review also is conducted 3 years following a secondary review that is not in substantial compliance.

To allow sufficient time to schedule, organize and conduct the review, some latitude is provided in the scheduling time frame. However, the subsequent primary review must be conducted within 3 months of the anniversary date on which the previous on-site IV-E review is completed. For example, if an on-site IV-E review is conducted during the week of May 7, 2011, a subsequent primary review must be conducted by August 31, 2014.

- 14. Develop the PIP.** A PIP is required whenever a title IV-E agency is found not in substantial compliance in a primary review. The title IV-E agency, in collaboration with the CB Regional and Central Offices, develops a PIP that covers all areas of noncompliance and submits it to the CB Regional Office for approval within 90 calendar days of receiving the written notice of noncompliance. The CB Associate Commissioner signs the approval letter and an electronic copy of it and the approved PIP are sent to the title IV-E agency, CB Central Office Team Leader for the IV-E

reviews and the CB Regional Program Manager.

During PIP development, the CB Regional Office may negotiate with the title IV-E agency regarding an opportunity to extend the PIP deadline up to 30 calendar days for submitting supplemental documentation to reverse a finding related to a period of ineligibility. If additional documentation is received that results in a change to the review compliance determination or payment disallowance, written notification of the revised finding must be prepared by the CB Regional Office staff and provided to the title IV-E agency. The CB Associate Commissioner signs the notification and an electronic copy is sent to the CB Central Office Team Leader for the IV-E reviews and the CB Regional Program Manager.

If the title IV-E agency does not submit an approvable PIP within a reasonable amount of time or does not complete its PIP in accordance with the provisions at 45 CFR § 1356.71(i)(1) and (2), a secondary review is conducted as soon as feasible during the first complete AFCARS period that immediately follows the 90-day written notice to the title IV-E agency that the eligibility review resulted in a finding of non-compliance.

- 15. Schedule and conduct the secondary review.** At the completion of the PIP, the title IV-E agency must undergo a secondary review where 150 cases are reviewed. The sample for the secondary review is drawn from the title IV-E agency's AFCARS data that represent the first full reporting period that immediately follows the PIP completion date. The secondary review is conducted during the next AFCARS reporting period. Thus, the secondary review is conducted during the second AFCARS reporting period that immediately follows the CB-approved PIP completion date. This affords title IV-E agencies ample opportunity to make program changes in accordance with the PIP and to correct program deficiencies that can lead to substantial compliance.

The PIP completion date is the date that is the earlier of the latest completion date of an action item in the CB approved PIP or 12 calendar months from the approved implementation date of the PIP. For example, if the CB-approved implementation date for the PIP is May 10, and there are three action steps outlined in the PIP with successive completion dates of

November 1, January 30 and April 30, respectively, the PIP completion date is April 30 (not May 10 of the subsequent year). Then, the case sample and oversample is drawn using AFCARS data from the October 1–March 31 AFCARS report period. The secondary review will be conducted during the subsequent AFCARS report period of April 1–September 30.

Chapter 2: The Review Team

Composition of the Review Team

A team of individuals, including the following core members, conducts the reviews:

- CB Regional Office staff
- CB Central Office staff
- Title IV-E Agency staff

The CB Regional Office should request that the ACF Regional Fiscal staff participate in the review to assist with the completion of the fiscal functions pertaining to the review. [See “ACF Regional Fiscal Specialist Responsibilities,” Chapter 3.]

Title IV-E Agency Team Members. The title IV-E agency may elect to include, along with its agency staff, individuals from its partner agency. The selected external partners of the title IV-E agency should possess expertise that can be utilized to assist the agency in identifying strategies for training, technical assistance, and program improvement, and to augment the knowledge of the title IV-E agency staff about the title IV-E eligibility requirements. Examples of external partners the title IV-E agency may consider including in its team membership are representatives of the judicial system and Tribal and public agency representatives who entered into a title IV-E “placement and care” agreement with the title IV-E agency. The title IV-E agency may claim title IV-E administration costs associated with the external agency reviewer’s participation on the review team. However, the associated costs must be reasonable and allocated to the title IV-E program in accordance with the title IV-E agency’s approved cost allocation plan.

Inter-Agency Participation. The review team also may include cross-CB Regional or cross-title IV-E agency representatives at the expense of the CB Region or title IV-E agency sending staff to the review. A CB Regional Office or title IV-E agency interested in participating in another title IV-E agency’s eligibility review will make its requests through the CB Regional Office leading the review. The CB Regional Office will determine whether cross-CB Regional or cross-title IV-E agency participation is appropriate. In addition, the CB

Regional Office or the title IV-E agency requesting to send staff to another title IV-E agency’s eligibility review must assume responsibility for the training and travel costs associated with its staff participating in the review (such as, travel, hotel, meals and travel-related incidentals).

Peer Reviewer. In addition to the above team members, the CB Regional Office, in consultation with the CB Central Office Team Leader for the IV-E reviews, can select peer reviewers to participate in the review. Peer reviewers are non-Federal staff recruited and trained through the title IV-E monitoring contract for the IV-E reviews. They must have extensive knowledge of title IV-E eligibility criteria to be considered for selection. Selection of peer reviewers to participate in a title IV-E agency’s IV-E review is optional and can occur only after it is determined that a peer reviewer is necessary to fill a vacancy in the Federal component of the review team. When choosing a peer reviewer, preference is given to qualified individuals currently employed by a title IV-E agency. A peer reviewer’s participation in a review also is contingent on the availability of Federal funding.

Whenever feasible, the review team should consist of an equal number of Federal and title IV-E agency staff as agreed upon by the CB Regional Office and the title IV-E agency. A combined total of 8 team members has proven to be an ideal number for a primary review and a combined total of 12 team members for a secondary review. At times, it may be advantageous to have a greater number of title IV-E agency staff, if there is not an equal number of available Federal staff.

Functions of the Review Team

The role of the review team is to look at the case documentation of the title IV-E agency to assess whether the title IV-E agency made a correct determination of eligibility for the sample cases and to help identify improper payments. The review team, however, does not make an independent determination of eligibility. If the title IV-E agency makes an incorrect determination, the review team must decide which elements of eligibility and payment are incorrect and the period of ineligibility.

The effectiveness of the IV-E review depends on the performance of the review team. Information gathered by the review team is used to identify all sources of improper payments, calculate underpayments and disallowances, and formulate PIPs. Therefore, it is important that decisions concerning the correctness of sample cases are based on an evaluation of the available facts and are thoroughly and accurately documented on the On-Site Review Instrument.

Team Membership. Membership on the review team involves a significant commitment of time and effort. All team members are expected to:

- Participate in scheduled orientation or training sessions before or during the review.
- Remain present at the review site for the duration of the on-site review, including participation in all scheduled review activities from the entrance conference through the exit conference.
- Conduct all assigned activities associated with the review of case records, including accurate completion of the review instrument.
- Participate in a debriefing before the exit conference to discuss the strengths and areas in need of improvement noted during the review.
- Present factual information about case findings and program performance.
- Remain available for consultation following the review, if needed to clarify or supplement information recorded on the instrument.
- Perform quality control functions as designated by the Team Leader.

Leadership of the Review Team

The Team Leader for the title IV-E agency's IV-E review is the CB Regional Office who will work with the title IV-E agency and CB Central Office in planning and conducting the review.

The CB Central Office will assign a member of the CB Central Office team for the IV-E reviews to assist the CB Regional Office with leadership of a

title IV-E agency's review activities. The major responsibilities of the CB Central Office Co-Leader for an assigned review are to:

- Ensure national consistency in carrying-out review activities, assessing eligibility requirements, assigning case ratings and identifying improper payments.
- Assist the CB Regional Office lead in guiding the review activities during the planning and conduct of the title IV-E agency's review and in ensuring all review activities are completed.
- Consult with the CB Regional Office lead and the title IV-E agency on the review sample and review issues needing particular attention in the review.
- Perform quality control functions including a second level quality check of the On-Site Review Instrument for all cases read. The sample cases must undergo a first level review by either the CB Regional Office Team Leader or designee and the Central Office Co-Leader. The CB Regional Office Team Leader or designee and the Central Office Co-Leader also must complete a second level review (re-read) of the cases in error or with improper payments. (See "On-Site Quality Control Tasks for the Title IV-E Foster Care Eligibility Review," Appendix 4).
- Assist reviewers in resolving issues pertaining to completing the On-Site Review Instrument and gathering information for the instruments.
- Collaborate with the CB Regional Office lead to prepare preliminary drafts of the final report and to review drafts of the title IV-E agency's PIPs.
- Participate in review activities by attending conference calls, reading case records and completing the On-Site Review instruments.

The CB Regional Office Team Leader serves as the site leader and is responsible for ensuring the completion of all review-related tasks. The major

responsibilities of the CB Regional Office Team Leader include the following:

- Serve as the liaison with title IV-E agency leadership in planning review activities.
- Ensure that the sample data are sent to the title IV-E agency timely and that the complete payment history is available in advance of the on-site review.
- Plan the details of the on-site review with the CB Central Office and title IV-E agency representatives, including arranging needed conference calls, transmitting review instructions and procedures to title IV-E agency liaisons, and transmitting the title IV-E agency's material to Federal team members.
- Lead the entrance and exit conferences held on-site.
- Coordinate the development of the written notification letter to the title IV-E agency regarding the level of compliance.
- Coordinate with the CB Central Office in the development and release of the Final Report of the review findings.
- Guide the title IV-E agency's development of its PIP, when a PIP is necessary.
- Ensure a quality assurance check of all of the instruments to identify missing information and response inconsistencies. The sample cases must undergo a first level review by the CB Regional Office Team Leader or designee and the Central Office Co-Leader. The CB Regional Office Team Leader or designee and the Central Office Co-Leader also must complete a second level review (re-read) of the cases in error or with improper payments. A second level quality check of the On-Site review instrument for all cases in the sample is completed by the CB Central Office Co-Leader.
- Participate in review activities by reading case records and completing the On-Site Review instruments.
- Maintain a log indicating whether a case is a sample or an oversample case, the assigned reviewer of the case, the result of the case review, and a description of the

errors, ineligible payments, and underpayments (for an example of a case summary log, see "Title IV-E Foster Care Eligibility Reviews Table of Completed Case Records and Description of Improper Payments," Appendix 5).

- Maintain a list of missing documentation that the title IV-E agency should provide that could change a case with ineligible payments to an accurate case.
- Apply supplemental documentation to the sample case, if appropriate and consult with the reviewer to adjust the instrument accordingly.
- Maintain a list of sample cases that are eliminated from the sample indicating the replacement oversample case and reason for substitution.
- Assist reviewers in resolving issues pertaining to completing the On-Site Review Instruments and gathering information for the instruments.
- Retain all documentation provided by the title IV-E agency pertaining to underpayments and calculating maintenance and administrative cost disallowances. The documentation retained also includes the complete payment history for all sample cases including those sample cases in which a disallowance is not assessed.

Chapter 3: On-Site Reviews

Advance Preparation for and Tasks Performed During the On-Site Review

The CB Central Office Team Leader for the IV-E reviews serves as the initial point of contact for questions and concerns before, during, and after the on-site review. Other functions of the CB Central Office Team Leader for the IV-E reviews include:

- Develop a national review schedule based on information provided by the CB Regional Offices with input from the title IV-E agencies.
- Select a member from the CB Central Office review team to assist the CB Regional Office in leading the planning and conduct of the IV-E review. Additional staff from CB Central Office may be selected to serve on the review team.
- Provide the CB Regional and Central Office reviewer(s) with training and preparation to participate in a leadership role or as reviewers.
- Consult with the CB Regional Office and the CB Central Office Co-Leader on the review sample and review issues needing particular attention in the review.
- Ensure that a listing of random numbers from the title IV-E agency's AFCARS data is drawn for the sample of cases to review on-site, and work with the CB Regional Office to provide the sample to the title IV-E agency no later than 60 calendar days before the on-site review.
- Consult with the CB Regional Office to ensure all review activities are completed.
- Review all final reports, improper payment information and PIPs before they are approved and sent to the title IV-E agency.

CB Central Office Co-Lead Responsibilities

- Assist the CB Regional Office lead in guiding the review activities during the planning and conduct of the title IV-E agency's review and in ensuring all review activities are completed.
- Consult with the CB Regional Office lead and the title IV-E agency on the review sample

and review issues needing particular attention in the review.

- Consult with the CB Regional Office to coordinate the transportation and lodging of the CB Central Office team member(s).
- Participate on conference calls among the CB Central and Regional Offices and the title IV-E agency to discuss issues that need clarifying before the on-site review (for example, sampling, case payment history, policy on AFDC and title IV-E eligibility, and electronic files).
- Assist with the orientation and training of review team members, as needed.

CB Regional Office Responsibilities

- Transmit to title IV-E agency officials within 120 calendar days before the on-site review a written confirmation of the scheduled primary or secondary review and notify the title IV-E agency of material it must provide before and during the on-site review.
- Assign a CB Regional Office Team Leader for the specific review and identify other CB Regional Office staff, including a fiscal specialist, to serve on the review team.
- Select a peer reviewer when additional team members are necessary to fill a vacancy on the Federal team for the on-site review.
- Consult with the CB Central Office Co-Leader and title IV-E agency staff about the review team size and composition.
- Coordinate with the CB Central Office to obtain from AFCARS the random sample of foster care cases to be reviewed on site.
- Arrange and lead conference calls among the CB Central and Regional Offices and the title IV-E agency to discuss issues that need clarifying before the on-site review (for example, sampling, case payment history, policy on AFDC and title IV-E eligibility, and electronic files).
- Conduct, in collaboration with the CB Central Office Co-Leader, the orientation and training of review team members.

- Consult with title IV-E agency staff and the CB Central Office Co-Leader to discuss how the State Automated Child Welfare Information System (SACWIS) or other electronic files support the title IV-E agency's eligibility process, and the system's role in facilitating the on-site review, if electronic files will be used during the on-site review. It is expected that the CB Regional Office will become familiar with the title IV-E agency's automated system before the pre-review conference call and on-site review. [See "Electronic Files," Chapter 3.]
 - Develop the agenda for the review in collaboration with the title IV-E agency and lead the entrance and exit conferences.
 - Request advance copies of information from the title IV-E agency at least 120 calendar days before the on-site review, ensure that all Federal team members have copies of materials, and become familiar with materials. The material should consist of policy on eligibility requirements and documentation processes, licensure and safety documentation processes, sample court orders, title IV-E agreements for placement and care, and payment and placement histories for the sample cases. The request for advance material from the title IV-E agency can be included in the letter that confirms the date of the on-site review. The CB Regional Office Team Leader must be familiar with the State's AFDC plan as it was in effect on July 16, 1996, or earlier; the eligibility determination process; and the most recently approved title IV-E plan and amendments.
 - Ensure quality control functions are performed during the on-site review in order to ensure consistency, objectivity, and accuracy in reviewing cases.
- to track foster care maintenance payments and (2) maintaining a list of the title IV-E agency's payment codes and rates.
- Verify that the title IV-E agency has received a title IV-E foster care maintenance payment for a period of activity in the PUR for each child in the sample coded with a "1" in data element 59.
 - Confirm all foster care maintenance payments on the payment history coded as title IV-E funded are included as maintenance payments on the form CB-496.
 - Maintain a list of sample cases that are eliminated from the sample indicating the replacement oversample case and documenting the reason for substitution.
 - Examine the payment history to (1) assure that it captures payment and activity dates, payment amounts, activity type, and provider type for all payments made on behalf of sample cases for the entire foster care episode(s) that includes the PUR; (2) determine whether a case should be removed from the review sample, (3) determine whether there is a payment adjustment and verify that the adjusted claim has been submitted on a Federal quarterly report before the date the review sample is provided to the title IV-E agency, and (4) determine whether there are payment irregularities such as unallowable program costs, overpayments, or duplicate payments.
 - Calculate the amount of improper payments identified for sample cases and complete the required fiscal attachments (e.g. average monthly administrative cost claim, disallowance and underpayment spreadsheets). Improper payments consist of unallowable program costs, overpayments, duplicate payments, erroneous payments and otherwise ineligible payments and underpayments.
 - Consult with the title IV-E agency and CB Team Leaders to verify the child-specific underpayments that are identified, the payment period, and the child's eligibility for the payment period.
 - Assist the CB Regional Office Team Leader with maintaining a log indicating whether a

ACF Regional Fiscal Specialist Responsibilities

- Identify the sources, authorized payment types, amounts and claiming codes the title IV-E agency uses for foster care maintenance payments. This includes (1) obtaining the title IV-E agency's fiscal policy materials needed

case is a sample or an oversample case, who read the case, the result of the case review, and a description of the errors, ineligible payments, and underpayments. [For an example of a case summary log, see “Title IV-E Foster Care Eligibility Reviews Table of Completed Case Records and Description of Improper Payments,” Appendix 6.]

- Retain all documentation provided by the title IV-E agency pertaining to underpayments and calculating maintenance and administrative cost disallowances. The documents retained include the complete payment history for all sample cases including those sample cases in which a disallowance is not assessed.

Title IV-E Agency Responsibilities

- Assign a coordinator for the review to act as the liaison with the CB Regional Office in making arrangements for the review.
- Ensure that all title IV-E agency reviewers are oriented to the review process and are available for the entire review week.
- Consult with the CB Regional Office Team Leader on logistical arrangements for the review, including the identification of locations for entrance and exit conferences.
- Ensure that all of the case records for each sample and oversample case are available on-site and ready for review. This includes the records pertaining to eligibility, child welfare services, and provider licensure and safety.
- Provide requested information to the CB Regional Office Team Leader at least 90 calendar days before the on-site review. The requested material may be sent electronically to the CB Regional Office.
- Provide complete payment and placement histories to the CB Regional Office Team Leader at least 60 calendar days before the on-site review. Material may be transmitted electronically.

Peer Reviewer Responsibilities

If a peer reviewer is identified to participate in a title IV-E agency’s review, the peer reviewer is expected to complete the following tasks:

- Complete the pre-requisite CB training for selection as an on-site peer reviewer.
- Supplement the Federal membership on the review team (but may not serve as the Team Leader or Federal representative in review activities).
- Become familiar with title IV-E statutes, regulations, and other pertinent review materials.
- Become familiar with statutes, regulations, and other pertinent review materials of the title IV-E agency under review.
- Inform the CB Regional Office Team Leader or CB Central Office Co-Leader of review inconsistencies or other review concerns and address questions about the review process to one of the Federal Team Leaders.
- Present factual information unless an opinion is requested by one of the Federal Team Leaders.
- Participate in scheduled orientation and training sessions before or during the review.
- Remain present at the review site for the duration of the on-site review, including participation in all scheduled review activities from the entrance conference through the exit conference.
- Conduct all assigned activities associated with the review of case records, including accurate completion of the review instrument.
- Participate in the team debriefings to discuss the strengths and areas in need of improvement noted during the review.

Case Selection and Review

Sample of Cases Reviewed

The CB Central Office statistician selects the sample of foster care cases from the title IV-E agency’s most recent AFCARS data and e-mails the sample to the title IV-E agency. The CB Regional Office Team Leader may request a stratified sample to ensure that the sample proportionally represents the title IV-E foster care population when the title IV-E agency has a title IV-E agreement for placement and care with another public agency, such as the juvenile justice

agency or a federally recognized Tribal agency.

Before the on-site review, the title IV-E agency's coordinator must record the reason for eliminating any cases from the sample of cases that will be reviewed on site and furnish that information to the CB Regional Office Team Leader.

Preparation of Case Records for Review

Case records must be organized and up to date. The title IV-E agency is not to tag, label, remove or segregate sample case documents to identify specific material pertaining to the PUR or on-site review. Similarly, the agency is not to make or present separate case folders that are established primarily for the on-site review.

Complete Case Files. The entire sample case records must be available at the review site so that the reviewers will have access to pertinent case material. Furthermore, the title IV-E agency must provide any records maintained separately; i.e., provider records, child welfare records, and eligibility records necessary for the review. During the on-site review, the reviewer must be able to examine the child's entire case record, family record, and provider licensing file. This allows for a thorough review of the child's placement beginning from entry into foster care and extending throughout the life of the foster care episode. It also affords the review team better insight into how the title IV-E agency implements the foster care maintenance payment program, and provides the title IV-E agency an opportunity to receive immediate training and technical assistance on-site. The CB authority for requiring access to sample case records is included in Federal regulations at 45 CFR Parts 92 and 1356.

The title IV-E agency must make sure that all documents needed to substantiate the child's eligibility in each of the sample cases are available on-site to the review team. The review team will not infer or speculate about the eligibility of a child. Therefore, the determination of case compliance must be supported by the appropriate documentation, even when the title IV-E agency placed a child with a cross-jurisdictional foster care provider and the title IV-E agency retained responsibility for the placement and care of the child.

Undetermined Case Rating. If acceptable documentation is not provided during the on-site review, the case may be assigned a preliminary finding of *undetermined*. Subsequently, if acceptable documentation is not provided before the issuance of the Final Report of review findings, the ineligible title IV-E foster care maintenance payment in question will be disallowed. The case also will be *in error* if the ineligible payments are made for a period in the PUR.

Case Documentation Guidelines. The following list provides general guidelines concerning pertinent case documentation:

- The child's service records, including all court orders, must be available for review to establish that the judicial requirements of "contrary to the welfare" and "reasonable efforts" are met for initial and ongoing eligibility concerning children who are judicially removed.
- The voluntary placement agreements and subsequent court orders must be available for review to establish that the initial and ongoing requirements are met for children who are removed pursuant to a voluntary placement agreement.
- Licensing documentation for the foster family home and childcare institution for the child's placement in the PUR must include, at a minimum, a copy of the provider license, certificate, or letter of approval that verifies licensure status and type covering the child's stay in the placement and some indication of the licensing authority's official endorsement of the license.
- Safety documentation for the foster family home must verify that (1) a criminal records check that includes a fingerprint-based check of the national crime information databases (NCID), has been conducted on the foster parent; (2) the foster parent has not been convicted of any of the felonies enumerated in § 471(a)(20)(A) of the Act; and (3) the applicable requirements at 45 CFR

§ 1356.30³ are met for the period that the title IV-E maintenance payment is made for the child in the foster family home during the PUR.

The opt-out authority for the criminal records check ended on October 1, 2008 (or at the time of the State's delayed effective date) for those States that previously opted out of the criminal records check requirement. After October 1, 2008 (or at the time of the State's delayed effective date), all title IV-E agencies must follow the requirement for a criminal records check that includes a fingerprint-based check of the NCID, per § 471(a)(20)(A) of the Act.

- Safety documentation for the childcare institution must verify that the entire licensing agency's governing safety requirements are met for the institution's caregiving staff for the period that the title IV-E maintenance payment is made for the child in the childcare institution during the PUR.
- For the AFDC determination of the child's financial need and deprivation, the child's case file must contain documentation verifying that the family's financial need is evaluated, including resources, and indicating the specific reason that the child is deprived of parental support or care. The manner used to substantiate that the school attendance criterion is satisfied during the PUR for an 18-year-old youth, as provided for in the State's title IV-A plan, must be included as well. The documentation should include enough information to assure the appropriate process is followed in making the eligibility determination. The documentation should provide a clear, evidence-based path to the

eligibility decision. The documentation should verify whether the child is AFDC-eligible during the month the voluntary placement agreement is signed or in the month the court proceeding leading to the requisite judicial determination is initiated either through a removal petition or removal court order.

As of April 2010, the IV-E review does not determine whether title IV-E agencies have completed annual AFDC re-determinations of eligibility of a child's financial need or deprivation status. Therefore, the title IV-E agency will not be expected to provide documentation that these AFDC-related factors are met after the initial determination of eligibility.

For further information on the review procedures pertaining to the title IV-E foster care eligibility requirements, refer to Chapter 4 of this guide.

Use of Electronic Files for Review

The title IV-E agency may use electronic files to substantiate title IV-E eligibility. The electronic files may be used to provide evidence of: the child's removal as a result of judicial determinations of "contrary to the welfare" and "reasonable efforts" or via a voluntary placement agreement; responsibility for placement and care vested with the title IV-E agency; placement in a licensed foster family home or childcare institution; eligibility for AFDC under the State plan in effect on July 16, 1996; and verification of safety requirements for children placed in foster care.

If electronic files are used on-site during the review, the title IV-E agency should make computers and technical assistance available to the reviewers for viewing the electronic records. The title IV-E agency also must provide background training to the reviewers to acquaint them with the title IV-E agency's automated data system and make sure agency staff is available to assist reviewers in obtaining documentation from the data system to verify the child's eligibility.

³ Although title IV-E agencies are now required to check any child abuse and neglect registry for prospective foster parents, this is a IV-E plan requirement. Accordingly, the IV-E review does not monitor compliance with this requirement.

Before the on-site review, the title IV-E agency should give the CB Regional Office a non-technical summary of how the automated system is used to determine eligibility, the system logic behind the eligibility calculation and the imbedded documentation that explains in an easy to read format what is going on at each point in the eligibility process. The title IV-E agency should briefly demonstrate the eligibility process through screen print-outs and the agency's navigation of the system. The title IV-E agency also should tell the CB Regional Office Team Leader how it plans to use the system on-site during the eligibility review. Perusal of CB Action Transmittal (AT) ACF-OSS-05, issued August 21, 1998, and consultation with the CB Office of State Systems will assist the CB Regional Office in assessing the extent to which the title IV-E agency's automated system can support the on-site review and alleviate the title IV-E agency's burden to reproduce paper documentation. The AT ACF-OSS-05 provides guidance to States with State Automated Child Welfare Information Systems (SACWIS) concerning the level of automation required for supporting title IV-E eligibility determination, and lists a number of approaches that can be taken to automate the determination process. This document is located on the Children's Bureau Web site at <http://www.acf.hhs.gov/programs/cb/systems/sacwis/at98.htm>.

The CB Regional Office also should become familiar with the title IV-E agency's governing statutes and administrative policies on electronic files, including signature and document authentication and edit authorizations. It is expected that the title IV-E agency's automated system will document the data used to establish the child's eligibility and apply all eligibility factors consistently and accurately in every eligibility determination. The CB Regional Office's assessment of the automated process should entail a basic exploration of:

- source of eligibility data in the system;
- how data are input into the system;
- how financial eligibility, legal decisions, and provider licensure/approval (including safety considerations) are determined and documented;
- how eligibility decisions are sanctioned and documented by the agency;

- policy for accepting or authenticating electronic signatures;
- how the system captures all of the necessary factors considered in calculating eligibility;
- how the system ensures that the eligibility rules are applied uniformly in every eligibility determination;
- how data accuracy is ensured;
- how data are maintained, updated, and secured; and
- procedures for internal system controls, edits, and data overrides.

The above information is not an exhaustive list of all the factors to consider in examining the title IV-E agency's automated system. In general, the title IV-E agency should demonstrate to the satisfaction of CB that the automated system is a valid representation of the title IV-E agency's business practice and policy pertaining to the eligibility determination process. The title IV-E agency must be able to demonstrate that adequate financial standards are maintained in providing necessary source documentation and guarding against payments for unallowable costs. A comparison of information in the case records of the child and the child's foster care provider to that contained in the electronic files also will help the CB Regional Office determine the validity of the title IV-E agency's automated system and degree of representation for determining eligibility.

Regardless of whether the title IV-E agency provides documents in paper copy or electronic form (or a combination) for the IV-E review, the documentation must clearly substantiate that the eligibility requirement is satisfactorily met for the period that the title IV-E foster care maintenance payment is made on behalf of the child.

On-Site Review Instrument and Instructions

The On-Site Review Instrument and Instructions (checklist) used for the review will be provided to the team by the CB Regional Office or its designee. The instrument also is available on the Children's Bureau website at <http://www.acf.hhs.gov/programs/cb>. [See "On-Site Review Instrument and Instructions," Appendix 1; see also "Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program,"

Appendix 6; and “Title IV-E Foster Care Eligibility Chart,” Appendix 8.]

An instrument is completed for each sample case in which at least one title IV-E foster care maintenance payment is made for a period during the PUR. If the child exits and subsequently re-enters foster care during the PUR, an instrument is completed for each foster care episode during the PUR.

On-Site Review Activities

It is preferable to conduct the review in one large room rather than several small rooms to allow for effective interaction among the team members. The room should be accessible to the review team at all times during working hours and secure to protect the confidentiality of the case records. Reviewers are expected to be flexible about their working hours in order to complete the review of all cases in the allotted 5 working days.

The title IV-E agency schedules the following activities for the on-site review:

- An ***entrance conference*** for the CB Team Leaders to meet with the review team to discuss the structure of and agenda for the week’s activities and provide opportunities to raise and clarify issues pertinent to the review. Title IV-E agency officials should be invited to attend the entrance conference.
- An ***orientation*** to the instrument to discuss initial questions, the case record format, electronic files, if any, and the functions of the review team. The CB Regional Office Team Leader typically conducts the orientation. The title IV-E agency is responsible for providing information in response to the orientation questions. [See “Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team During the Pre-Review Conference Call and Before Reviewing Records On-Site,” Appendix 3.]
- A ***team debriefing*** to compile a summary of improper payments, if any, to discuss the model practices and areas in need of improvement that are revealed during the review, and to prepare for the exit conference. Team members also may raise concerns and offer suggestions that will help to improve the review process, on-site review activities, and the On-site Review Instrument.
- An ***exit conference*** for the CB Team Leaders to meet with the title IV-E agency’s senior management staff. During this conference, the CB Regional Office Team Leader provides an overview of tentative findings of the review, discuss next steps, and raise and clarify issues related to the review or the findings. The entire review team should be present for the exit conference.

Chapter 4: Eligibility Requirements

A title IV-E agency's compliance is reviewed against the requirements of title IV-E of the Social Security Act (the Act) regarding the eligibility of children on whose behalf foster care maintenance payments are made. The eligibility requirements are summarized in the narrative that follows and the "Title IV-E Foster Care Eligibility Chart," Appendix 8.

To verify a child's eligibility and, thus, qualify the child for title IV-E foster care maintenance payments, the title IV-E agency must provide evidence that the following requirements are met:

- the removal is (1) in accordance with judicial determinations of "contrary to the welfare" and "reasonable efforts to prevent removal" (§ 472(a)(2)(A) of the Act and 45 CFR §§ 1356.21(b) and (c), respectively) or (2) via a voluntary placement agreement (§§ 472(a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR § 1356.22);
- responsibility for placement and care is vested with the title IV-E agency or another public agency with which the title IV-E agency has a title IV-E [§ 472(a)] agreement (§ 472(a)(2)(B) of the Act and 45 CFR § 1356.71(d)(iii));
- eligibility for AFDC under the title IV-A plan in effect on July 16, 1996, or earlier if the child was removed before this date (§ 472(a)(3) of the Act and 45 CFR § 1356.71(d)(1)(v));
- placement in a fully licensed or approved foster family home or childcare institution (§§ 472(b) and (c) of the Act; 45 CFR §§ 1355.20(a) and 1356.71(d)(1)(iv); and
- verification of safety requirements for caregivers of children placed in foster care (§ 471(a)(20)(A) of the Act and 45 CFR § 1356.30).

When Payments Begin and End. The child is eligible under title IV-E when all eligibility criteria pertaining to the child's removal from home are met. The title IV-E agency may claim title IV-E maintenance from the first day of placement in the month in which all initial title IV-E eligibility criteria

are met. (CB Child Welfare Policy Manual (CWPM), 8.3A.15, Question #1). For example, if the child's foster care placement and judicial finding of "contrary to the welfare" occurs on November 10 and the finding of "reasonable efforts to prevent removal" occurs on January 6, title IV-E eligibility becomes effective, and the title IV-E foster care maintenance payments can be made for, the period that begins with January 1 for the otherwise eligible child.

Initial Eligibility Requirements. Once the initial criteria of (1) "contrary to the welfare" and "reasonable efforts to prevent removal" judicial determinations in a judicial removal, (2) "voluntary placement agreement" in a voluntary removal, and (3) AFDC eligibility are satisfied as required for title IV-E, these eligibility requirements will be considered met for the entire foster care episode.

The foster care episode begins at the point that the judicial finding of "contrary to the welfare" is made or the voluntary placement agreement is signed sanctioning the child's removal from home. Consistent with 8.3A.10, Question #2 of the CWPM, that same foster care episode continues for as long as that removal court order or voluntary placement agreement remains in effect, even if the child is temporarily away from a title IV-E reimbursable placement setting.

If the eligibility criterion of either "contrary to the welfare," "reasonable efforts to prevent removal," or AFDC is not satisfied initially as required, the child is ineligible for the entire foster care episode. For instance, the child in the above example remains ineligible under title IV-E for the entire foster care episode if the finding of "reasonable efforts to prevent removal" occurs after January 9.

Ongoing Eligibility Requirements. In addition to the initial eligibility requirements pertaining to the child's removal, documentation for ongoing eligibility includes evidence of (1) a judicial determination regarding reasonable efforts to finalize a permanency plan in a court-ordered removal or a judicial determination regarding the best interests of a child removed according to a voluntary placement agreement; (2) placement and

care authority vested with the title IV-E agency; (3) placement in a fully licensed or approved foster care setting that meets the safety requirements; and (4) school attendance for an 18-year-old youth under the 1996 title IV-A plan option, if the title IV-E agency has not exercised the title IV-E plan option under § 475(8) of the Act. With the exception of the school attendance requirement, which only can be met once the child reaches age 18, these eligibility requirements can be met at any point in the foster care episode; however, title IV-E payments cannot be made for a period that is before all the eligibility requirements are met as noted.

Removals

The child's removal from home must be in accordance with the Federal statutory and regulatory requirements at § 472(a)(2)(A) of the Act, 45 CFR § 1355.20, 45 CFR § 1356.21 and 45 CFR § 1356.22. As such, the child is not eligible for title IV-E funding if the child's removal has not occurred in accordance with either a judicial determination of "contrary to the welfare" or a voluntary placement agreement.

Valid Removal. Consistent with § 472(a)(2)(A) of the Act and 45 CFR § 1356.21(k), a valid removal is a removal in accordance with a voluntary placement agreement or judicial finding of "contrary to the welfare" that sanctions the physical or constructive removal of the child from either (1) the parent or legal guardian who signed the voluntary placement agreement (in a voluntary removal) or (2) the parent or another relative (specified in § 406(a) of the Act in effect July 16, 1996) whose home is the subject of the judicial findings of "contrary to the welfare" (in a court-ordered removal).

A removal is not valid for title IV-E purposes when legal custody (i.e. placement and care responsibility) has been removed from the parent or specified relative in accordance with the Federal requirements and the child remains in the home under the responsibility of the same parent or relative. [See 45 CFR § 1356.21(k)(2).] For title IV-E purposes, a physical removal of the child from the home of the parent or specified relative who is the subject of the "contrary to the welfare" determination or who signs the voluntary placement

agreement must take place for a valid removal under title IV-E.

In judicial removals, the agency's action to physically remove the child from the home of the specified relative noted above, must coincide with the judicial determination of "contrary to the welfare" that results in the child's removal, unless the court order specifies an alternative time frame for removal, as allowed for in Departmental Appeals Board (DAB) Decision No. 2017. If the physical removal from that specified relative does not take place by the end of the next business day following the judicial determination and the court order does not expressly approve a specific duration for the delay of placement into foster care, the child is ineligible for title IV-E for the entire foster care episode. The case will be marked as in error. However, if there are extenuating circumstances related to the delay in the child's removal, the CB Regional Office will send the relevant case facts to the CB Central Office Team Leader for the IV-E reviews to consider before a decision is made on whether the case is in error. For example, a qualifying extenuating circumstance may be one that relates to the child's unavailability, such as a child who has run away or a child whose parent has absconded with the child. [See DAB Decision No. 2099.]

Constructive Removal. The child's removal from home must be in accordance with § 472(a)(2)(A) of the Act and 45 CFR § 1356.21(k). As noted earlier, the authorized removal must sanction the physical removal or constructive removal of the child from the home. A constructive removal under title IV-E is one that occurs on paper only.

More specifically, a child is considered constructively removed when a judicial ruling of "contrary to the welfare" is made or when a voluntary placement agreement sanctions the child's removal from the parent or another specified relative while the child is living with a related or unrelated interim caregiver. In this situation, the child's removal from the specified relative, who is the subject of the judicial finding or who signs the voluntary placement agreement, takes place on paper as a physical removal from that relative is not possible because the child is living with an interim

caregiver at the time of the judicial or voluntary removal.

Constructive removals apply only to removals that take place on or after March 27, 2000 for children who have not lived with an interim caregiver longer than 6 months before the judicial removal or voluntary placement. For the IV-E reviews, the sole purpose of determining whether a constructive removal has occurred is to determine whether the child has lived with a specified relative within 6 months of the removal from that same specified relative. [Additional information on constructive removals is included later in this chapter under “AFDC Eligibility, Removal From a Specified Relative.”]

Judicial Removals

For court-ordered removals, there must be a judicial determination to the effect that it is contrary to the child’s welfare to remain in the home. Court-ordered removals also require judicial findings that the title IV-E agency has made reasonable efforts to prevent the removal (or that reasonable efforts need not be made) and that the title IV-E agency has made reasonable efforts to finalize a permanency plan. These judicial determinations must be documented in valid court orders. If an acceptable court order containing the requisite judicial determination is not furnished, an official transcript of that court proceeding is the only alternative to a court order to substantiate that the judicial determination requirement is met satisfactorily. [See Court Transcripts later in this chapter.]

Court Orders. For title IV-E eligibility purposes, a court order is considered valid if it is valid under the governing statutes or policies for court procedures and types of court orders with respect to the title IV-E agency. As such, valid court orders may contain signatures that are affixed with a signature stamp instead of a personal signature or an electronic signature in the case of electronic court orders. In some court orders, the court official’s signature may be omitted. In both situations noted here, the court orders are valid if they are considered final and valid in the mandates governing court procedures with respect to the title IV-E agency.

A distinction is not made about the type of court order or court proceeding in which the “contrary to the welfare” or “reasonable efforts” determination is required. Nor is it necessary for the judicial determination to take place during a court hearing. For the purpose of the IV-E reviews, CB will not prescribe what constitutes a final or bona fide court order. The CB will inquire from the title IV-E agency how a valid court order is defined in statute or policy pertaining to the title IV-E agency’s jurisdiction. However, for title IV-E eligibility, documentation of the required judicial determinations must be in the court order or court transcript regardless of the manner in which the judicial determination is rendered.

In addition to a valid court order, judicial determinations under 45 CFR § 1356.21(d) must be made on a case-by-case basis; child-specific; explicitly stated in the court order; and in conformity with Federal regulatory time frames.

For title IV-E eligibility purposes, a judicial determination that is child-specific and made on a case-by-case basis is one that clearly identifies the child who is the subject of the judicial determination and specifies the home from which the child is removed. The court order also can, among other things, reference “the facts of a court report, related psycho-social report, or sustained petition.” [See Preamble to the Final Rule, 65 FR 4020, 4056 (January 25, 2000).] The referenced documents should be available for consideration. The supplemental documentation should establish that the judge reviewed the particular facts of the case and circumstances of the specific child. Note that references to supplemental documentation alone do not constitute a judicial finding. There must be a statement on the face of the court order (or court transcript) that can be reasonably understood as expressing the requisite judicial determination and documenting that is made. The basis of the court’s finding need not be included in the court order. However, 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.

To be explicit, the court orders must definitively articulate the judge’s child-specific ruling pertaining to the “contrary to the welfare” and “reasonable

efforts” determinations. A judicial determination that relies solely on references to the title IV-E agency’s statutes in an attempt to substantiate the requisite judicial finding is not explicit and does not verify that the circumstances of each child are reviewed individually. Such an order is not an acceptable court order for title IV-E eligibility purposes.

The judicial determinations do not need to include the exact terms “reasonable efforts” or “contrary to the welfare”. The DAB, in Decision No.1998, generally held that although specific terminology is not required, the use of the term “explicit” in the regulations at 45 CFR § 1356.21(d) means that it is not sufficient if the court order merely implies the requisite judicial findings were made. Instead, there must be a statement on the face of the written court order that can be clearly understood as expressing a determination that the required type of judicial finding has been made. If the judicial finding is not explicit, the eligibility reviewer may not infer a determination or presume the court’s intent to make a determination.

For title IV-E eligibility purposes, title IV-E agencies may not present affidavits attesting that the judicial determination is rendered appropriately and timely. Similarly, the agencies may not present *nunc pro tunc*⁴ (“now for then”) court orders that change the substance of a prior judicial determination or constitute a judicial determination not previously made. The affidavit and *nunc pro tunc* court order are not acceptable documentation in support of a judicial determination. When an affidavit or *nunc pro tunc* order is presented to substantiate that the court has made a judicial determination, the reviewer must examine the court transcript to verify that the judicial ruling was made at the time of the court proceeding in question and within the specified time frame.

⁴ For the first 12 months that a Tribe’s approved title IV-E plan is in effect under § 479B of the Act, the Tribe may use *nunc pro tunc* orders and affidavits to verify reasonable efforts and contrary to the welfare determinations for title IV-E foster care eligibility [§ 479B(c)(1)(C)(ii)(I)].

The date the court ruling is rendered usually is used to establish time frames for judicial determinations related to a child’s eligibility for title IV-E foster care. However, if the mandates governing court procedures with regards to the title IV-agency specify that a court order becomes effective based on a different occurrence, such as the date of the judge’s signature, then that mandate is followed for determining the date a finding is made.

In summary, to comply with the Federal mandates governing the judicial findings of “contrary to the welfare” and “reasonable efforts,” judicial findings at a minimum must be:

- Explicit: Judicial finding is stated specifically and definitively. The finding is not implied;
- Child-specific: Judicial finding is made on a case-by-case basis and is specific to the child’s circumstances;
- Valid: Judicial order conforms to governing statutes or polices for court procedures and types of court orders with respect to the title IV-E agency; and
- Timely: Judicial finding conforms to Federal regulatory time frames.

Examples of unacceptable court findings include:

- Judicial rulings that rely on a reference to statute but do not have the requisite “contrary to the welfare” or “reasonable efforts” findings;
- *Nunc pro tunc* judicial findings;
- Inexplicit or non-child-specific judicial findings, and
- Judicial findings that restrict the “reasonable efforts” and “contrary to the welfare” findings to reasons of “Federal funding” purposes.

Court Transcripts. If an acceptable court order containing the requisite judicial determination is not furnished, an official transcript of that court proceeding is the only alternative to a court order to substantiate that the judicial determination requirement is met satisfactorily.

When a title IV-E agency relies on the transcript of a court proceeding instead of a written court order, there must be a statement in the transcript that explicitly verifies that the required type of judicial determination has been made. The eligibility reviewer is not expected to search for information in the record of the court proceedings to establish whether the court has made the requisite determination.

An acceptable transcript is a true reproduction of the court's proceedings, and as such can include an audio recording of the proceedings, a written reproduction that derives directly from an audio recording of the proceedings, or a written reproduction that was produced during the proceedings. A transcription of the court proceedings by the title IV-E agency is not acceptable.

Contrary to the Welfare

A child's judicial removal from the home must be the result of a judicial determination to the effect that continuation of residence in the home is contrary to the child's welfare, or that placement in foster care is in the best interests of the child [§ 472(a)(2)(A) of the Act]. The judicial determinations must be explicitly stated in the court order (or transcript of the court proceeding).

For a child removed before March 27, 2000, the judicial finding regarding "contrary to the welfare" must be explicitly documented. Consistent with DAB Decision No. 1508, if the removal occurred between October 1, 1986 and March 27, 2000, and the judicial finding of "contrary to the welfare" is not rendered within 6 months of the child's removal, the requisite judicial finding may be in a court ruling that stems from court proceedings initiated no later than 6 months from the date the child is removed from the home. As such, for compliance, the removal petition's language must explicitly document "contrary to the welfare" and the resultant court order must expressly adopt the pertinent language of the petition in a manner such that it is reasonably understood that the requisite judicial finding is made. A court order that merely refers to the removal petition or sustains the removal petition is not sufficient evidence of a "contrary to the welfare" determination. The

removal petition must be filed within 6 months of the child's physical removal from home. There's no time limit specified as to when the resultant court finding has to occur; however, title IV-E eligibility may not begin before attaining the requisite judicial finding for an otherwise eligible child. Title IV-E eligibility for the otherwise eligible child may begin in the month the "contrary to the welfare" determination is made in the court order (or court transcript). If the "contrary to welfare" criterion is not satisfied as required, the child is not eligible under title IV-E for the duration of the foster care episode.

For a child removed on or after March 27, 2000, the judicial determination regarding "contrary to the welfare" must be made in the first court ruling (as evidenced by a court order or transcript of the court proceeding) that sanctions the title IV-E agency's action to remove the child from the home. This requirement is applicable even when the order is an emergency order, a weekend order, a "pick-up" order, or a verbal order that authorizes the removal. If the "contrary to welfare" criterion is not satisfied as required, the child is not eligible under title IV-E for the duration of the foster care episode.

Reasonable Efforts

The provisions at § 472(a)(2)(A) of the Act require the title IV-E agency to obtain a judicial determination that it has made reasonable efforts (1) to maintain the family unit and prevent the unnecessary removal of a child from the home, as long as the child's safety is ensured, and (2) to make and finalize a permanency plan in a timely manner. The title IV-E agency's performance in obtaining the requisite judicial determination is assessed through the IV-E review. The judicial decision that the title IV-E agency has made necessary and reasonable efforts to prevent the child's removal from the home from which he or she was judicially removed, or has made reasonable efforts to finalize a permanency plan, is an eligibility criterion. However, the activity that the title IV-E agency undertakes to prevent the child's removal from the home or to make and finalize a permanency plan is a title IV-E plan requirement. Compliance with the title IV-E plan is assessed during the course of the review of the title IV-E agency's child and family services program.

As noted, the reasonable efforts judicial determinations must be explicitly stated in the court order (or transcript of the court proceeding). The DAB, in Decision No.1998, generally held that although specific terminology is not required, the use of the term “explicit” in the regulations at 45 CFR § 1356.21(d) means that it is not sufficient if the court order merely implies that reasonable efforts are made. Instead, there must be a statement on the face of the court order (or court transcript) that can be reasonably understood as expressing a judicial determination about whether the agency’s efforts are adequate to prevent removal and to safely return the child home after removal or to achieve another permanency plan for the child. The Board also ruled that a listing or description of the agency’s efforts; the court’s adoption of a report that identifies the permanency plan and details the agency’s efforts; or the court’s approval of the permanency plan alone does not equate to an explicit determination of reasonable efforts and is not sufficient evidence to document the requisite judicial finding.

If the eligibility criterion of “reasonable efforts” is not satisfied, the child is not eligible to have title IV-E funds claimed on the child’s behalf. All judicial determinations with respect to “reasonable efforts”, even determinations that such efforts are not required, must be definitively documented in the judge’s ruling and must be obtained within the prescribed time frames. The reasonable efforts eligibility requirements do not apply to children who enter foster care as a result of a voluntary placement agreement.

Reasonable Efforts to Prevent Removal

For a child removed before March 27, 2000, the judicial determination to the effect that reasonable efforts were made, or were not required, to prevent removal satisfies the reasonable efforts to prevent removal requirement. A judicial determination that reasonable efforts were made (or were not required) to reunify the child and family also can satisfy this requirement. The judicial determination of “reasonable efforts to prevent removal” may be made at any point in the foster care episode. However, as stated previously, title IV-E foster care maintenance payments may not begin until the first month the requirement is met for the otherwise

eligible child. If the “reasonable efforts to prevent removal” criterion is not satisfied at any point in the episode, the child is not eligible under title IV-E for the duration of the foster care episode.

For a child removed on or after March 27, 2000, the judicial determination to the effect that reasonable efforts were made, or were not required, to prevent removal must be made no later than 60 days from the date the child is removed from the home [45 CFR § 1356.21(b)(1)]. The title IV-E agency may obtain this judicial determination earlier than 60 days from the date of removal. However, if the eligibility criterion is not satisfied within the time frame prescribed in the Federal regulations, the child is ineligible for the duration of the foster care episode.

Reasonable Efforts to Finalize the Permanency Plan

Once title IV-E eligibility is established, a judicial determination to the effect that the title IV-E agency has made reasonable efforts to finalize a permanency plan is required annually to maintain title IV-E eligibility. [45 CFR § 1356.21(b)(2)] (Calculation of the 12-month period is based on calendar months and is not counted from date to date). With the exception of children who are removed via a voluntary placement agreement, the reasonable efforts criterion is required for all children in foster care regardless of the child’s age. This means that the rule applies to a youth whose eligibility is extended to age 19 pursuant to the title IV-A plan option. [See “AFDC Eligibility, Age and Extended Title IV-E Assistance,” later in this chapter.]

The court’s ruling regarding “reasonable efforts to finalize” may be based on (1) the agency’s efforts to implement the permanency plan that was in effect at the time that the title IV-E agency sought the judicial determination; (2) the circumstances of a permanency plan that had been in effect for a brief period immediately preceding the judicial ruling; or (3) the activities related to achieving permanency that took place over the 12 months immediately preceding the judicial ruling, even if the plan had been abandoned during that 12-month period.

Generally, a finding that the agency is making reasonable efforts to reunify the family is not sufficient if the goal of the permanency plan is not or has not been reunification during the past 12 months. The judicial determination should reflect the court's judgment as to whether the agency activities that are performed during the previous 12 months are meaningful and consistent with the permanency plan and whether they are sufficient to bring about the achievement of the permanency goal for the child. For example, a finding that merely states reasonable efforts are made to provide services or are made to meet the needs of the child does not satisfy the judicial requirement of "reasonable efforts to finalize the permanency plan". Although a provision of services is one of the activities the title IV-E agency undertakes to finalize the plan, the judicial determination needs to convey whether the court finds that the services and other agency activities reasonably advanced the implementation of the permanency plan toward finalization.

If the court finds that the agency has not made reasonable efforts to finalize the permanency plan, the requirement is not met for that 12-month period for title IV-E eligibility purposes. However, if the court finds at another point within the same 12-month period that the title IV-E agency has made reasonable efforts, the requirement is met for that entire 12-month period for title IV-E eligibility purposes.

Permanency Hearing. The permanency hearing may serve as the mechanism for obtaining the judicial determination of reasonable efforts to finalize the permanency plan; however, the judicial determination does not need to be made at the permanency hearing. The requirement to hold a permanency hearing is not an eligibility requirement; it is a title IV-E plan requirement. As such, if the title IV-E agency fails to hold timely permanency hearings, it may jeopardize its compliance with the title IV-E plan requirements. However, for title IV-E eligibility purposes, a sample case will not be found in error solely because the agency did not hold a timely permanency hearing.

The effective date of the reasonable efforts to finalize the permanency plan provision was March 27, 2001, which provided title IV-E agencies a

transition period to fulfill this requirement for children who were already in foster care for 12 months or longer at the time the final rule was published on January 25, 2000.

For a child removed before March 27, 2000, the judicial determination of reasonable efforts to finalize the permanency plan must have been made no later than March 27, 2001, because such a child would have been in care for 12 months or longer. If the judicial determination of reasonable efforts to finalize the permanency plan is not made by March 27, 2001, the child is ineligible for title IV-E foster care maintenance payments from April 1, 2001, until such time that a judicial determination of "reasonable efforts to finalize" is made. The IV-E review does not examine whether the title IV-E agency complied with the March 27, 2001 implementation date. Rather, it examines whether the judicial determination requirement is satisfactorily met during the 12-month period that includes the PUR. If the judicial determination requirement is not met, the reviewer must go back to the date that the requirement is met or March 27, 2001, whichever is later, to establish whether title IV-E payments are made for a period of ineligibility.

For a child removed on or after March 27, 2000, the judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date the child is considered to have entered foster care.

Date Entered Foster Care. The date the child entered foster care is defined in Federal regulations, at 45 CFR § 1355.20(a), as the earlier of the date of the judicial finding of child abuse or neglect, or, the date that is 60 calendar days after the date that the child is physically or constructively removed from the home.

Child Abuse/Neglect Finding. The judicial finding of child abuse or neglect refers to the expressed ruling by the court that is to the effect that a child is abused or neglected. Typically, this finding does not take place at a shelter or emergency placement hearing where the title IV-E agency is given temporary custody of the child due to an allegation of child abuse or neglect. The judicial finding of child abuse or neglect typically is the result of an evidentiary hearing in which the court adjudicates

or legally settles the allegation of child maltreatment and can occur several months after the child has been removed from home. A judicial finding of child abuse or neglect is not a requirement under title IV-E. If such a finding is not made, the date the child entered foster care is 60 calendar days after the date the child is either physically or constructively removed from the home. The date the child entered foster care should not be confused with the date the child is removed from the home, which is the date that the child is physically or constructively removed.

Initial Placement in Foster Care Setting. If at removal a child is placed in a foster family home or childcare institution, the date the child entered foster care, for IV-E review purposes, is the date as defined in Federal regulations at 45 CFR § 1355.20(a).

Initial Placement in Non-Foster Care Setting. If at removal a child is in a non-foster care setting such as a detention facility or hospital, the child is not in foster care. [See 45 CFR § 1355.20(a).]

- 1) If that child remains in the non-foster care setting for more than 60 days before being placed in a foster care setting, the date the child entered foster care for IV-E review purposes is the date that the child is placed in a foster family home or child-care institution.
- 2) If, however, that same child's placement into foster care from a non-foster care setting occurs within 60 days of his or her removal from the home, the date child entered foster care, for IV-E review purposes, is the earlier of the date of the first judicial finding of child abuse or neglect, or, the date that is 60 calendar days after the date on which the child is physically or constructively removed from the home. [See 45 CFR § 1355.20(a).]

For the IV-E reviews, the sole purpose of ascertaining the date the child entered foster care is to calculate when the initial judicial determination of "reasonable efforts to finalize" is due. Note that a title IV-E agency may use an earlier date to start the "clock" to determine when the initial judicial

determination is due, such as the date of the child's physical removal from the home. However, for IV-E review purposes, the date the child entered foster care is the date as defined in Federal regulations at 45 CFR § 1355.20(a).

The On-Site Review Instrument requires the title IV-E agency to document the date the child entered foster care for each sample case under review with a judicial removal date of March 27, 2000, or after, for the most recent foster care episode. The timing for securing the initial judicial determination of "reasonable efforts to finalize" is no later than 12 months from the date the child is considered to have entered foster care. Subsequent judicial determinations of "reasonable efforts to finalize" must occur at regular 12-month intervals and no later than 12 months from the month in which the prior determination is obtained. (See the below discussion regarding the exception to the timeliness requirement).

When Payments Begin & End. The review team examines a sample case to discern whether the "reasonable efforts to finalize" judicial determination requirement is satisfied during the 12-month period that includes the PUR, regardless of the removal date. If the reviewer finds that a judicial determination of "reasonable efforts to finalize" is not made as required within a 12-month period, the related ineligible payments will be disallowed. Also, the unmet judicial determination of "reasonable efforts to finalize" for which title IV-E foster care maintenance payments are made, will render the case in error if the judicial determination is: (1) due before or during the PUR, but is not made as required during the PUR; or (2) due before or during the PUR and is made during the PUR, but is not made timely during the PUR.

The exception to the Federal policy on timeliness occurs when a judicial determination of "reasonable efforts to finalize" is not made until sometime during the month that immediately follows the month such determination is due. The untimely judicial finding will not render the case ineligible because title IV-E eligibility exists until the end of the month in which the judicial determination is required to be made [See 45 CFR § 1356.21(b)(2)ii].] Title IV-E eligibility may begin again for the otherwise eligible child on the first day of the month that the judicial

determination regarding reasonable efforts to finalize a permanency plan is satisfied, irrespective of the date during the month the judicial determination is satisfied. Thus, in the case when the “reasonable efforts to finalize” judicial determination is obtained during the month immediately following the month that it should be obtained, there is no period of ineligibility regarding this judicial requirement.

Voluntary Placement Removals

Voluntary Placement Agreement

Section 472(f) of the Act allows the use of Federal financial participation for the otherwise eligible child who is removed from the home either according to a judicial determination regarding “contrary to the welfare” or a voluntary placement agreement. A voluntary placement pursuant to § 472(f) of the Act is an out-of-home placement of a minor child by or with the participation of the title IV-E agency, after the child’s parents or legal guardians request the assistance of the agency, and sign a voluntary placement agreement. A representative of the title IV-E agency also must sign the voluntary placement agreement.

Valid Voluntary Placement Agreement. For purposes of the IV-E review, a voluntary placement agreement will be considered valid on the date that it is signed by the parent or legal guardian and the title IV-E agency representative. If signings occur on different dates, the voluntary placement agreement becomes valid on the date of the final signature. To be eligible for title IV-E, the legal guardian must be a specified relative (as defined by § 406 of the Social Security Act) and the child must be AFDC-eligible based on that specified relative’s home.

Best Interests

For continuing eligibility of the child voluntarily placed, there must be a judicial determination within 180 days to the effect that the placement is in the best interests of the child [(§ 472(e) of the Act and 45 CFR § 1356.22(b)]. The “clock” for the first 180 days of the foster care episode begins on the date the child is physically placed in foster care. If constructively removed, the “clock” for the first 180

days of the foster care episode begins the date the voluntary placement agreement is signed by all necessary parties.

When Payments Begin and End. The title IV-E agency may claim title IV-E maintenance from the first day of placement in the month in which all title IV-E eligibility criteria are met. (CWPM, 8.3A.15, Question #1). The title IV-E agency may claim title IV-E for an otherwise eligible child for an entire month only if on the 1st of the month the child is in an allowable placement. For example, if the voluntary placement agreement is signed on May 31 and the child is placed in a foster family home on June 1, the title IV-E foster care maintenance payment can be made for the period that begins with June 1 for the otherwise eligible child. If, however, the voluntary placement agreement is signed on May 31, and the eligible child has been in the foster care placement since May 1, the title IV-E agency can claim title IV-E payments back to May 1 for the otherwise eligible child. As noted, the otherwise eligible child is eligible for title IV-E foster care maintenance payments for a period of 180 days, pursuant to the voluntary placement agreement that is in effect during such period, as authorized under § 472(e) of the Act and 45 CFR § 1356.22(b).

If more than 180 days of the child’s placement in foster care have elapsed and there has been no judicial determination of “best interests,” the child’s title IV-E eligibility for the foster care episode ceases on the 181st day. Title IV-E eligibility also ceases for the remainder of the foster care episode when the title IV-E agency fails to obtain the requisite judicial determination within the first 180 days of the episode, but petitions the court on the 181st day and is granted judicial authorization for foster care placement that includes findings of “contrary to the welfare” and “reasonable efforts”. Under these conditions, the title IV-E agency has failed to meet the timeliness requirement for the voluntary placement program and is ineligible for continued Federal reimbursement for that foster care episode. The subsequent judicial ruling on the 181st day will not change the nature of the child’s removal from voluntary to court-ordered in that foster care episode and will not permit the title IV-E agency to claim Federal reimbursement for a judicial removal after the first 180 days of that same

foster care episode (CWPM, 8.3A.13, Question #4). As noted, if the title IV-E agency does not obtain the requisite judicial ruling within 180 days, the child will be ineligible for title IV-E for the remainder of the foster care episode.

Also consistent with § 472(g)(2) of the Act, if the voluntary placement agreement is terminated or revoked prior to obtaining the judicial determination regarding the child's best interests as required, title IV-E eligibility ends on the day the agreement is terminated or revoked and the child becomes ineligible for the remainder of the foster care episode.

Placement and Care Responsibility

Section 472(a)(2)(B) of the Act requires that the responsibility for placement and care of a child be vested with the title IV-E agency administering the title IV-E plan approved under § 471 of the Act, or any Tribe or public agency (herein referred to as "public agency") with which the title IV-E agency has a written agreement in effect.

The term "placement and care" means that the title IV-E agency is legally accountable for the day-to-day care and protection of the child who has been placed in foster care through either the requisite judicial determination or a voluntary placement agreement. Placement and care responsibility allows the title IV-E agency to make placement decisions about the child. It also ensures that the title IV-E agency provides the child with the mandated statutory and regulatory protections, including those in regards to case plans, administrative reviews, permanency hearings, and updated health and education records.

Legal Custody. Placement and care is not the same as legal custody, although responsibility for placement and care generally is associated with legal custody. The title agency need not be given legal custody of the child because legal custody by the title IV-E agency or another public agency is not a requirement under title IV-E. Granting of legal custody or legal care and control to the title IV-E agency can be an indication that the agency has responsibility for the placement and care of the child. Placement and care authority need not be granted to the title IV-E agency at removal in order

for the child to be considered validly removed under title IV-E. However, the child is not eligible under title IV-E until the "placement and care" requirement is met for the child who is otherwise eligible.

Placement and Care Agreement. When a public agency enters into an agreement with the title IV-E agency under § 472(a)(2)(B) of the Act, a properly executed agreement permits the public agency to operate as a title IV-E agency for a specified population of children in foster care. This agreement is not merely an interagency agreement or service contract that addresses activities that are carried out by the title IV-E agency and the other public agency. The placement and care agreement gives the public agency responsibility to administer the title IV-E foster care program on the title IV-E agency's behalf for children under the placement and care of the public agency.

The public agency that enters into a § 472(a)(2)(B) agreement with the title IV-E agency must be authorized under the governing State or Tribal law to operate as a child-placing agency and must be operating as such during the period that the agreement is in effect. To receive Federal financial participation for the placement and care of children, both the title IV-E agency and public agency with which the title IV-E agency entered into a § 472(a)(2)(B) agreement must ensure that all title IV-E statutory and regulatory requirements are met for the children covered by the agreement. The title IV-E agency must have access to the public agency's case records, reports, and other materials to fulfill its responsibility to monitor title IV-E compliance.

Documentation Expectations. A copy of all existing § 472(a)(2)(B) agreements must be made available to the CB Regional Team Leader and CB Central Office Co-Leader to determine that the public agency has a bona fide agreement in effect with the title IV-E agency to operate a title IV-E program. If, during the PUR, a child is placed in the care of a public agency with which the title IV-E agency does not have a valid § 472(a)(2)(B) agreement for placement and care, the case will be marked as in error. If the foregoing occurs outside of the PUR, the child is not eligible for title IV-E during the relevant period, and any title IV-E funds

that the title IV-E agency has claimed will be considered ineligible payments.

During the on-site review, the title IV-E agency must present documentation that it, or another public agency under a § 472(a)(2)(B) agreement, has responsibility for placement and care of the child for the entire PUR. Evidence of the title IV-E agency or another public agency's responsibility for placement and care of the child can be documented in the language of the voluntary placement agreement or in the court order. Placement and care responsibility may be granted at removal or at any point in the foster care episode. However, Federal financial participation may not be claimed before the eligibility requirement of "placement and care" is met.

If documentation is not presented that verifies the title IV-E agency or another public agency has placement and care responsibility of the child for the PUR, the sample case is cited as an error case and included in the determination of substantial compliance. The foster care maintenance payments and administrative costs claimed are disallowed for any period of ineligibility.

When the title IV-A State plan authorizes Federal financial participation for an 18-year-old, the title IV-E agency must provide verification through the PUR to substantiate that placement and care responsibility for the youth is retained beyond the age of 18. [See "Age and School Attendance" in the following section for further discussion on this subject.] If the title IV-E agency does not present documentation that verifies the title IV-E agency or another public agency has placement and care responsibility of the youth during the PUR, the sample case will be cited as an error case and included in the determination of substantial compliance. The foster care maintenance payments and administrative costs claimed will be disallowed for the period of ineligibility.

When Payments Begin and End. The child becomes ineligible under title IV-E on the day of the month that the title IV-E agency loses responsibility for the placement and care of the child and remains ineligible until the title IV-E agency, or another public agency with a title IV-E agreement, verifies it has placement and care responsibility for the child.

The otherwise eligible child becomes eligible on the day of the month that the title IV-E agency, or another public agency, regains placement and care authority, whereupon the title IV-E agency may claim Federal financial participation for the entire month.

AFDC Eligibility

The purpose of the title IV-E foster care program is to provide financial assistance to title IV-E agencies for the care of children in foster care who meet the eligibility requirements for the former Aid to Families with Dependent Children (AFDC) program. Thus, a child's eligibility for title IV-E maintenance is predicated partially on the child's eligibility for AFDC. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (P.L. 104-193), which repealed the AFDC program, requires title IV-E agencies to apply the AFDC eligibility requirements that were in place in the State's title IV-A plan on July 16, 1996 (disregarding any Section 1115(a) waivers that may have been in effect on that date), when determining whether children are eligible for Federal foster care assistance. If the child was removed from the home before July 16, 1996, title IV-E agencies are to apply the AFDC eligibility requirements that were in place in the title IV-A State plan at the time of the child's removal.

In general, to meet the AFDC requirements the child must be determined to be a "dependent child." The term "dependent child" means a child in need who (1) has been deprived of parental support or care, (2) has been living with a parent or other specified relative in a place maintained as the home of the relative, and (3) has not reached the maximum age designated for program eligibility. The AFDC provisions related to title IV-E eligibility are summarized in the narrative that follows and in the "Matrix of AFDC Factors Related to Title IV-E Foster Care Eligibility," Appendix 9.

For purposes of the IV-E review, during the month of the voluntary placement agreement or initiation of removal court proceedings, the title IV-E agency is expected to document that the child is: (1) removed from the home of a specified relative; (2) living with that same specified relative within 6 months of removal; and (3) AFDC-eligible in that

home in the month of removal. In the home from which the child was removed, the child also must have been (1) financially needy and (2) deprived of parental support or care.

There is no eligibility linkage between the AFDC program and the Temporary Assistance to Needy Families (TANF) program. Therefore, a child's eligibility for AFDC is not based on a child's eligibility for TANF. The TANF income, however, is excluded from the AFDC budget computations. This exclusion is because, in accordance with Federal policy, TANF is a needs-based program that also considers the individual's needs, income, and resources in determining recipient eligibility for the program.

Determining Dependency

Financial Need

The title IV-E agency must establish that the child is financially needy using criteria in effect as of July 16, 1996, in the title IV-A State plan.

AFDC Removal Home. The determination of financial need is based on the home from which there is a valid removal of the child, i.e., the removal is in accordance with a judicial determination that to remain in the home would be contrary to the child's welfare or a signed voluntary placement agreement. [See "Removal from a Specified Relative" in this section of the guide for further discussion on this subject.]

Under title IV-E, the home from which the child is removed is the home of the parent or other specified relative who is the subject of the judicial finding of "contrary to the welfare" or who enters into the voluntary placement agreement with the title IV-E agency. If the child is living with an interim caregiver at the time the child is judicially removed or voluntarily placed from the parent, the eligibility determination of financial need is based on the home of the parent, even when the child is physically removed from the interim caregiver.

Persons Included in AFDC Family Unit. The composition of the AFDC family unit must be determined first in establishing whether the child is financially needy. The AFDC family unit is defined

as a group of individuals whose income, resources, and needs are considered as a unit for purposes of determining AFDC eligibility.

In accordance with 45 CFR § 206.10(a)(1)(vii) and 206.10(b)(2), the title IV-E agency must include in the family unit the child, the natural or adoptive parents of the child, and the minor, blood-related (or adoptive) siblings of the child who live in the same household as the child. In States with support laws of general applicability that require a step-parent to support step-children to the same extent as a natural or adoptive parent, step-parents married under State law to the natural or adoptive parent and in the same household as the child also must be included in the family income unit. Also, if paternity is legally established by a court or an administrative process provided for under State or Tribal law, the parental relationship with the child is assessed in the same way as that of a biological or adoptive parent. This means that the parent is a mandatory member of the AFDC family unit and the individual's needs and income are included in the budget computations to determine whether financial need exists for the child and are considered in determining whether deprivation exists for the child [45 CFR § 233.90(c)(1)(i)]. [See the following section for exceptions to this rule.]

Child-Only Assistance Unit. When there is a removal of the child from the home of a specified relative other than the parent, the title IV-E agency can consider the assistance unit to include only the child, and the child's minor siblings living in the same home as the child, when looking at financial need in that specified relative's home. This applies in all situations except those where the title IV-A State plan (in effect 07/16/1996) specifically required inclusion of the relative's income and resources.

Persons Excluded From AFDC Family Unit. Certain other individuals who live in the same household as the child are excluded from the family unit because they are not eligible for the AFDC program due to other provisions of the Act. For example, the AFDC regulations at 45 CFR §§ 233.20(a)(1)(ii) and 233.20(3)(x) exclude the needs, income and resources of individuals who are eligible to receive benefits under title XVI of the Act [legislative authority for Supplemental Security

Income (SSI)] in determining the needs of an AFDC assistance unit. These individuals also are not considered part of the assistance unit for determining financial need.

If the Social Security Administration has determined that the child is qualified to receive SSI and the removal month is within the period of SSI eligibility, the child is considered to have met the AFDC financial need criteria for both income and resources.

AFDC Removal Month. Consistent with § 472(a) of the Act, the AFDC determination must be made for (and AFDC eligibility must be met in) either the month the court proceeding leading to the requisite judicial determination is initiated through a removal petition or removal court order or the month the voluntary placement agreement is signed.

The child must be eligible for AFDC in the removal home in the month of, but prior to, the child's removal from that home. "Prior to" removal means that when determining the child's AFDC eligibility, the agency must consider the child's household circumstances that exist prior to the day of the child's removal. Any familial or economic changes that occur after the child's removal may not be considered. If the removal occurs in the same month as the removal petition or the voluntary placement agreement, only the circumstances in the child's home prior to the removal can be considered in determining the child's AFDC eligibility for that month. For example, if the child is placed in foster care on 11/5 with a removal court order of "contrary to the welfare" on the same date and the removal petition is filed on 11/17, the determination is based on the AFDC household's circumstances during November 1-5. However, if the removal does not take place until the following month, the AFDC determination must be based on the circumstances in the child's home (meaning the AFDC removal home) for the entire month in which the court proceedings were initiated or the voluntary placement agreement was signed. For example, if the child is placed in foster care on 12/5 with a removal court order of "contrary to the welfare" on the same date and the removal petition is filed on 11/17, the determination is based on the AFDC household's circumstances during November 1-30.

Determining Financial Need. After establishing the AFDC family unit, the title IV-E agency must determine financial eligibility based on the income and resources available to the members of the AFDC family unit during the month of the voluntary placement agreement or the initiation of court proceedings to remove the child from his/her home. Income and resources are considered available when the money or asset is accessible for use by an individual in the family unit.

Determining financial eligibility involves three computations: (1) determining whether the AFDC family unit has resources in excess of the limit; (2) performing the gross income test; and (3) comparing the countable income to the State's standard. In considering income to determine whether need exists for the AFDC family unit, the title IV-E agency must use the former AFDC program's two-step income test [see 8.4B, Question #18 of the CWPM]:

1. **Gross Income Limitation:** After applying applicable disregards, the family's available gross income is measured against 185% of the State's AFDC standard of need for a family of the same size. If the family's total income before application of certain earned income disregards exceeds 185% of the AFDC need standard, the child does not meet the eligibility requirements for the AFDC program. [See 45 CFR § 233.20.]
2. **Need Determination:** If the family's total available income is less than or equal to 185% of the AFDC need standard, additional allowable disregards are applied and the family's countable income is measured against 100% of the need standard, the same need standard used in step one. If the family's total available income exceeds 100% of the AFDC need standard, the child does not meet the eligibility requirements for the AFDC program. [See 45 CFR § 233.20(a)(3).]

When considering the real and personal property to determine whether financial need exists for the family unit, the combined value of available, non-excludable resources for the family unit must not exceed \$10,000. [In accordance with § 472(a)(3)(B) of the Act, as amended.]

Beginning April 1, 2010, a child who has been determined to meet the initial AFDC eligibility requirements related to financial need is considered under title IV-E to meet the AFDC financial need requirements throughout the foster care episode, regardless of subsequent changes in income and resources. [Refer to Question #24, 8.4A of the CWPM and to the section on AFDC redeterminations in this guide for additional information on the AFDC re-determination policy.]

Deprivation

The title IV-E agency must establish that the child is deprived of parental support or care. As with financial need, the determination of deprivation must be established based on the circumstances of the child's parents that existed during the month the court proceedings leading to the requisite judicial determinations were initiated or the voluntary placement agreement was signed.

The regulations at 45 CFR § 233.90 define deprivation of parental support or care of the child as a child who is in need and whose parent, either father or mother:

- has died; or
- has a medically documented physical or mental incapacity; or
- is continually absent from the home in a manner such that the absence interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child; or
- is unemployed and is the principal wage earner in the family assistance unit (title IV-A State plan option).

Deprivation may not be based on the fact that the child is placed in foster care and absent from the home or that the child is incapacitated. Consistent with 45 CFR § 233.90(c)(1)(i), the determination of deprivation is made in relation to the child's natural or adoptive parent or in relation to a step-parent who is married to the child's natural or adoptive parent (in States with a support law of general applicability for step-parents). This determination is irrespective of whether the child is removed from the home of a parent or another specified relative.

Beginning April 1, 2010, a child who has been determined to meet at removal the AFDC eligibility requirement related to deprivation is considered under title IV-E to meet the AFDC deprivation requirement throughout the foster care episode, regardless of subsequent changes in the parental conditions related to the deprivation factors. [Refer to Question, #24, 8.4A of the CWPM and to the section on AFDC redeterminations in this guide for additional information on the AFDC re-determination policy.]

Living With a Specified Relative

Sections 472(a)(1) and (3) of the Act and 45 CFR § 1356.21(l) require a child to have lived in the home of a parent or other relative specified at 45 CFR § 233.90(c)(1)(v) and to have been eligible for AFDC in that relative's home in the month the removal court proceedings are initiated or the voluntary placement agreement is signed. If the child is not living with the specified relative from whom there is a judicial removal or voluntary placement, the child must have been living with that specified relative at some time within the six months prior to the month of the initiation of court proceeding leading to the judicial removal or of the voluntary placement agreement. (Calculation of the 6-month period is based on calendar months and is not counted from date to date; for example, April 1 - October 31). The child also must have been AFDC-eligible in that specified relative's home in the month of, but prior to, the child's physical or constructive removal, as if the child still had been living with that relative in the month of the initiation of court proceedings or signing of the voluntary placement agreement. [See discussion below for the limited exception to this requirement that pertains to States under the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit.]

A child is considered to meet the requirement of living with one of the relatives specified in the regulations at 45 CFR § 233.90(c)(1)(v) if the child lived with a parent or person in one of the following groups:

- any blood relative, including those of half-blood, and including first cousins, nephews, or nieces; persons of preceding generations

as denoted by prefixes of grand, great, or great-great;

- stepfather, stepmother, stepbrother, and stepsister;
- persons who legally adopt a child or the child's parent as well as the biological and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with State law; and
- spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce.

Removal From a Specified Relative (Title IV-E Requirement)

In addition to “living in the home of a specified relative”, § 472(a) of the Act and 45 CFR § 1356.21(k) require the child to have been removed from the home of a relative as specified at 45 CFR § 233.90(c)(1)(v) and to have been eligible for AFDC in the month the removal court proceedings are initiated or the voluntary placement agreement is signed. The provisions at § 472(a)(2)(A) of the Act and 45 CFR § 1356.21(k) mandate that the removal occur according to a voluntary placement agreement authorizing a physical or constructive removal of the child from the home of the specified relative who enters into a voluntary placement agreement with the title IV-E agency or who is the basis of the judicial determination of “contrary to the welfare”.

For a child removed before March 27, 2000, the agency must have physically removed the child from the home of the specified relative that is the subject of the judicial determination that it is contrary to the welfare for the child to remain in that home. For example, presume a child is living with an interim related caregiver in the month the court proceedings are initiated to remove the child from his or her home. To satisfy title IV-E, the title IV-E agency must have physically removed the child from the interim related caregiver to meet the removal requirement. This is the case even if the child had lived with the specified relative from whom the child is being removed within 6 months of the initiation of court proceedings.

For a child removed on or after March 27, 2000, the agency must either physically or constructively remove the child from the home of the specified relative from whom the child is judicially or voluntarily removed. Consistent with the regulations at 45 CFR § 1356.21(k), a child is constructively removed when the requisite judicial determination or voluntary placement agreement sanctions the child's removal from the parent or another specified relative while the child is living in the home of an interim caregiver, related or unrelated. In this situation, the child's removal from that specified relative takes place on paper only because a physical removal from that specified relative's home is not possible since the child is living with an interim caregiver at the time of the judicial determination or voluntary placement agreement. In a constructive removal, the child does not need to be physically removed from the home of that interim caregiver.

The child is considered constructively removed on the date of the first judicial order removing the child from the home or the date the voluntary placement agreement is signed by all relevant parties. A child is not considered to be constructively removed when the child is living with and under the care of the specified relative from whom the child is removed according to the judicial order or voluntary placement agreement.

As stated earlier, the child must have been living with the specified relative within six months of the judicial removal or voluntary placement from that specified relative. If the child is living with an interim caregiver during the month of the voluntary placement agreement or initiation of court removal proceedings, but has lived with the specified relative (from whom judicially removed or voluntarily placed) at some point during the 6 months before the voluntary placement agreement or initiation of court proceedings, the child is considered to have been living with and constructively removed from the home of the specified relative from whom he or she was judicially or voluntarily removed. AFDC eligibility must be determined for that specified relative as if the child had been living in the relative's home in the month of the initiation of court proceedings or the voluntary placement agreement.

Living With/Removal From Same Specified Relative (Title IV-E Requirement)

The “living with” and “removal from” requirements must be satisfied by the same specified relative and AFDC eligibility must be based on that relative’s home. The statute did not contemplate the “living with” and “removal from” requirement to be satisfied by two discrete individuals. In a judicial removal, the AFDC eligibility is based on the home of the specified relative who is the subject of the “contrary to welfare” judicial determination. When the home from which the child is judicially removed is not specifically identified in the court order, the removal petition and other case documentation can be used to determine the removal home. In a voluntary placement removal, the AFDC eligibility is based on the home of the specified relative who signs the voluntary placement agreement.

The only exception to the requirement that the child be “living with” and “removed from” the home of the same specified relative is when a child, at the time of removal, resided in a State that is under the jurisdiction of the United States Court of Appeals for the Ninth Circuit (hereafter Ninth Circuit). Between the date a State had amended its title IV-E plan to allow the provision and June 9, 2006, States in the Ninth Circuit could base a child’s AFDC eligibility on either: (1) the home from which the child was judicially or voluntarily removed, or (2) the home of any other specified relative with whom the child lived in the 6 months prior to removal. This was known as the *Rosales* exception. ACF released a policy directive on June 9, 2006, that advised title IV-E agencies about the phasing-out of certain title IV-E eligibility claims as a result of the Deficit Reduction Act (DRA)(ACYF-CB-IM-06-02)⁵.

⁵ The Deficit Reduction Act of 2005 amended § 472(a) of the Act to clarify that a child must be AFDC-eligible in the specified relative’s home from which the child is removed in accordance with a voluntary placement agreement or judicial determinations to the effect that continuation in the removal home is contrary to the child’s welfare. Refer to Program Instruction ACYF-CB-IM-06-02.

Children whose eligibility was based on the home of a specified relative other than the specified relative from whom the child was removed following a court order or voluntary placement agreement ceased to be eligible for title IV-E no later than the date of the child’s annual redetermination of eligibility that occurred in or after June 2006. Therefore, all children who had been found eligible under the *Rosales* exception would become ineligible no later than June 30, 2007. If any such case is included in the IV-E review sample after the date the child’s redetermination was due between June 2006 and June 2007, the case will be in error.

Age and Extended Title IV-E Assistance Under Title IV-A

As stated previously in this section, to initially meet the AFDC requirements the child must be determined to be a dependent child, that is, a child who has been deprived of parental support or care, living with a parent or other specified relative in a place maintained as the home of the relative, and who has not reached the maximum age designated for program eligibility.

AFDC eligibility may be granted to an eligible child who is under 18 years of age. When a child reaches his or her 18th birthday, eligibility for AFDC, and thus title IV-E, generally stops at the end of the month the child turns 18, with certain specified exceptions.

Exceptions to the Age Requirement. Under 45 CFR § 233.90(b)(2), a State may have elected in its AFDC plan (as in effect 7/16/1996) to provide coverage for eligible youth up to 19 years of age. The conditions for continued title IV-E payments for these eligible youth are that the youth (1) must be a full-time student in a secondary school or its equivalent level of vocational training or technical training; and (2) is expected to complete the educational program before reaching age 19.

This provision is not related to a title IV-E agency’s option to extend title IV-E foster care maintenance payments to a youth up to age 21 pursuant to

§ 475(8)(a)(iii) of the Act⁶. A youth covered under this title IV-E plan option is not subject to the IV-E review at this time and is excluded from the case review sample. This exclusion applies even if the title IV-A plan option is exercised by the title IV-E agency. Compliance with the age and school attendance requirements for the title IV-E plan option is covered under regulations at 45 CFR § 1355.32(d), which provide for a partial review process.

When Payments Begin and End. If the State only exercised the AFDC plan option, eligibility for title IV-E foster care ceases at the end of the month in which the otherwise eligible youth, age 18 and older, leaves school or when the youth turns 19, whichever occurs earlier. Title IV-E eligibility also stops at the end of the month in which it is determined that the otherwise eligible youth, age 18 and older, will not complete the educational program before reaching age 19.

If the State did not elect to include the school attendance requirement in its AFDC State plan, eligibility for title IV-E foster care ceases at the end of the month the otherwise eligible child turns age 18.

Documentation Expectations. The title IV-E eligibility requirements in § 472 of the Act apply to youth in extended title IV-E assistance to the same extent as they apply for a child under the age of 18, including placement and care responsibility with the title IV-E agency. However, for the youth at age 18, there are additional title IV-E eligibility requirements that must be met pertaining to the youth's age and completion of an education program.

As noted, to continue to be eligible for title IV-E foster care up to age 19, the title IV-E agency must document that the otherwise eligible youth is under the placement and care responsibility of the title

IV-E agency. A court order extending the title IV-E agency's responsibility for the youth beyond age 18 or a voluntary placement agreement the youth signs that explicitly authorizes continuing the title IV-E agency's placement and care of the youth can satisfy the placement and care requirement.

For the IV-E review, documentation of age is not considered unless there are questions about the age of a youth who may be 17 years old or older. Then, a birth certificate or equivalent source document should be used to verify the birth date.

School attendance also is not an eligibility consideration unless the youth is 18 years old or older and the title IV-E agency chooses under its title IV-A plan to claim title IV-E maintenance payments for a youth beyond age 18. School records, independent living plans, or other equivalent documentation are examples of evidence that may be used to satisfy the school attendance requirement.

In summary, when the youth is 18 years old in the PUR, the IV-E review will determine whether the title IV-E agency has an approved title IV-A plan provision for extended coverage of such youth and whether the covered youth has met the specified age requirements for extended title IV-E coverage under the title IV-A plan.

Documenting AFDC Eligibility

AFDC Eligibility. During the IV-E review, the title IV-E agency must document for the most recent foster care episode that the child is financially needy and deprived of parental support or care during the month of the child's removal from home in accordance with a judicial order or voluntary placement agreement. For the determination of the child's financial need and deprivation, the documentation must verify that financial need is evaluated and specify the reason that the child is deprived of parental support or care. The manner used to substantiate that the school attendance criterion is satisfied for the 18-year-old also must be included.

Unless otherwise specified, the method for substantiating financial need and deprivation is derived from the title IV-E agency's policy and

⁶ The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), among other things, amended the Social Security Act at § 475 to create a title IV-E plan option to extend eligibility for title IV-E foster care to age 21.

procedures. The documentation should include enough information so that the reviewer can be assured that the title IV-E agency correctly followed its process in making the eligibility determination. There should be a specification of how the child is determined to be in need and deprived of parental support or care. The eligibility documentation should provide a clear, evidence-based path to the eligibility decision.

Review Expectations. For the IV-E review, reviewers are not expected to independently make a determination of the child's eligibility. Instead, reviewers are expected to examine the title IV-E agency's AFDC worksheet and any other documentation of eligibility presented by the agency to confirm that the agency determined a child's AFDC eligibility for the month in which the voluntary placement agreement is signed or initiation of proceedings to remove the child from the home of a specified relative. As noted earlier in this chapter of the guide, a title IV-E agency's determination of AFDC eligibility must be based on the State's AFDC plan (in effect July 16, 1996) and must establish that the child (1) had lived with a specified relative, (2) met financial need, (3) was deprived of parental support and care, and (4) met the age requirement in accordance with the State's 1996 AFDC plan.

The determination of eligibility is questioned only when there is missing or contradictory information pertaining to compliance with an eligibility requirement. Under these conditions, the concern is discussed with the title IV-E agency and the title IV-E agency is permitted to provide additional documentation. If the follow-up action sufficiently clarifies the issues and substantiates compliance, the AFDC eligibility requirement is considered met. If the compliance issue remains unresolved after follow-up with the title IV-E agency, before a case is rated as ineligible, a synopsis of the case facts, the eligibility issue and reason for non-compliance is sent electronically to the CB Central Office Team Leader for the IV-E reviews. An electronic copy of supporting material also is sent.

When Payments Begin and End. If it is determined the child does not meet one of the requirements for AFDC eligibility, the child is ineligible for title IV-E for the entire foster care

episode. The child's case will be an error case and the ineligible foster care maintenance payments and administrative costs that were made for the child will be disallowed.

Documenting Ongoing AFDC Eligibility (Re-determination)

Ongoing AFDC Eligibility. Title IV-E agencies were expected to conduct annual AFDC re-determinations of eligibility through March 31, 2010. However, beginning April 1, 2010, a title IV-E agency no longer is required to annually re-determine a child's AFDC eligibility in order for the child to continue to be eligible for title IV-E foster care maintenance payments. A child must have met the AFDC eligibility requirements per § 472(a)(3) of the Act in the month of the initiation of the judicial removal from the home or of the entering into a voluntary placement agreement.

For IV-E reviews conducted in or after April 2010, the reviewer will not verify whether a title IV-E agency has completed annual AFDC re-determinations of eligibility or otherwise considered any subsequent changes in a child's financial or parental status after the child is determined eligible for AFDC. However, for the youth who is over age 18 in the PUR under the State's 1996 AFDC plan, as noted, the reviewer will continue to look at whether the age and school attendance requirements are met for the period of title IV-E maintenance payments claimed for the PUR.

Reconstructing AFDC Eligibility

The title IV-E agency may reconstruct the AFDC factors to verify the child's initial eligibility if 1) there is not a determination of AFDC eligibility, 2) the title IV-E agency conducted the child's AFDC determination on the wrong specified relative or used the wrong AFDC month or 3) the title IV-E agency subsequently receives information that will change the agency's previous determination regarding the child's initial eligibility.

To reconstruct AFDC eligibility, the title IV-E agency must retrospectively establish the case facts that existed for the eligibility month using the State's AFDC eligibility criteria in effect as of July 16, 1996, or in effect for the period in question if the

child is removed before July 16, 1996. Perfunctory check-off of an AFDC worksheet without the title IV-E agency fully exploring and documenting the pertinent case facts will not suffice for establishing eligibility. As stated previously, there must be a specification of how the child is determined to be financially needy and deprived of parental support or care. The eligibility worksheet or summary should provide a clear, evidence-based path to the eligibility decision.

If the title IV-E agency is unable to demonstrate with certainty that the child is AFDC eligible at removal, any title IV-E payments made for the questionable determination are disallowed and the case will be in error for the life of the foster care episode. Similarly, if the title IV-E agency is able to reconstruct the AFDC eligibility, but determines the initial eligibility requirements are not met, the case is in error and the title IV-E payments are disallowed for the entire foster care episode.

Placement in a Licensed Foster Family Home or Childcare Institution

To qualify for title IV-E foster care maintenance payments, the child must be in a foster care placement that meets the standards for full licensure or approval established by the State or Tribe where the foster care placement is located [See § 472(c) of the Act.]

Foster Care Placement Type. Consistent with § 472(c) of the Act, foster care placement types include foster family homes, group homes, private childcare institutions, or public childcare institutions that accommodate 25 or fewer children. Note that otherwise eligible youth who have attained age 18 and reside in supervised independent living settings are title IV-E-eligible. Children who are placed in detention facilities, forestry camps, training schools, or other facilities that operate primarily for detaining children adjudged delinquent are not eligible under title IV-E. Youth under age 18 who reside in supervised independent living settings are not title IV-E eligible. Children placed in pre-adoptive family homes also are not title IV-E eligible unless the homes are licensed or approved as foster family homes.

Full Licensures. Licenses or approvals, such as probationary or provisional, that are issued to a foster family home or childcare institution because the foster care placement fails to satisfy all of the licensing agency's standards for full licensure or approval render the children who are in the foster care placement not eligible under title IV-E. In addition, the title IV-E agency may not claim title IV-E maintenance payments for a child who is in a foster care placement where a license is suspended, closed, or terminated, or for which an interim license is issued pending satisfaction of a licensing standard (for example, waiting for the results of a criminal records check or completion of a foster care training program).

The Federal statutes and regulations, as noted, require that the child's foster care placement be licensed or approved in accordance with the applicable State or Tribe licensing standards. Such standards must be applied uniformly to all foster family homes and childcare institutions that provide foster care. The only exception to this requirement is that the governing licensing agency may waive certain non-safety standards in relative foster family homes for children in their care, on a case-by-case basis. [See ACYF-CB-PI-CB-10-11.] Past confusion in the field about the Federal statutory terminology of "licensed" and "approved" led title IV-E agencies to interpret incorrectly that the statutes allowed a two-tiered system for certifying foster family homes. Consequently, the Final Rule that was published on January 25, 2000, amended the Federal statutory definition of foster family homes to clarify that the statute does not make a distinction between a licensed foster family home and an approved foster family home.

The term "licensed" is used in this guide to denote foster family homes and childcare institutions that meet all of the licensing agency's standards for full licensure, approval, certification, or other synonymous term for licensure.

Foster family homes and childcare institutions may be licensed by the State agency responsible for licensure or by a Tribal authority with respect to (1) a foster family home on or near an Indian reservation, or (2) a Tribal authority or a Tribal title IV-E agency in the case of a foster family home in the Tribal title IV-E agency's service area.

For a foster family home licensed before March 27, 2000, Federal reimbursement was allowed for the period of March 27, 2000, through September 27, 2000, if the home did not meet full licensure status for that period. These foster family homes, including those licensed by a child-placing agency, must meet full licensure beginning October 1, 2000.

For a foster family home licensed on or after March 27, 2000, there is no grace period to allow the foster care provider to come into compliance with the requirement for full licensure. These foster family homes, including those licensed by a child-placing agency, must meet full licensure as of April 1, 2000.

For a childcare institution, there was no grace period to allow the foster care provider to come into compliance with the requirement for full licensure regardless of when licensed because it was not necessary to clarify within the final rule the statutory definition of a childcare institution.

Inter-Jurisdictional Placements. In situations where a child is placed in foster care with a provider that lives across State lines, the documentation must include information to verify that the foster family home or childcare institution meets the licensing standards of the State or Tribe where the foster family home or childcare institution is located.

Non-Compliance With Title IV-E Plan. The IV-E review does not evaluate the adequacy of a title IV-E agency's licensing standards or examine whether the title IV-E agency has complied with its own licensing standards. This is because § 471(a)(10) of the Act grants to States the responsibility for setting uniform standards of licensure. (However, as a separate eligibility requirement, the eligibility review will assess whether the title IV-E agency has complied with the licensing standards that specifically pertain to the Federal criminal records check and safety requirements for foster care eligibility). A title IV-E agency's failure to adhere to its licensure protocol is treated as an issue of compliance with § 471(a)(10) of the Act and the plan under title IV-E. The regulations at 45 CFR § 1355.32(d) authorize the CB Regional Office to explore separately from the IV-E review whether the issue of concern constitutes a violation of the

title IV-E plan requirements and whether corrective measures are necessary following the IV-E review.

If it is determined during the course of the IV-E review that full licensure status is given to a foster care setting that does not comply with the licensing agency's standards, the noncompliance is reported as an observation in the final findings of the IV-E review.

Documentation Expectations. Licensing documentation for the foster family home or childcare institution where the child resides during the PUR must include, at a minimum, a copy of the provider license, certificate, letter of approval or other official evidence of permission that verifies licensure status and type throughout the child's stay in the placement, even when the foster care provider resides in another jurisdiction.

As provided by the provisions at 45 CFR § 1356.71, the IV-E review assesses whether the child's foster care placement during the PUR is fully licensed. The eligibility review also assesses whether the placement type is consistent with the type of foster care setting that is allowable under title IV-E. If a child is in a foster care placement that does not comport with the Federal definition of an allowable type of foster care placement for title IV-E eligibility, the title IV-E agency may not claim title IV-E payments on behalf of the child. If the child is in such a foster care placement and title IV-E payments are made on behalf of the child, the payments are disallowed. If ineligible payments are made for a period during the PUR, the case is in error.

Title IV-E foster care maintenance payments may not be made on behalf of a child placed in a foster family home or childcare institution that is not fully licensed. When ineligible title IV-E foster care maintenance payments are made for a period during the PUR, the case will be in error and the ineligible title IV-E foster care maintenance payments will be disallowed. In addition, when title IV-E foster care maintenance payments are made for a period solely outside the PUR, the ineligible title IV-E foster care maintenance payments will be disallowed.

When Payments Begin and End. The title IV-E agencies may claim title IV-E payments for an eligible child for the period between the date the child's foster care placement fully satisfies all of the governing licensing agency's requirements for licensure and the date the actual licensing document is issued, not to exceed 60 days. The 60-day period begins when the licensing agency obtains all of the necessary documentation to substantiate the foster care placement's full compliance with the licensure standards.

A foster family home or childcare institution that becomes fully licensed at any time during a month is considered licensed for the entire month. As such, the title IV-E agency may claim title IV-E foster care maintenance payments for the entire month when an otherwise eligible child has resided in that foster care placement for the entire month.

If during the month a foster family home or child-care institution loses its status of fully-licensed due to its failure to satisfy all of the applicable licensing agency's standards, the otherwise eligible child in the foster care placement becomes ineligible. The title IV-E agency may not claim title IV-E foster care maintenance payments for the ineligible child beginning on the day in the month (and thereafter) that the foster care placement does not fully comply with the licensing standards. The otherwise eligible child in such foster care placement becomes eligible under title IV-E back to the first day of the month in which the foster care placement comes into full compliance with the licensing authority's standards.

In cases where an otherwise eligible child is (1) absent from the foster care placement, (2) the absence does not exceed 14 days in the month, and (3) the child's placement continues with the same provider upon return, the title IV-E agency may claim a title IV-E foster care maintenance payment for a full month for the child's placement. Otherwise, the title IV-E agency must prorate its claims if the child is absent from the placement for more than 14 days in the month or the child does not return to the same foster care placement. [See 8.3B, Question #7 of the CWPM]

Although title IV-E maintenance payments may not be claimed for a child placed in an unlicensed

foster family home, the associated administrative costs may be claimed in accordance with § 472(i) of the Act and Program Instruction ACYF-CB-PI-06-06.

Lapsed License. The title IV-E agency's policy regarding when and how licenses expire is applied when considering whether a foster care placement is fully licensed during the period that falls between the license end date and license renewal date. If the policy of the applicable licensing agency is that a foster family home or childcare institution is fully licensed (i.e., the license is not provisionally issued, suspended, revoked, or otherwise invalidated), even when the licensing renewal process is not completed timely, then the home is considered fully licensed for purposes of title IV-E eligibility. Safety concerns regarding the lapsed license of a foster care placement or a child-placing agency that has authority to license foster family homes it administers should be reported as an observation in the final findings of the IV-E review.

Safety Requirements for Foster Family Home and Child Care Institution

To ensure that a child is not in a foster care placement where the potential caregiver has caused or is likely to cause harm to a child, § 471(a)(20)(A) of the Act and 45 CFR § 1356.30 require title IV-E agencies to examine the potential safety risks posed to the child by a foster care provider.

The IV-E review, through the provisions at 45 CFR § 1356.71, assesses whether the child's foster care placement during the PUR meets the safety requirements for the entire time the child resided in the placement in the PUR and for the period in which the title IV-E foster care maintenance payments are made on behalf of the child.

Note that while title IV-E requires a title IV-E agency to comply with the safety requirements as a condition of full licensure, the title IV-E review evaluates full licensure and safety as separate eligibility criteria. As such, documentation of licensure, alone, is not sufficient to document the title IV-E agency's compliance with the safety requirements.

The safety requirements for foster family homes differ from those for childcare institutions. For foster family homes, as described below, criminal records checks are required. However, for former opt-out States, as described below, the requirement is to ensure that the safety measures for foster family homes are addressed in accordance with the requirements of the licensing agency where the foster family home is located. For childcare institutions, as described below, the requirement is to ensure that safety considerations with respect to the caregiver staff of the childcare institution are addressed in accordance with the requirements of the licensing agency where the childcare institution is located.

Foster Family Home Requirements

In accordance with ACYF-CB-PI-10-02, “prospective” and “newly licensed” refer to a foster family home that is a home being licensed for the first time, or a home for which a previous license expires (per the licensing agency’s policy) or is terminated.

For title IV-E eligibility purposes, once a prospective foster family home is licensed, subsequent criminal record checks⁷ (CRC) are not required as long as the home is continuously licensed. This is true even if the licensing agency requires the completion of a new criminal records check at the time of license renewal. A foster family home that is required to go through periodic licensure to remain valid under a governing licensure provision is not considered “prospective” for the purpose of applying Federal CRC requirements. However, if a foster family home license expires and cannot be renewed pursuant to the licensing authority’s requirements, or if the license is terminated or otherwise rescinded for any reason, the foster parent(s) must be considered

⁷ When we use the term “criminal records check” in the discussion on prospective foster family homes, it also refers to the safety considerations in 45 CFR § 1356.30(e) for the former opt-out States.

“prospective” with any new application for licensure and a new CRC must be conducted in connection with the new license.

Section 471(a)(20) of the Act requires that the safety requirements for prospective foster parents be met prior to licensure. However, the issue of whether the applicable safety requirements are met prior to the foster family home’s licensure is a matter of title IV-E plan compliance. It is not an eligibility issue and consequently is not reviewed for compliance during the IV-E review.

For title IV-E eligibility, the child’s foster family home must comport with the safety requirements at § 471(a)(20), as applicable; 45 CFR § 1356.30(f); and ACYF-CB-PI-10-02. The title IV-E agency must document that the foster parents meet the applicable safety requirements for the period that the title IV-E foster care maintenance payments are made on behalf of the child residing in the foster family home during the PUR.

The documentation requirements for the CRC (or background safety checks for former opt-out States) for foster family homes differ based on whether a foster parent becomes newly licensed before or after October 1, 2008 (or the title IV-E agency’s approved delayed effective date in either case), as specified below.

Non Opt-Out State, November 1997 CRC Requirements

For a State that did not opt-out of the 1997 CRC requirements at § 471(a)(20)(A) of the Act and 45 CFR § 1356.30(a), the title IV-E agency must have completed a CRC at either the local, State or Federal law enforcement level for a foster parent who is newly licensed on or after November 19, 1997 (the effective date of the original CRC provision), or the State’s approved delayed effective date for the 1997 requirement, but before October 1, 2008 or the State’s approved delayed effective date for implementing the fingerprint-based CRC requirement.

Documentation expectations for the 1997 CRC requirements. The preferred documentation is the actual CRC results completed by the licensing agency where the foster parent’s home is located.

However, other acceptable documentation may include a letter or report signed by appropriate title IV-E agency staff or licensing staff that details the CRC results; electronic documentation of the CRC results maintained in the title IV-E agency's automated information system; or other official evidence that: (1) clearly verifies that a CRC has been completed at either the local, State, or Federal law enforcement level for the foster parent who is newly licensed during the dates noted above; (2) sufficiently substantiates that the foster parent has not been convicted of one of the prohibited felonies listed in §§ 471(a)(20)(A)(i) and (ii) of the Act and (3) the title IV-E maintenance payments are not made for a period prior to these conditions being met.

If the documentation presented is not the actual results of the CRC, the documentation will be accepted based upon the degree to which the documentation clearly specifies (1) the date the CRC is completed, (2) the name of the foster parent on whom the CRC is completed, (3) whether the foster parent(s) has convictions of prohibited felonies, (4) the evidence reviewed, and (5) the name of the individual performing the background check. Note that a statement that simply declares something like "all CRCs completed and persons cleared" is not sufficient documentation. As noted above, the documentation should explicitly reflect the evidence reviewed.

Regardless of the form of the documentation, it must clearly verify the CRC is completed as required for title IV-E eligibility and for the period that the title IV-E maintenance payment is made.

Opt-Out State, November 1997 Safety Requirements

For a State that opted-out of the 1997 CRC requirement at 45 CFR §1356.30(a), the State must have ensured that the safety measures pertaining to background checks established by the licensing agency in accordance with 45 CFR §1356.30(e) are addressed for a foster parent who is newly licensed on or after March 27, 2000, but before October 1, 2008, or the State's approved delayed effective date to implement the fingerprint-based check of the National Crime Information Databases (NCID).

Documentation expectations for safety considerations. The title IV-E agency must provide documentation that verifies all of the background checks prescribed by the licensing agency where the foster family home is located are met for the foster parent. The licensing agency is responsible for determining the type and frequency of background checks necessary to meet the established safety requirements. Accordingly, in the IV-E review, CB will examine the governing licensing agency's policies to determine how to review for the safety requirements under 45 CFR § 1356.30(e). For example, if the licensing agency's safety policy requires a check of the State child abuse registry, domestic violence registry and the State criminal history database, then the documentation must substantiate that each condition is satisfied for the period a title IV-E foster care maintenance payment is made on behalf of a child placed in the foster family home.

The preferred documentation for compliance with the safety requirement is the actual results of the various background checks. However, other acceptable documentation may include, but is not limited to, official material such as a letter or report signed by appropriate title IV-E agency staff or licensing staff that details the results of the background checks or electronic data maintained in the title IV-E agency's automated information system that records the results of the evidence examined to determine compliance with the governing safety requirements.

The documentation will be accepted based upon the degree to which the documentation clearly specifies (1) the background checks completed, (2) the date completed, (3) the name of the foster parent on whom the background check is completed, (4) the evidence reviewed, and (5) the name of the individual who performs the check. A statement that simply declares something like "the CRCs were completed and persons cleared" is not sufficient documentation. As noted, the documentation must explicitly reflect the evidence reviewed.

Regardless of the form of the documentation, it must clearly verify the safety requirement is completed as required for title IV-E eligibility and for

the period that the title IV-E maintenance payment is made.

October 2008 CRC Requirements⁸

For a foster parent who is newly licensed on or after October 1, 2008, or the State's approved delayed effective date for implementing the fingerprint-based CRC requirement, the title IV-E agency must complete a CRC that includes a fingerprint-based check of the NCID for the foster parent.

Documentation expectations for the NCID CRC requirements. The preferred documentation is the actual results of the CRC, which must include a fingerprint-based check of the NCID, conducted by the licensing agency. However, other acceptable documentation may include a letter or report signed by appropriate title IV-E agency staff or licensing staff that details the CRC results, electronic documentation of the CRC results maintained in the title IV-E agency's automated information system, or other official evidence that: (1) clearly verifies that a fingerprint-based CRC of the NCID is completed for the period in question; (2) sufficiently substantiates that the foster parent is not convicted of one of the prohibited felonies listed in §§ 471(a)(20)(A)(i) and (ii) of the Act and (3) the CRC requirement is met for the period that the title IV-E foster care maintenance payment is made.

If the documentation presented is not the actual results of the CRC, the documentation will be accepted based upon the degree to which the documentation clearly specifies (1) the date the fingerprint-based CRC is completed, (2) the name of the foster parent on whom the CRC is completed, (3) whether the foster parent has convictions of prohibited felonies, (4) the evidence reviewed, and (5) the name of the individual performing the check. A statement that simply

declares something like "all CRCs were completed and person cleared" is not sufficient documentation. As noted, the documentation must explicitly reflect the evidence reviewed.

Regardless of the form of the documentation, it must clearly verify the fingerprint-based CRC is completed as required for title IV-E eligibility and for the period that the title IV-E maintenance payment is made.

Childcare Institution Requirements

The CRC requirement at 45 CFR § 1356.30(a) does not cover childcare institutions. However, consistent with 45 CFR § 1356.30(f), the title IV-E agency must provide evidence that the safety requirements for background checks with respect to the caregiver staff of the childcare institution are completed in accordance with the requirements of the licensing agency where the childcare institution is located.

The safety requirement at 45 CFR § 1356.30(f) applies to childcare institutions that undergo a licensure process on or after March 27, 2000. The safety requirement applies in every situation regardless of the purpose of the conduct of the background checks for the caregiver staff of the institution, even when the background checks are performed to satisfy the requirements for the initial license, a license renewal, or a re-licensure on or after March 27, 2000.

The licensing agency is responsible for determining the type and frequency of background checks necessary to meet the standards established by the jurisdiction where the foster care provider is located. Accordingly, CB will look to the provisions of the governing agency for licensure to determine how to review for the safety requirements under 45 CFR § 1356.30(f).

The reviewers will examine documentation provided by the title IV-E agency to determine: (1) whether all of the licensing agency's established policies with respect to background checks for all caregiver staff specified for the licensing period are fully completed for the most recent period of the licensing agency's safety check schedule prior to (or, if applicable, during) the PUR; and (2) whether

⁸ The eligibility review does not monitor compliance with § 471(a)(20)(B) of the Act, which requires title IV-E agencies to conduct checks of child abuse and neglect registries. However, this is covered under regulations at 45 CFR § 1355.32(d), which provide for a partial review process.

the safety requirements are fully satisfied for the period that the title IV-E foster care maintenance payment is made for the child residing in the childcare institution during the PUR.

As examples:

1. If the State's safety provisions require that childcare institutions perform a check of the State child abuse registry, domestic violence registry and the State criminal history database, for each caregiver member prior to employment in order for the childcare institution to receive a new or renewed license, then the licensing file must document that each check is completed on each new staff employed under the license that is in effect during the child's placement in the PUR. The safety requirement is considered met for the IV-E review, if documentation verifies the condition is fully met in accordance with the State licensing agency's requirement for the period that the foster care maintenance payment under title IV-E is made on behalf of a child residing in the childcare institution during the PUR.
2. Or, if the State's policy is to annually verify that a sample of the childcare institution's caregiver staff have met the State's safety requirements, then documentation that the licensing authority has followed this process and confirmed that all of the background checks are met for the sample will be acceptable for the IV-E review. Assume, for example, the on-site review is conducted the week of February 22, 2010, for the PUR 4/1/2009 – 9/30/2009, and State policies require the State licensing authority to review a sample of the childcare institution's new caregiver staff every June to assure that criminal background checks of the State databases are performed prior to new staff employment for the previous 12-month period. In that case, reviewers will look to the licensing agency's documentation completed for June 2009 to confirm that the agency has verified that the sample of new staff hired between June 1, 2008, and May 31, 2009, have met the background check requirements. In this case, since the State's

policy requires an annual sampling to verify compliance with the safety requirements for childcare institutions, if documentation confirms that the State has followed those sampling procedures and documented compliance with the safety requirements, then the requirements in 45 CFR § 1356.30 will be met for the PUR. The caregiver staff hired after the State's June 2009 review would be subject to the June 2010 verification, therefore reviewers would not consider a case an error case because the licensing authority's sample did not consider new staff hired between June 1, 2009, and the end of the PUR. Reviewers also would not consider a case an error case if there were sampled staff who had not met the safety requirement timely, but the safety requirement was met for those staff for the period in the PUR that the title IV-E foster care maintenance payments were made for the child.

Documentation expectations for safety considerations in childcare institutions.

Documentation can include, but is not limited to, official material such as a checklist or monitoring report completed by the licensing authority; a letter or report signed by appropriate title IV-E agency staff or licensing staff that details the background check results; or electronic data maintained in the title IV-E agency's automated information system that records the results of the evidence examined to determine compliance with the governing safety requirements.

The documentation will be accepted based upon the degree to which the documentation clearly specifies (1) each of the background checks completed, (2) the name of the staff person on whom the background check is completed, (3) the date the check is completed, (4) the evidence reviewed, and (4) the name of the individual performing the check. For the IV-E review, the documentation must verify that all of the governing safety requirements for background checks are met for the period the title IV-E maintenance payments are made on behalf of a child residing in the childcare institution during the PUR. A mere review of the title IV-E agency's or childcare institution's policy and regulation on the safety requirements is

not sufficient to document compliance with the safety requirement. A statement that simply declares “all CRCs completed and persons cleared” also is not sufficient. As noted, the documentation must explicitly reflect the evidence that is reviewed. The documentation must clearly verify that the required background checks regarding the caregiver staff of the childcare institution are completed as required for the period the title IV-E maintenance payments are made.

Summary of CRC/Safety Consideration Compliance Expectations

Under the provisions at 45 CFR § 1356.71, IV-E reviews assess whether the foster care placement meets the applicable safety requirements for the period in which a title IV-E maintenance payment is made on behalf of a child residing in the foster care placement during the PUR. The title IV-E agency must clearly document that all of these conditions are satisfied. This means that, for either a foster family home or childcare institution, if it is determined that the child’s foster care placement does not meet the CRC or other safety requirements, as applicable, the title IV-E agency may not claim Federal financial participation under title IV-E on behalf of a child who is placed in the foster family home or childcare institution until all of the title IV-E requirements are met.

Inter-Jurisdictional Placements. The documentation requirements apply to a child’s foster care placement in the PUR regardless of the jurisdiction in which the foster care placement is located. Therefore, if the child is placed in an out-of-State foster family home or childcare institution, the title IV-E agency must provide documentation consistent with the type described above. That is, the documentation must verify that the foster parent or the caregiver staff in the childcare institution where the child is placed has complied with the applicable CRC or safety requirements established by the licensing agency where the foster care placement is located. The documentation will be accepted based upon the degree to which the documentation clearly specifies (1) each of the background checks completed, (2) the name of the individual on whom the background check was made, (3) the date the check was completed, (4) the evidence reviewed, and (5) the name of the

individual performing the check. For the IV-E review, the documentation must verify all of the applicable safety requirements are met for the period the title IV-E maintenance payments are made on behalf of a child residing in the foster family home or childcare institution during the PUR.

When Payments Begin and End. As noted, if title IV-E eligibility is attained within the month, the child is considered eligible for the entire month. Consistent with § 472 of the Act, title IV-E foster care maintenance payments may not be claimed on behalf of a child for a period that precedes the month all title IV-E eligibility criteria are met. So, if the otherwise eligible child is in a foster care placement for the entire month, the title IV-E agency can claim title IV-E maintenance payments for the entire month, as long as the safety requirement is met timely sometime during the month. On the other hand, if the otherwise eligible child is in the foster care placement on a date other than the first and the safety requirements are completed timely sometime during the month, title IV-E payments can be claimed back to the first day the eligible child is placed in the foster family home or childcare institution.

Also according to § 472 of the Act, title IV-E foster care maintenance payments may not be claimed on behalf of a child for a period after title IV-E eligibility ceases. This means that if compliance with the safety requirement is lost sometime during the month, the child’s title IV-E eligibility ends from that day forward until the requirement is met. For example, in the scenario where the licensing agency’s safety provisions require childcare institutions perform a check of the State child abuse registry, and the State and Federal criminal history databases before the caregiver staff are hired and all of the safety checks are completed for one of the employees during the month after the employee’s hire date, the child’s eligibility ends the day the employee starts work. The otherwise eligible child becomes eligible again under title IV-E back to the first day of the month when the childcare institution comes into full compliance with the safety requirement.

Similarly, title IV-E foster care maintenance payments for a child placed in a foster family home may not be made for a period prior to completion of

the applicable CRC requirement (or background check requirements for former opt-out States). If the applicable CRC requirement (or background check requirements for former opt-out States) is not met in the month for which the title IV-E maintenance payment is made, the child is not eligible beginning with the first day of the month that the requirement is not met. The otherwise eligible child becomes eligible again under title IV-E back to the first day of the month when the foster family home comes into full compliance with the applicable CRC requirement (or background check requirements for former opt-out States).

When title IV-E foster care maintenance payments are made for a period in the PUR for a child who is not child, the child's case will be in error and the title IV-E foster care maintenance payments and applicable administrative costs will be disallowed

for the entire time the ineligible payments are claimed. When title IV-E foster care maintenance payments are made for a period outside the PUR for an ineligible child, the child's case will not be in error for this reason, but the title IV-E foster care maintenance payments and applicable administrative costs will be disallowed for the entire time the ineligible payments are claimed.

For further information on the title IV-E foster care eligibility requirements, refer to 45 CFR § 1356.21 and 45 CFR § 1356.71. Also refer to the Child Welfare Policy Manual that is posted on the Children's Bureau Web site at http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/index.jsp.

Chapter 5: Final Report

Purpose of the Final Report

The basic purpose of the Final Report is to document the determination of substantial compliance or noncompliance. It also provides a listing of each error case with an explanation of the error, a listing of each non-error case with an explanation of the ineligible payment, an explanation of payments that are identified as underpayments and a compilation of the agency's strengths and areas in need of improvement. The title IV-E agency should use the information in the Final Report to develop a PIP, when necessary, and to enhance the effectiveness of its title IV-E eligibility program.

Preparation of the Final Report

The CB Regional Office Team Leader, in consultation with the CB Central Office Co-Leader for the on-site review and Team Leader for the IV-E reviews, will develop the transmittal letter and Final Report to be signed by the CB Associate Commissioner and disseminated by that office. The CB Regional and Central Offices staff will analyze the results of the cases reviewed and make a determination about substantial compliance. The ACF Regional Office fiscal specialist will compute the payment disallowances and underpayments and complete the worksheets for reporting the improper payments identified during the review. Issues addressed in the report should be relevant to the scope of the IV-E review and the determination of compliance. Any other programmatic issues identified during the review process should be addressed in the report as comments or observations. Observations or comments about the child and family services program or practice should be limited to those factors that directly affect the efficient and proper administration of the title IV-E agency's eligibility program for foster care under title IV-E.

The completed Final Report to the title IV-E agency should include:

- A ***Transmittal Letter*** that accompanies the report and includes a statement about

substantial compliance; the notification of the disallowance, if applicable; and the notification of the time frame in which the PIP must be submitted to the CB Regional Office, if applicable.

- An ***Introduction*** that provides an overview of the background and purposes of the review; the type of review (primary or secondary); and location, dates, and descriptions of the review activities, including the AFCARS reporting period under review and review team representatives. If the review type was secondary, include the reason a secondary review is necessary and a brief synopsis of the findings of the primary review that required the conduct of a secondary review.
- A ***Scope of the Review*** that describes the manner in which the review is conducted and provides a summary of the review findings including the number of case records and oversample case records reviewed, the number of records in error, the case error and dollar error rates (if a secondary review), the number of non-error cases with ineligible payments, and the number of cases with underpayments.
- The ***Case Record Summary*** that analyzes the sample cases with payment issues in each category of improper payments: error, non-error with ineligible payments, and underpayments. It must include an explanation of the payment issue and the statutory or regulatory citation supporting the determination of ineligibility or identification of an underpayment. It should include a listing of each sample case, identified by sample number, with a payment issue and duration of the issue. The sample case name and other personal case identifiers are excluded from the summary and other documents that may be accessible to the public.
- An ***Areas in Need of Improvement*** section that describes weaknesses or deficiencies identified within the title IV-E foster care eligibility program during the IV-E review.

Observations about program performance made in this area should be related primarily to the systemic factors that led to the improper payment or non-substantial compliance finding.

- A **Strengths and Promising Practices** section that describes strengths and exemplary practices that contributed to the efficient and proper administration of the agency's title IV-E program. The focus should be on effective and on-going practices, processes, and approaches that can be replicated and that led to improved performance and successful program outcomes.
- A **Disallowance** section that indicates whether a disallowance is warranted and the amount of maintenance dollars and amount of administrative costs for each category of improper payments. The disallowance will consist of all ineligible maintenance dollars and administrative costs that occurred beginning with the first month of ineligibility and continuing through the date that is the earlier of the end of the service month that immediately precedes the month of the on-site review or when the ineligibility ceases for the most recent foster care episode. If funds are disallowed, the disallowance notification, with instructions for appeals by the title IV-E agency (45 CFR Part 16), will be a part of the transmittal letter of the report. The title IV-E agency must be advised that it will be liable for interest on the amount of funds disallowed by the Department of Health and Human Services, in accordance with the provisions of 45 CFR § 30.13.
- An **Underpayments** section that indicates the total amount of maintenance dollars associated with underpayments, if any, and the reason for each underpayment. The notification of underpayment with instructions for claiming will be included in the transmittal letter of the Final Report.

- A **Next Steps** section that indicates activities the CB Regional Office and the title IV-E agency should undertake to complete the current phase of the review and begin the next phase of the review cycle. This includes information concerning repayment of disallowances, further claim adjustments, the time frame for PIP development and completion, and subsequent review.

Dissemination of the Final Report

Within 30 calendar days of completing the on-site review, the CB will issue the Final Report, with transmittal letter, to the appropriate officials at the title IV-E agency. To meet this regulatory deadline, CB Regional Program Managers must send this information to the CB Central Office as soon as feasible but no later than 10 business days before the 30-day deadline. The Final Report and applicable disallowance notice is transmitted to the title IV-E agency by registered or certified mail with a request for a return receipt to establish the transmittal date. The CB Regional Program Manager must forward to the CB Central Office Team Leader for the IV-E reviews an electronic copy of the worksheets for calculating and reporting improper payments.

Report Addendum. If the CB Regional Office receives additional documentation after issuing the Final Report and the documentation results in a change to the IV-E review finding of compliance or payment disallowance, the CB will provide the title IV-E agency with written notification of the revised finding. The notification is signed by the Associate Commissioner of the CB and sent to the title IV-E agency.

The CB Central Office will post on its Web site the Final Reports, report addenda, PIPs, and other information pertaining to the IV-E reviews.

Chapter 6: Program Improvement Plan

Criteria for Developing a PIP

In accordance with 45 CFR § 1356.71(i), the title IV-E agency must develop a PIP when the title IV-E agency is found not in substantial compliance. This occurs when the eligibility review findings indicate that the total number of error cases is five or more in primary reviews. The PIP must be developed by title IV-E agency staff in consultation with CB staff and must address each area that the IV-E review identified as needing improvement. The title IV-E agency must develop a PIP even if it appeals an adverse review finding and a decision is pending before the Departmental Appeals Board. If a title IV-E agency chooses not to implement a PIP, the CB Regional Office immediately will schedule and conduct a secondary review.

Content of the PIP

The format of the PIP may vary, but it must include the following components:

- Specific goals or outcomes for program improvement;
- Measurable action steps required to correct each identified weakness or deficiency;
- A date for completing each action step;
- A description of how progress will be evaluated by the title IV-E agency and reported to the CB Regional Office, including the frequency and format of the evaluation procedures; and
- A description of how the CB Regional Office will know that an action step has been achieved.

Preparation and Approval of the PIP

Responsibility for developing the PIP rests with the title IV-E agency. The title IV-E agency must submit its PIP to the CB Regional Office for approval within 90 calendar days from the date the title IV-E agency receives written notice from CB that it is not operating in substantial compliance. This deadline may be extended an additional 30 calendar days (as determined by CB) when requested by the title

IV-E agency in order for the title IV-E agency to submit additional documentation to the CB Regional Office in support of cases deemed in error as a result of the IV-E review. However, title IV-E agencies are encouraged to submit any additional documentation for this purpose as soon as possible after the on-site review.

There is no regulatory requirement governing the time frame for PIP approval by the CB. To ensure timeliness in the implementation of the PIP, the CB Regional Office should notify the title IV-E agency of approval or disapproval within 30 calendar days from the receipt of the PIP. The approval notification must identify the targeted completion date, and be sent to the title IV-E agency by certified mail, with a return receipt requested. The CB Associate Commissioner signs the approval letter. An approval of the PIP by the CB means that the PIP adequately addresses the required elements, but does not mean that a title IV-E agency is assured of being in substantial compliance following a secondary or subsequent primary review. The PIP will have a prospective date for the title IV-E agency to begin implementation as specified in the CB approval letter.

If the CB does not approve the PIP, a written notification that details the basis for the decision and target date for resubmission will be sent to the title IV-E agency by certified mail, with a return receipt requested. The CB Associate Commissioner signs the letter of non-approval. An electronic copy of the letter is forwarded to the CB Central Office Team Leader for the IV-E reviews. Within 30 calendar days from receipt of the written notice, the title IV-E agency must revise and resubmit the PIP to the CB Regional Office for approval. If, following negotiation and assistance from the CB Regional Office, the title IV-E agency does not submit an approvable PIP within the specified time frame, the CB Regional Office will initiate a secondary review.

Time Frames for Implementing the PIP

Title IV-E agencies will have a maximum of 12 calendar months from its approved implementation

date in order to complete implementation of the PIP, unless State legislative action is required to implement needed corrective action. The PIP can be scheduled for completion earlier than the 12-month period as determined by the latest date designated in the PIP for an action step to be achieved. When this occurs but it is later determined that additional time is needed within the 12-month time frame, the CB Regional Office can approve a request for a PIP extension that goes beyond the approved PIP implementation date so long as the approval will not extend the PIP for more than the 12 months specified in 45 CFR 1356.71(i)(1)(iii).

When State legislative action is required for PIP completion, the CB may grant an extension, with the CB and the title IV-E agency negotiating the terms and duration of the extension. The State legislative action required must be directly linked to an area of improvement and action strategy identified in the PIP. It is expected that negotiations concerning an extension of the PIP will have occurred before the completion of PIP implementation. The extension must end by the last day of the first legislative session after the date that was previously approved for completing the PIP. [45 CFR 1356.71(i)(1)(iii)]

Requests for a PIP extension beyond the 12-month implementation period must be submitted in writing by the title IV-E agency to the CB Regional Office and include the rationale for the request and documentation to support the extension. The CB Regional Office must receive the written request no later than 60 calendar days before the targeted completion date of the PIP that was previously approved by the CB. The CB Regional Office will submit to the CB Central Office Team Leader for the IV-E reviews the title IV-E agency's request for an extension, along with the supporting information and the CB Regional Office recommendation. The CB Regional Office will notify the title IV-E agency of approval or disapproval of the PIP extension within 30 calendar days from the receipt of the title

IV-E agency's extension request. The approval notification will be sent to the title IV-E agency by certified mail, with a return receipt requested, and will identify the targeted completion date. The CB Associate Commissioner signs the approval letter that is prepared by the CB Regional Office.

Periodic Progress Reports

The title IV-E agency will submit periodic progress reports to the CB Regional Office, as well as a cumulative report upon completion of PIP implementation. The CB Regional Office and title IV-E agency will determine the reporting frequency. The CB Regional Office, in consultation with the title IV-E agency and the CB Central Office Team Leader for the IV-E reviews, will review the periodic reports to assess the title IV-E agency's progress in completing the prescribed action steps in accordance with the time frames and conditions identified in the PIP. The progress report must contain sufficient detail to describe the progress made during the reporting period, including information that addresses the specific time frames and benchmarks of progress included in the PIP. The title IV-E agency should submit the progress and final PIP reports within 30 calendar days following the end of the PIP reporting period. For example, if the reporting frequency is quarterly, the progress report for the quarter ending March 31 is due to the CB Regional Office by April 30.

Technical Assistance

The CB Regional Office will work with the title IV-E agency to determine needed technical assistance, which will be provided to the extent available to help the agency implement its PIP. To the degree possible, technical assistance needs should be coordinated with other program improvement efforts underway in the title IV-E agency, especially with regard to implementation of the title IV-E agency's PIP stemming from the review of its child and family services program and the Court Improvement Projects.

Glossary

Case Error Rate

The case error rate in a secondary review is the number of cases in error divided by the number of cases in the review sample.

Disallowance

A payment disallowance is the amount of Federal funds identified for recovery by CB when such funds are paid for a child ineligible under title IV-E. The disallowance includes all title IV-E payments for foster care maintenance and associated administrative costs made for the period beginning with the first month of ineligibility and continuing through the date that is the earlier of the end of the service month immediately preceding the month of the on-site review, or when the ineligibility ceases for the foster care episode(s).

Dollar Error Rate

The dollar error rate in a secondary review is determined by dividing the maintenance and administrative dollars associated with the ineligible payments during the PUR by the total dollar value claimed during the PUR for the maintenance payments and administrative costs associated with the cases in the review sample.

Eligible Child

A child is eligible under title IV-E when all title IV-E eligibility criteria pertaining to the child and the child's foster care provider are met.

Error Case

A case is in error when a child is not eligible on a date of activity in the PUR for which a title IV-E maintenance payment is made.

Improper Payment

An improper payment is any title IV-E foster care maintenance payment that should not have been made or that is made in an incorrect amount under a requirement applicable to title IV-E. Incorrect amounts are overpayments, duplicate payments, erroneous and otherwise ineligible payments and underpayments.

Ineligible Child

A child is not eligible when a title IV-E eligibility criterion pertaining to the child or the child's foster care provider is not met.

Ineligible Payment

An ineligible payment refers to a title IV-E maintenance payment claimed for a child who is not eligible on the date of the claimed activity or when there is an unallowable program cost paid for an eligible child.

Initial Primary Review

The initial primary review was the first IV-E review conducted following the publication of the final rule in the Federal Register on January 25, 2000. A sample of 80 foster care cases was reviewed. (All States, as well as the District of Columbia and Puerto Rico, have undergone their initial primary reviews.)

Most Recent Foster Care Episode

If a child has remained in foster care (as defined by 45 CFR § 1355.20(a) continually since removal from the home, the duration of this foster care event is considered the most recent episode. If a child has multiple entries into foster care, the most recent foster care episode begins with the date that the child is last removed from the home and placed in foster care before the end of the PUR and continues to the date the child is discharged for such removal. However, if a child has multiple foster care episodes during the PUR, each episode is reviewed for title IV-E eligibility.

Noncompliance

If a title IV-E agency is noncompliant, it is not insubstantial compliance. For primary reviews, if five or more of the title IV-E cases reviewed are in error the title IV-E agency will be found not in substantial compliance. For secondary reviews, noncompliance means both the case error rate and the dollar error rate exceed 10 percent.

Non-Error Case With Ineligible Payment

A non-error case with an ineligible payment occurs when an unallowable title IV-E maintenance payment is made for an activity solely outside the PUR. Also, a non-error case with an ineligible payment occurs when an unallowable maintenance payment is made for an activity in the PUR for an eligible child.

A non-error case with ineligible payments for activities occurring in the PUR is included in the assessment of payment disallowance and calculation of the dollar error rate in the secondary review. It is excluded from the determination of substantial compliance for the primary review and from the determination of the case error rate for the secondary review.

Period Under Review

The period under review (PUR) is the 6-month reporting period of the Adoption and Foster Care Analysis and Reporting System (AFCARS) from which the sample of cases is drawn for the IV-E review. The AFCARS data are transmitted semi-annually by the title IV-E agency to the CB Central Office.

PIP Completion Date

The PIP completion date is the date that is the earlier of the latest completion date of an action item in the approved PIP or 12 calendar months from the approval date of PIP implementation.

Primary Review

The primary review is the first review in the IV-E review process. A sample of 80 foster care cases is reviewed. These cases, plus at least a 10 percent oversample, are selected from AFCARS data using a probability sampling methodology. No alternate data source may be substituted for the AFCARS for sampling selection.

Program Improvement Plan (PIP)

The PIP is a plan developed by the title IV-E agency, in collaboration with the CB Regional Office that, when implemented, is intended to correct the areas identified during the IV-E FCER as not in substantial compliance.

Review Oversample

The review oversample refers to the additional cases that are randomly selected from the sampling universe for potential review to ensure that the required number of sample cases is examined for a primary or secondary review. At a minimum, a 10 percent oversample is selected from the title IV-E agency's most recent AFCARS submission to the CB Central Office. A case from the oversample is reviewed in lieu of a case from the original sample under special conditions.

Review Sample

The review sample consists of the cases of children who received at least one title IV-E maintenance payment in the 6-month reporting period of the title IV-E agency's most recent period of AFCARS data submission. A sample of 80 cases is selected for review during the primary review and a sample of 150 cases is selected for examination during the secondary review.

Secondary Review

A secondary review is a review conducted after a title IV-E agency is found not in substantial compliance in a primary review. A sample of 150 cases is reviewed in a secondary review. These cases, plus at least a 10 percent oversample of 15 cases, are drawn from the title IV-E agency's AFCARS data submission for the first 6-month period that immediately follows the PIP completion date. No alternate data source may be substituted for the AFCARS for sample selection. The secondary review is conducted during the second AFCARS reporting period that immediately follows the PIP completion date.

Secondary Review Extrapolation

When both the case error rate and dollar error rate of a secondary review exceed 10 percent, a disallowance is based on extrapolation from the sample to the universe of claims paid for the duration of the AFCARS reporting period under review.

Substantial Compliance

For the primary reviews, if the total number of error cases does not exceed four, the title IV-E agency is in substantial compliance. For the secondary review, substantial compliance means that either

the case error rate or dollar error rate does not exceed 10 percent.

Three-Year Cycle of Reviews

Title IV-E agencies that are determined in substantial compliance must undergo a subsequent review after 3 years. The cycle begins at the completion of the primary review. Title IV-E agencies that are not in substantial compliance following a secondary review also must undergo a subsequent review after 3 years. The cycle begins at the completion of the secondary review.

Transcript

In the absence of a paper court order, the title IV-E agency may provide a transcript that demonstrates that the requisite judicial findings were made at the appropriate time. [See 45 CFR § 1356.21(d)(1).] An acceptable transcript is a true reproduction of the proceedings, and as such can include an audio recording of the court's proceedings, a written reproduction that derives directly from an audio recording of the proceedings or a written reproduction that was produced during the proceedings. A transcription of the court proceeding by the title IV-E agency is not acceptable.

Underpayment

An underpayment occurs when an allowable title IV-E maintenance payment is not claimed for a title IV-E eligible child within the two-year filing limit, as specified at 45 CFR § 95.7, and the filing period has not expired. An underpayment has not occurred if the title IV-E agency elects not to claim the eligible payment or the filing period has expired.

Universe of Claims Paid

The universe of claims paid is the Federal share of title IV-E foster care maintenance payments and administrative costs for the period of the time that a case is in error. All title IV-E funds expended during the period of time in which the case is in error will be subject to disallowance, including funds for related administrative costs.

When Payments May Begin

Federal financial participation generally may begin on the first day of a child's placement in the month in which all required eligibility factors are satisfied. If eligibility is attained after the first of the month, title IV-E payments may be claimed retroactive to the first day of the month for an otherwise eligible child. If an eligible child is placed on a date in the month other than the first of the month, title IV-E funds must be claimed from the actual date of placement.

Appendices

- Appendix 1:** On-Site Review Instrument and Instructions, Title IV-E Foster Care Eligibility
- Appendix 2:** Materials to read in preparation for a Title IV-E Foster Care Eligibility Review
- Appendix 3:** Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team During the Pre-Review Conference Call and Before Reviewing Records On-Site
- Appendix 4:** On-Site Quality Control Tasks for the Title IV-E Foster Care Eligibility Review
- Appendix 5:** Title IV-E Foster Care Eligibility Reviews Table of Completed Case Records and Description of Improper Payments
- Appendix 6:** Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program
- Appendix 7:** Time Frames for Title IV-E Foster Care Eligibility Review Activities
- Appendix 8:** Title IV-E Foster Care Eligibility Chart
- Appendix 9:** Matrix of AFDC Factors Related to Title IV-E Foster Care Eligibility
- Appendix 10:** Provider Requirements, Title IV-E Foster Care Eligibility

**Appendix 1: Title IV-E Foster Care Eligibility
On-Site Review Instrument and Instructions**



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR

CHILDREN & FAMILIES

Administration on Children, Youth and Families
Children's Bureau

**Title IV-E Foster Care Eligibility
On-Site Review Instrument and Instructions
December 2012**



**Title IV-E Foster Care Eligibility
On-Site Review Instrument and Instructions
December 2012**

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**Title IV-E Foster Care Eligibility
On-Site Review Instrument and Instructions
December 2012 Version**

(A) CASE FINDINGS

Complete this section after completing the entire instrument (check if applicable).

Case Type: Non-Error Case Error Case

For either case type, case includes: Underpayments
 Ineligible Payments

(B) QUALITY ASSURANCE CHECK COMPLETED SIGNATURES

First-Level QA Reviewer's Signature: _____

Second-Level QA Reviewer's Signature: _____

(C) INSTRUCTIONS

- Complete this instrument for each foster care episode during the PUR.
- Answer each question on the instrument and read each question's instructions for an explanation of how to answer it.
- Indicate "**N/A**" if the question is not applicable and state the reason the question does not apply. Refer to the "Title IV-E Foster Care Eligibility Review Guide" for additional guidance on review policy and procedures.
- Verify that each eligibility factor is documented and record the documentation source in the "Comments" section after each question.
- Responses in bold font are *potential* case errors or ineligible payments.
- Record additional foster care placements during the period under review (PUR) on the appended "Licensing/Safety Checklist for Multiple Placements" (Appendix 1) and the data for improper payments on the appended "Improper Payment Chart" (Appendix 2).
- All statutory citations refer to the applicable section of the Social Security Act (the Act).
- Use pencil and print legibly.

(D) GENERAL CASE INFORMATION

1. Sample PUR (month/day/year):

Record the begin date and end date of the 6-month sample PUR, using the month, date, and year format.
_____ to _____

2. State postal code and random sample selection number:

Record the two-letter State postal code and the selection number assigned to the sample case.

3. Case ID:

Record the case number the title IV-E agency uses as an identifier for the child's file. _____

4. County or local office:

Record the name of the county or local office that has assignment for the child's file.

5. Review date (month/day/year):

Record the month, date, and year the case is reviewed. _____

6. Reviewed by:

Record the name of the individual reviewing the case.

Comments:

(E) CHILD INFORMATION

The child's name will be kept *confidential* and will not be disclosed for any purposes outside of the review.

7. Child's name:

Record the first and last name of the child whose case is being reviewed.

8. Child's date of birth (month/day/year):

Enter the birth date of the child whose case is being reviewed. _____

9. Child's age as of the first day of the PUR:

Enter the age of the child on the first day of the PUR. If the child is less than one (1) year old on the first day of the PUR, enter a zero (0). Documentation of age is not necessary for the title IV-E foster care eligibility review (IV-E review) unless there are questions about the age of a youth who may be 17 years old or older. Then, a birth certificate or equivalent source document is used to verify the birth date. Section 406 of the Act limits title IV-E eligibility to children under the age of 18, or up to age 19 if the school attendance option is exercised in the State's 1996 title IV-A plan.

Age: _____

NOTE: Beginning 10-01-2010, the title IV-E agency may exercise the title IV-E plan option to extend assistance to age 21, under § 475(8) of the Act. If the title IV-E agency has approval to exercise the title IV-E plan option, the IV-E agency's 18- to 21-year-olds are not subject to the IV-E review at this time and are excluded from the review sample.

Comments:

(F) RELEVANT DATES (may precede PUR)

[Statutory Citation: §§ 472(a)(1) & (2) of the Act and 475(5)(F); Regulatory Citation: 45 CFR §§ 1355.20(a), 1356.21(k), and 1356.22]

10. On what date was the child removed from home?

Enter the date of physical removal unless the child was constructively removed. If the child was constructively removed, enter the date the court sanctioned the judicial removal, in a judicial removal, or the date of the final signature on a voluntary placement agreement, in a voluntarily placement. (A constructive removal occurs when a judicial ruling or voluntary placement agreement sanctions the child's removal from the parent or another specified individual, but the child is living with an interim caregiver at the time of the removal. It applies to a removal that occurs on or after 3-27-2000 for a child who has not lived with an interim caregiver longer than 6 months prior to the constructive removal. If the constructive removal occurred before 3-27-2000, note that below in *Comments*. Also, if the child had lived with an interim caregiver longer than 6 months before the constructive removal, note that below. The case is not marked as in error when answering Question 10, if the constructive removal requirement is not met. The eligibility requirements pertaining to constructive removals are specifically addressed at Questions 21(a) and 22.)

Removal date (month/day/year): _____

Question 10 records the date of the child's most recent physical or constructive removal from the home of a parent or another specified relative in accordance with a court order or voluntary placement agreement.

Comments:

(F) RELEVANT DATES (may precede PUR) Continued

[Statutory Citation: §§ 472(a)(1) & (2) of the Act and 475(5)(F); Regulatory Citation: 45 CFR §§ 1355.20(a), 1356.21(k), and 1356.22]

11. On what date did the child enter foster care?

Check the **N/A** box, if appropriate, based on the following instructions:

For a removal according to a voluntary placement agreement: Indicate **N/A**.

For a court-ordered removal before March 27, 2000: Indicate **N/A**.

For a court-ordered removal on or after March 27, 2000: Indicate **N/A** if the foster care episode terminated before 60 days of removal and a judicial finding of abuse or neglect was not rendered prior to the end of the foster care episode.

N/A

Otherwise, record the **date the child entered foster care** based on the following information:

- **Initial placement in foster care setting:**
Record the month, date, and year the child is considered to have entered foster care, as based on the definition in § 475(5)(F) of the Act and Federal regulations at 45 CFR § 1355.20(a) and described below, if the child initially was placed in a foster care setting (foster family home or childcare institution) at removal.
- **Initial placement in non-foster care setting:**
 - (1) Record the month, date, and year the child was placed in a foster care setting, if the child initially was placed in a detention facility or other non-foster care setting and was in the non-foster care setting longer than 60 days before being placed in a foster care setting. Or,
 - (2) Record the month, date, and year the child entered foster care as defined below, if the child’s placement into foster care from a non-foster care setting occurred within 60 days of his or her removal from the home.

Entry date (month/day/year): _____

As defined in § 475(5)(F) of the Act and 45 CFR § 1355.20(a), the date the child is considered to have entered foster care is the date that is the earlier of either a judicial finding to the effect that the child has been subjected to child abuse or neglect or 60 calendar days after the date the child is removed from the home through a court order or voluntary placement agreement. The *date the child entered foster care* usually is not the same date as the date of removal (Question 10 or Question 13). The date recorded in Question 11 is the date used to determine when to obtain the initial judicial determination of reasonable efforts to finalize the permanency plan (Question 19). The title IV-E agency may use the date the child is physically removed from home. However, for the IV-E review, the “*date child entered foster care*” is the date as defined in § 475(5)(F) of the Act and 45 CFR § 1355.20(a), consistent with the U.S. DHHS Departmental Appeals Board (DAB) Decision No. 1903.

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

12. Was the child's removal the result of a court order?

If the removal was pursuant to a court order, indicate **YES**.

If the removal was not pursuant to a court order, indicate **NO**.

YES NO

NOTE: If **NO** is the response to this question and Question 15, the response also is **NO** to Question 18. For title IV-E eligibility, a child's removal must be in accordance with the requisite *judicial determination* (Question 12) or a *voluntary placement agreement* (Question 15).

For Questions 13 and 14: The judicial determination in court-ordered removals must be: (1) made in a valid court order; (2) made on a case-by-case basis and child-specific; (3) explicitly stated in the court order; and (4) in conformity with Federal regulatory time frames to satisfy compliance with the title IV-E requirements. Affidavits, *nunc pro tunc* court orders and other similar-purpose documents are not acceptable documentation to support a judicial finding (except as provided in § 479B of the Act for a limited period for Tribes). If an acceptable court order is not furnished, an official transcript of the court proceeding is the only alternative to substantiate that the judicial determination requirement has been met satisfactorily (45 CFR 1356.21(d)(1)). The precise language, *contrary to the welfare* or *reasonable efforts*, does not have to be included in the court ruling. However, consistent with DAB Decision No. 1998, there must be an expressed statement in the court order or court transcript that can be clearly understood as a determination that the required judicial finding is made.

Comments:

13. If Question 12 was YES, was there a judicial finding of *contrary to the welfare*?

If the child was voluntarily placed, indicate **N/A**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments.

For title IV-E purposes, in a court-ordered removal there must be a judicial determination to the effect that continuation in the home with the specified relative (from whom there was a physical or constructive removal) would be contrary to the child's welfare, or that foster care placement is in the child's best interests.

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

13(a). If the child was removed from the home before March 27, 2000, was the *contrary to the welfare* finding in a court ruling issued within 6 months of the child’s removal? Or was there a removal petition filed within 6 months of the child’s removal that resulted in a judicial finding of *contrary to the welfare*?

For a removal on or after March 27, 2000, or if the child was removed via a voluntary placement agreement, indicate **N/A**.

For a removal before March 27, 2000, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments. Then, the child is ineligible under title IV-E for the entire foster care episode.

Record the judicial finding date and removal petition date.

Judicial finding date (month/day/year): _____

Removal petition date (month/day/year): _____

Consistent with DAB Decision No. 1508, if the judicial finding of *contrary to the welfare* is not rendered within 6 months of the child’s removal (Question 10), the requisite judicial finding may be in a court ruling that stems from court proceedings initiated no later than 6 months from the date of the child’s removal from the home. Calculation of the 6-month period is based on calendar months and is not counted from date-to-date. The resultant court order must expressly adopt the pertinent language of the petition in a manner such that it is reasonably understood that the requisite judicial finding is made. For compliance, the court order cannot merely sustain the petition. Title IV-E maintenance may not be claimed for a period prior to the court ruling that explicitly makes the judicial finding. If the judicial determination is not made as required, the child is ineligible for title IV-E foster care for the entire foster care episode.

Comments:

13(b). If the child was removed from the home on or after March 27, 2000, was the *contrary to the welfare* finding stated in the court ruling for removal?

For a removal before March 27, 2000, or if the child was removed via a voluntary placement agreement, indicate **N/A**.

For a removal on or after March 27, 2000, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments. Then, the child is ineligible under title IV-E for the entire foster care episode.

Record the judicial finding date.

Judicial finding date (month/day/year): _____

The judicial determination regarding *contrary to the welfare* must be made in the first court ruling that sanctions, even temporarily, the child’s removal from the home (Question 10). The first court ruling refers to the judicial order that stems from the first court proceeding on the child’s removal. If the judicial determination is not made in the first court ruling pertaining to that removal from home, this eligibility requirement is not met. [See 45 CFR § 1356.21(c).]

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

13(c). Was the requirement met for the judicial finding of *contrary to the welfare*?

Indicate **N/A** if the child was voluntarily placed. Otherwise, indicate **YES** or **NO** based on the response to Questions 13, 13(a), and 13(b).

Explain below in *Comments* the specific reason the requirement is not satisfied.

YES NO N/A

If Question 13(c) is **NO**, this case is an error case and the child is ineligible under title IV-E for the entire foster care episode.

If **NO**, record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

13(d). Were title IV-E funds paid before the month in which the *contrary to the welfare* requirement was met?

Indicate **N/A** if the child was voluntarily placed. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

Regardless of the removal date, the title IV-E agency may claim title IV-E maintenance payments from the first day of the child’s placement in the month in which all title IV-E eligibility criteria are met for the child. [See 8.3A.15, Question #1 of the CB Child Welfare Policy Manual (CWPM).]

If a title IV-E maintenance payment was made for a period that was prior to the month in which the eligibility requirement was met and the ineligible period was outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment was made for a period that was prior to the month in which the eligibility requirement was met and the ineligible period was in the PUR, the child’s sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

14. If Question 12 is *YES*, was there a judicial finding regarding *reasonable efforts to prevent removal*?

If the child was voluntarily placed, indicate **N/A**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments. Then, the child is ineligible under title IV-E for the entire foster care episode.

For title IV-E purposes, a judicial removal must include a determination to the effect that the title IV-E agency has made reasonable efforts to prevent the removal of the child from the specified relative (Question 10) or that reasonable efforts are not necessary prior to removal. If the child was removed before March 27, 2000, the requirement may be satisfied with a judicial finding that reasonable efforts have been made to reunify the child and family after removal.

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

14(a). If the child was removed from the home before March 27, 2000, what is the date of the judicial finding regarding reasonable efforts?

For a removal on or after March 27, 2000, or if the child was removed via a *voluntary placement agreement*, indicate *N/A*.

N/A

For a removal before March 27, 2000, record the date of the court ruling that contains the judicial finding of either *reasonable efforts to prevent removal* or *reasonable efforts to reunify*. If both judicial findings were made, record each date.

Reasonable efforts to prevent removal date (month/day/year): _____

Reasonable efforts to reunify date (month/day/year): _____

The judicial determination to the effect that either reasonable efforts have been made to prevent removal (or are not required) or that reasonable efforts have been made to reunify the child and family after removal satisfies this reasonable efforts requirement. If the eligibility criterion is not satisfied, the child is ineligible for the duration of the foster care episode. [See 45 CFR § 1356.21(b)(1).]

Comments:

14(b). If the child was removed from the home on or after March 27, 2000, what is the date of the judicial finding regarding reasonable efforts to prevent removal? Was the judicial finding regarding reasonable efforts to prevent removal determined within 60 days of the child's removal?

For a removal before March 27, 2000, or if the child was removed via a *voluntary placement agreement*, indicate *N/A*.

For a removal on or after March 27, 2000, indicate **YES** or **NO** regarding the timeliness of the judicial finding.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments. Then, the child is ineligible under title IV-E for the entire foster care episode.

Record the judicial finding date.

Judicial finding date (month/day/year): _____

The judicial determination to the effect that *reasonable efforts to prevent removal* have been made (or are not required) must be obtained no later than 60 days from the date the child is removed from the specified relative (Question 10). The "clock" for the 60-day period begins the day after the child is physically removed. If the child is constructively removed, the "clock" begins on the date the court sanctions the removal. If the eligibility criterion is not satisfied within the time frame prescribed in the Federal regulations, the child is ineligible for the entire foster care episode. [See 45 CFR § 1356.21(b)(1).]

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

14(c). Was the requirement met for the judicial finding of reasonable efforts to prevent removal?

Indicate **N/A** if the child was voluntarily placed. Otherwise, indicate **YES** or **NO** based on the response to Questions 14, 14(a), and 14(b).

Explain below in *Comments* the specific reason the requirement is not satisfied.

YES NO N/A

If Question 14(c) is **NO**, this is an error case and the child is ineligible for the entire foster care episode.

If **NO**, record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

14(d). Were title IV-E funds paid before the month of the judicial finding of reasonable efforts to prevent removal?

Indicate **N/A** if child was voluntarily placed. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

Regardless of the removal date, the title IV-E agency may claim title IV-E maintenance from the first day of the child's placement in the month in which all title IV-E eligibility criteria are met for the child [See 8.3A.15, Question #1 of the CWPM.]

If a title IV-E maintenance payment is made for a period prior to the month in which the eligibility requirement is met and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment is made for a period prior to the month in which the eligibility requirement is met and the ineligible period is in the PUR, the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(H) VOLUNTARY PLACEMENTS

[Statutory Citation: §§ 472(d), (e), and (f) of the Act; Regulatory Citation: 45 CFR § 1356.22]

15. Was the child's removal pursuant to a voluntary placement agreement?

Indicate **YES** or **NO**. If the removal was pursuant to a voluntary placement agreement, enter **YES**.

If the removal was not pursuant to a voluntary placement agreement, enter **NO**.

YES NO

NOTE: If **NO** is the response to this question and Question 12, the response also is **NO** to Question 18. For title IV-E eligibility, a child must be removed in accordance with the requisite judicial determination (Question 12) or a voluntary placement agreement (Question 15).

Comments:

(H) VOLUNTARY PLACEMENTS *Continued*

[Statutory Citation: §§ 472(d), (e), and (f) of the Act; Regulatory Citation: 45 CFR § 1356.22]

16. If Question 15 is YES, was the *voluntary placement agreement* signed by the parent or legal guardian and the title IV-E agency?

Indicate **N/A** if this was a court-ordered removal. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response is **NO**, this is an error case.

Record the signature date of the agreement. If signings occurred on different dates, record the date of the final signature.

Voluntary placement agreement signature date (month/day/year): _____

Consistent with § 472(f)(2) of the Act, the parent or legal guardian and the title IV-E agency representative must sign the *voluntary placement agreement* for it to be valid. If all required parties did not sign the *voluntary placement agreement*, the child is ineligible for title IV-E for the entire foster care episode.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

16(a). Were title IV-E funds paid for a period prior to when the *voluntary placement agreement* was signed by the parent, legal guardian or the title IV-E agency?

Indicate **N/A** if this was a court-ordered removal. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

The title IV-E agency may claim title IV-E maintenance from the first day of the child's placement in the month in which all title IV-E eligibility criteria are met for the child. [See 8.3A.15, Question #1 of the CWPM.]

If a title IV-E maintenance payment was made for a period prior to the month in which the eligibility requirement was met and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment was made for a period prior to the month in which the eligibility requirement was met and the ineligible period is in the PUR, the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(H) VOLUNTARY PLACEMENTS *Continued*

[Statutory Citation: §§ 472(d), (e), and (f) of the Act; Regulatory Citation: 45 CFR § 1356.22]

17. Was there a judicial determination regarding the child's *best interests* within 180 days of the foster care placement through a *voluntary placement agreement*?

Indicate **YES** or **NO** and record the date of the judicial finding, including the month, date, and year. Indicate **N/A**, if the judicial determination was not obtained and fewer than 180 days have elapsed since the foster care placement date (or signature date, if the child was constructively removed) and the last day of the PUR. Also, indicate **N/A** if the child was judicially removed.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Judicial finding date (month/day/year): _____

As specified in § 472(e) of the Act, to extend title IV-E eligibility beyond 180 days of placement in foster care, there must be a judicial determination within the first 180 days of the foster care episode to the effect that continued out-of-home placement is in the child's *best interests*, thereby extending foster care placement through the *voluntary placement agreement*. The "clock" for the first 180 days of the foster care episode begins on the date the child is physically placed in foster care. If constructively removed, the "clock" for the first 180 days of the foster care episode begins on the date the voluntary placement agreement is signed by all necessary parties. If signings are on different dates, it begins on the date of the final signature.

NOTE: If the *voluntary placement agreement* is terminated, revoked, or otherwise no longer in effect prior to obtaining the judicial determination regarding the child's *best interests*, title IV-E eligibility ends on the day the voluntary placement agreement is terminated, revoked, or not in effect and the child becomes ineligible for the remainder of the foster care episode. Under these conditions, the response is **NO** to Question 17.

Comments:

17(a). If Question 17 is **NO**, were title IV-E funds paid for the period of ineligibility?

Indicate **N/A** if this was a court-ordered removal. Otherwise, indicate **YES** or **NO**, based on a **NO** response to Question 17.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

If a title IV-E maintenance payment is made for the period in which compliance with the requirement is not met and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment is made for the period in which compliance with the requirement is not met and the ineligible period is in the PUR; the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

If more than 180 days of the child's placement in foster care have elapsed in a removal through a valid *voluntary placement agreement* and there has been no judicial determination of *best interests*, the child's eligibility for title IV-E ceases on the 181st day. The child's eligibility also ceases on the day the *voluntary placement agreement* is terminated, revoked, or not in effect if this occurs prior to obtaining the judicial determination regarding the child's *best interests*.

Comments:

(I) VALID REMOVALS

[Statutory Citation: §§ 472(a)1 & 2 of the Act; Regulatory Citation: 45 CFR § 1356.21(k)(2)]

18. Has there been a *valid removal* of the child from the home during the most recent foster care episode?

Indicate **YES** or **NO**. The response is **NO** if the response is **NO** to Questions 12 and 15. The response also is **NO** if the child is removed from the parent or another specified relative through a court order or voluntary placement agreement, and the child remains with the same relative in that home under that relative's responsibility and the title IV-E agency's supervision.

YES

NO

If **NO**, the child is ineligible for title IV-E for the entire foster care episode.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

For title IV-E eligibility, a *valid removal* is a removal that is in accordance with a *voluntary placement agreement* (VPA) or a judicial finding of *contrary to the welfare* (CTW) that sanctions the removal (physical or constructive) of the child from the parent or legal guardian who signs the VPA or whose home is the subject of the CTW finding. [See § 472(a)(1) of the Act and 45 CFR § 1356.21(k).]

Consistent with 45 CFR § 1356.21(k)(2), a removal is not valid under title IV-E when the child is removed from the specified relative through a voluntary placement agreement or a court order, and the child remains with that same specified relative in the home under that relative's responsibility and the title IV-E agency's supervision.

For court-ordered removals, the physical removal from the above-referenced specified relative must coincide with the CTW finding. If the physical removal does not take place by the end of the next business day of the CTW finding and the court order does not specify an alternative time frame for removal, the child is ineligible for the entire foster care episode unless there is an extenuating circumstance that delays the physical removal. If there is an extenuating circumstance related to the delayed removal, notify the Children's Bureau (CB) team leader so that the relevant case information can be referred to the CB Central Office for further consideration.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Comments:

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan)

Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

For Questions 19, 19(a), 19(b), 19(c), 19(d), and 19(e): Answer each question in sequential order to verify that a judicial determination of *reasonable efforts to finalize the permanency plan* was satisfied for the 12-month period that includes the PUR.

To maintain title IV-E eligibility in a judicial removal, there must be a judicial determination to the effect that the title IV-E agency has made reasonable efforts to finalize the child's permanency plan. [See 45 CFR § 1356.21(b)(2).] The judicial determination of *reasonable efforts to finalize the permanency plan* must be (1) made in a valid court order; (2) made on a case-by-case basis and child-specific; (3) explicitly stated in the court order; and (4) in conformity with Federal regulatory time frames to satisfy compliance with the title IV-E requirements for court-ordered removals. Affidavits, *nunc pro tunc* court orders, and other similar-purpose documents are not acceptable documentation to support a judicial finding, except as provided in § 479B of the Act for a limited period for Tribes. If an acceptable court order is not furnished, an official transcript of the court proceeding is the only alternative to substantiate that the judicial determination requirement is met satisfactorily. [See 45 CFR § 1356.21(d).] The precise language, *reasonable efforts*, does not have to be included in the court ruling. However, consistent with DAB Decision No. 1998, there must be an expressed statement in the court order or court transcript that can be clearly understood as a determination that the title IV-E agency has made reasonable efforts, as required for title IV-E eligibility.

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan) Continued
Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

For a removal before March 27, 2000: The judicial determination must have occurred *by March 27, 2001*, and at least once every 12 months thereafter while the child is in foster care. If the judicial determination is not made by March 27, 2001, ineligibility for title IV-E payments is from April 1, 2001, until the judicial determination requirement is met. The reviewer is not required to verify the title IV-E agency’s compliance with the March 27, 2001, implementation date. The reviewer must verify whether the judicial determination requirement was satisfactorily met for the 12-month period that includes the PUR. If the judicial determination requirement was not met for the PUR, then the reviewer must go back to the date the requirement was met or March 27, 2001, whichever was later, to establish the period of ineligibility.

For a removal on or after March 27, 2000: The initial judicial determination must be made no later than 12 months from the date on which the child is considered to have entered foster care (Question 11). Thereafter, the judicial determination must be made at least once every 12 months while the child is in foster care. The reviewer must verify whether the judicial determination requirement was satisfactorily met for the 12-month period that includes the PUR. If the judicial determination requirement was not met for the PUR, then the reviewer must go back to the date the requirement was met to establish eligibility.

Regardless of the removal date, calculation of the 12-month period is based on calendar months and is not counted from date to date.

Periodicity Chart for Judicial Determination of Reasonable Efforts to Finalize the Permanency Plan

Record information in the following chart only if necessary to determine the most recent judicial finding attained prior to the PUR and to determine whether an initial or subsequent judicial finding is required during the 12-month period that includes the PUR. If the chart is completed and an untimely judicial determination is identified with ineligible payments, record the ineligible period(s) on the attached “Improper Payment Chart.” The below chart may be a helpful tool to use in some circumstances, but its completion is not required.

Date Removed (month/day/year): _____

- Removal before March 27, 2000: Refer to Question 10

Date Entered Foster Care (month/day/year): _____

- Removal on or after March 27, 2000: Refer to Question 11

Date judicial determination due (month/year)	Date judicial determination made (month/year)	Is this decision timely? (Indicate Yes or No)	If decision is untimely, is title IV-E maintenance paid for the period? (Indicate Yes or No)

Comments:

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan) Continued
Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

19. Was the child in foster care 12 months or more before the last day of the PUR?

Indicate **N/A** if the removal was the result of a *voluntary placement agreement*. Otherwise, indicate **YES** or **NO**. A **YES** response is based on the date in Question 10, for a removal before March 27, 2000; or Question 11, for a removal on or after March 27, 2000. If Question 19 is **NO**, a judicial determination of *reasonable efforts to finalize the permanency plan* was not due for the PUR. Questions 19(a)–19(e) are **N/A**.

YES NO N/A

Comments:

19(a). If Question 19 is YES, what was the date of the most recent judicial determination of reasonable efforts to finalize before the PUR?

Indicate **N/A** if: (1) the removal was the result of a *voluntary placement agreement*; (2) the response to Question 19 is **NO**; (3) the date of the initial judicial determination fell within the PUR; or (4) the due date for the judicial determination fell within the 12-month period immediately before the PUR but was not made. Explain below in *Comments* the specific reason for the **N/A** response. Otherwise, record the month and year of the last judicial determination obtained before the beginning of the PUR.

N/A

Date of most recent judicial finding (month/year): _____

Question 19(a) establishes whether an *initial* or *subsequent* judicial finding is required for the 12-month period that includes the PUR.

Comments:

19(b). What was the due date of the judicial determination due 12 months from the date recorded in Question 19(a)?

Indicate **N/A** if the removal was the result of a *voluntary placement agreement*. Otherwise, record the date of the judicial determination that was due 12 months from the date recorded in Question 19(a). If a date is not recorded in Question 19(a) because the required judicial determination was not made before the PUR, record the month and year it should have been made and note below in *Comments* the reason for the recorded date.

N/A

Due date of judicial finding (month/year): _____

Comments:

19(c). On what date was the judicial determination in Question 19(b) made?

Indicate **N/A** if: (1) the removal is the result of a *voluntary placement agreement* or (2) 12 months have not elapsed since the date recorded in Question 19(b) and a judicial determination was not made during that interim period. Explain below in *Comments* the specific reason for the **N/A** response. Otherwise, for the judicial determination referenced in Question 19(b), record in Question 19(c) the month and year that the *initial* or *subsequent* judicial determination was made. If the judicial determination was due but not made, note this below in *Comments*.

N/A

Date of judicial finding (month/year): _____

Comments:

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan) Continued

Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

19(d). Was the judicial determination recorded in Question 19(c) timely?

Indicate **N/A** if the removal was the result of a *voluntary placement agreement* or if Question 19(c) is **N/A** because 12 months have not elapsed since the date recorded in Question 19(b) and a judicial determination was not made during that interim period. Explain below in *Comments* the specific reason for the **N/A** response. Otherwise, indicate **YES** or **NO** based on the date recorded in Question 19(c).

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

A judicial determination is not considered timely if the finding is not made within the required 12-month time frame. The date of the latest judicial determination is used to determine the date the subsequent one must be made. An untimely judicial determination renders the child ineligible beginning on the first day of the month after it is due and continuing to the first day of the month it is attained.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Comments:

19(e). If Question 19(d) is NO, were title IV-E funds paid as a result of the untimely judicial determination?

Indicate **N/A** if the response to Question 19(d) is **N/A** or **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response to Question 19(e) is **YES**, this indicates a potential error case or case with ineligible payments.

If the untimely judicial determination is attained in the month immediately following the month it is due, the child regains eligibility beginning that month and title IV-E maintenance payments that are made for that period are considered properly paid. On the other hand, if the untimely judicial determination is not attained within the month immediately following the month it is due, the child loses eligibility until the requisite judicial determination is made and the associated title IV-E maintenance payments are disallowed. [See 45 CFR § 1356.21(b)(2).]

If the title IV-E maintenance payment is made for a period in which the child is not eligible and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If the title IV-E maintenance payment is made for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached *Improper Payment Chart*.

Comments:

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan) Continued
Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

19(f). Is the requirement met for the judicial finding of reasonable efforts to finalize the permanency plan?

Indicate **N/A** if the removal was the result of a *voluntary placement agreement*. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response is **NO**, the child is ineligible to have title IV-E payments made on the child's behalf.

The response to Question 19(f) is **YES** if 12 months have not elapsed since the date in Question 19(b) or the response to Question 19(d) is **YES**.

The response to Question 19(f) is **NO** if the judicial determination is not (1) child specific; (2) to the effect that the title IV-E agency has made *reasonable efforts to finalize the child's permanency plan*; (3) explicitly stated in the court order or court transcript; and (4) in conformity with regulatory time frames.

If the title IV-E maintenance payment is made for the period in which the child is ineligible and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If the title IV-E maintenance payment is made for the period in which the child is ineligible and the ineligible period is in the PUR, the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

20. Was the child removed from the home of a specified relative?

Indicate **YES** or **NO** and record from whose home the child was physically or constructively removed (e.g., parent, aunt, legal guardian) according to a court order (Question 12) or *voluntary placement agreement* (Question 15). For title IV-E eligibility, the removal home is the home of the specified relative who is the subject of the *contrary to welfare* judicial determination, or who signs the *voluntary placement agreement*.

YES NO

Removal Home: _____

If the bold **NO** box is checked, this indicates an error case with ineligible payments, and the child is ineligible under title IV-E for the entire foster care episode.

In a judicial removal, the court order might indicate that the child was removed from the home of various individuals, such as a specified relative or an unrelated caregiver. In a voluntary placement, a parent or legal guardian (related or unrelated) might have signed the *voluntary placement agreement*. However, to qualify for title IV-E, a valid removal of the child from a specified relative must occur for the most recent foster care episode. [See 45 CFR § 1356.21(k).] A specified relative may be a parent or any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the child. [See 45 CFR § 233.90(c)(1)(v).] When the child is living with an interim caregiver at removal, the child is considered to be constructively removed from the specified relative who is the subject of the *contrary to welfare* judicial determination or who signs the *voluntary placement agreement*. A constructive removal is a non-physical removal that occurs only on paper from that specified relative. Constructive removals apply to judicial or voluntary removals occurring on or after March 27, 2000, for a child who has not lived with an interim caregiver longer than 6 months prior to the constructive removal.

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY Continued

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

21. If Question 20 is YES, was the child *living with* that specified relative in the month court proceedings were initiated or the date the voluntary placement agreement was signed?

If Question 20 is **NO**, indicate **N/A**. Otherwise, indicate **YES** if the child was living with the specified relative (referred to in Question 20) in the month that court proceedings were initiated to remove the child, or on the date the *voluntary placement agreement* was signed (date that is recorded in Question 16). Indicate **NO** if the child was not living with that specified relative during either time frame.

YES NO N/A

Date child last lived with specified relative (month/day/year): _____

Date court proceedings initiated (judicial removal only) (month/day/year): _____

Date *voluntary placement agreement* signed (month/day/year): _____

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

For judicial removals, the date the court proceedings were initiated to judicially remove the child is usually the date the removal petition is filed with the court.

NOTE: If a removal petition (1) is not filed or (2) is filed after the removal court order, then use the date of the removal court order as the date the court proceedings were initiated.

Comments:

21(a). If Question 21 is NO, had the child lived with the specified relative within 6 months of the date the court proceedings were initiated, or the date the *voluntary placement agreement* was signed?

Indicate **N/A** if Question 20 is **NO** or Question 21 is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

Date child last lived with specified relative (month/year): _____

Date court proceedings initiated (judicial removal only) (month/year): _____

Date *voluntary placement agreement* signed (date recorded in Question 16) (month/year): _____

If the response is **NO** to Questions 21 and 21(a), the child is ineligible for title IV-E for the entire foster care episode and the case is an error case.

For title IV-E eligibility purposes, a child must be living with a specified relative during the month in which court proceedings are initiated to remove the child from that relative’s home or the month in which the specified relative signed a *voluntary placement agreement*. The only exception to this requirement is when a child has not been living with that specified relative in such month, but has lived with that relative within 6 months of the initiation of court proceedings or signing of the *voluntary placement agreement*. [See § 472(a)(3)(A)(II) of the Act and 45 CFR § 1356.21(l)(2).] When the child is living with an interim caregiver at removal, the child is considered to be constructively removed from the specified relative who is the subject of the *contrary to welfare* judicial determination or who signs the *voluntary placement agreement*. Calculation of the 6-month period for the *living with* requirement is based on calendar months and is not counted from date to date. For judicial removals, the date the court proceedings are initiated is usually the date on which the removal petition is filed with the court.

NOTE: If a removal petition (1) is not filed or (2) is filed after the removal court order, then use the date of the removal court order as the date the court proceedings are initiated.

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY *Continued*

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

22. Were the removal from and living with requirements met by the same specified relative?

Indicate **YES** if the response is **YES** to Question 20 and either Question 21 or Question 21(a). Otherwise, indicate **NO**.

YES NO

If **NO**, the case is in error and the child is ineligible for the entire foster care episode.

NOTE: The court decision in *Rosales v. Thompson* permits States only in the Ninth Circuit to base AFDC eligibility on the home of any specified relative with whom the child has lived at some point in the 6 months before the removal. The *Rosales* court decision cannot be applied in the case of a child removed before the approval date of the State's title IV-E plan to implement the provision or after the month the annual redetermination of AFDC eligibility was due between June 2006 and June 2007. As of June 30, 2007, all children who were found eligible solely under the *Rosales* exception became ineligible for the remainder of the foster care episode. [See ACYF-CB-PI-06-06.]

Comments:

23. Was AFDC eligibility based on the circumstances in the home of the specified relative against whom the contrary to the welfare judicial determination was made or who signed the voluntary placement agreement?

Indicate **YES** or **NO**, and record the home that is the basis of the AFDC determination (e.g., parent, aunt).

YES NO

AFDC home: _____

If the answer is **NO**, or the basis of the AFDC determination is not a specified relative (e.g., a non-related legal guardian), the child is ineligible for title IV-E for the entire foster care episode.

NOTE: If the response is **NO** because the agency made the eligibility determination on the wrong individual's home, the title IV-E agency may reconstruct the AFDC factors based on the circumstances in the home on which the AFDC determination should be made (Question 20). If the title IV-E agency does not reconstruct the AFDC factors, the eligibility requirement with regard to the AFDC home is not met and the child is ineligible under title IV-E for the entire foster care episode. Also, if the eligibility requirement is not met after reconstruction, the child is ineligible under title IV-E for the entire foster care episode.

For title IV-E eligibility, a child must be eligible for AFDC (in effect July 16, 1996) in the specified relative's home from which the child is removed according to a *voluntary placement agreement* or judicial determination to the effect that it is *contrary to the child's welfare* to remain in the home. If the child is not AFDC-eligible in the specified relative's home from which the child was voluntarily or judicially removed, the child is ineligible for title IV-E for the duration of the foster care episode under ACYF-CB-PI-06-06.

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY *Continued*

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

24. Was AFDC eligibility based on the circumstances in the specified relative’s home in the month the court proceedings were initiated or the month the voluntary placement agreement was signed?

This question applies to the specified relative’s home listed in Question 23. Indicate **YES** or **NO** and record the first month of AFDC eligibility for the foster care episode, not the month the eligibility determination is completed.

YES NO

AFDC eligibility month (month/year): _____

NOTE: If the response is **NO**, the title IV-E agency may reconstruct the AFDC factors to verify the correct AFDC eligibility month. If the title IV-E agency does not reconstruct the AFDC factors, the eligibility requirement with regard to the AFDC month is not met and the child is ineligible under title IV-E for the entire foster care episode. Also, if the eligibility requirement is not met after reconstruction, the child is ineligible under title IV-E for the entire foster care episode.

The child must be eligible for AFDC in the removal home (Question 23) in the month the *voluntary placement agreement* is signed or court proceedings were initiated that lead to the judicial removal, but “prior to” the child’s physical or constructive removal. [See § 472(a)(3)(A) of the Act and 8.4A, Question #21 of the CWPM.] “Prior to” removal means the agency must consider the child’s household circumstances prior to the day of the child’s removal. Any familial or economic changes that occur after the child’s removal may not be considered. The court proceedings that lead to the removal may be the result of a removal petition or a court order. Use the month of the removal court order if a removal petition is not filed or is filed after the month of the removal court order.

The title IV-E agency’s determination process must document AFDC eligibility in the home of the specified relative who is the subject of the *contrary to welfare* judicial determination or who signs the *voluntary placement agreement*. When the child is removed from a specified relative other than the parent, the title IV-E agency can consider the AFDC assistance unit to include only the child and the child’s minor siblings in the same household as the child when looking at financial need in that specified relative’s home. However, that specified relative is included in the AFDC assistance unit if doing so is required by the State’s title IV-A plan as in effect on July 16, 1996.

Comments:

24(a). Was financial need established?

Indicate **YES** or **NO**.

YES NO

If **NO**, the child is ineligible for the entire foster care episode.

The title IV-E agency must document its determination that financial eligibility is met for the month the *voluntary placement agreement* is signed or the court removal proceedings are initiated, but prior to the child’s physical or constructive removal. The child’s financial need must be established based on the income and resources available to the child and the other members included in the AFDC assistance unit. [See 8.4A, Question #18 of the CWPM.] For AFDC eligibility, the AFDC assistance unit’s income must not exceed the State’s AFDC income standard and the combined resources must not exceed \$10,000. [See § 472(a)(3)(B) of the Act.]

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY *Continued*

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

24(b). Was deprivation of parental support or care established?

Indicate **YES** or **NO**.

YES NO

If **NO**, the child is ineligible for the entire foster care episode.

The title IV-E agency's documentation must specify how the child is deprived of parental support or care. *Deprivation* must be due to the death, absence, physical or mental incapacity of one parent; or due to unemployment (or underemployment) of the principal wage earner. The determination of *deprivation* is based on parental factors in the month the *voluntary placement agreement* is signed or the removal court proceedings are initiated, but prior to the child's physical or constructive removal from the home. Parental factors are considered regardless of whether the child is judicially or voluntarily removed from the parent or another specified relative. [See 45 CFR § 233.90(c) and 8.4A, QA #21 of the CWPM.]

Comments:

25. Did the child meet the AFDC requirements for eligibility?

Indicate **YES** or **NO**. The response is **NO** if the response is **NO** to Question 20, 21(a), 22, 23, 24, 24(a), or 24(b).

YES NO

If the bold **NO** box is checked, this indicates an error case with ineligible payments and the child is ineligible under title IV-E for the entire foster care episode.

To qualify for AFDC, the title IV-E agency, at a minimum, must establish and document for the month of the *voluntary placement agreement* or initiation of removal court proceedings that the child is removed, physically or constructively, from the home of a specified relative (Question 20); living with that same specified relative within 6 months of the child's removal (Questions 21 and 22); AFDC-eligible in that home in the month of, and prior to, removal (Questions 23-24); financially needy (Question 24[a]); and deprived of parental support or care (Question 24[b]).

Explain below in *Comments* the specific reason the requirement is not satisfied.

Comments:

25(a). If Question 25 is NO, were title IV-E funds paid for the period of ineligibility?

Indicate **N/A** if Question 25 is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If Question 25(a) is **YES**, this is an error case and the child is ineligible for the entire foster care episode.

Record ineligible periods on the attached ***Improper Payment Chart***.

Comments:

(L) AGE AND EXTENDED TITLE IV-E FOSTER CARE ASSISTANCE

[Statutory Citation: §§ 406, 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR § 233.90(b)]

26. Was the youth 18 years or older at any point during the PUR?

Indicate **YES** or **NO**.

YES NO

Question 26 applies to youth who are age 18-19 years old under the State's title IV-A plan for AFDC. As such, school attendance is not an eligibility consideration unless the youth is 18 years old or older and the title IV-E agency chooses under its title IV-A plan to claim title IV-E maintenance payments for a youth up to age 19.

Sections 406 and 472 of the Act limit title IV-E coverage to children under the age of 18 unless certain conditions are met to extend title IV-E assistance to youth who are age 18-19 years old, as elected in the State's title IV-A plan for AFDC.

NOTE: Beginning 10-01-2010, the title IV-E agency may opt to extend assistance up to age 21 under § 475(8) of the Act. If the title IV-E agency exercises the title IV-E plan option, the case of the 18-year-old or older youth is excluded from the review sample.

Comments:

26(a). If Question 26 is YES, does the title IV-E agency have an approved title IV-A plan option to extend title IV-E coverage to youth age 18-19 years old?

Indicate **N/A** for a child under age 18. Otherwise, indicate **YES** or **NO**.

YES **NO** N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

If Question 26(a) is **NO**, the response to Question 26(d) also is **NO** for the youth, age 18 to 19 years old.

The State may have elected in its title IV-A plan (in effect on July 16, 1996) to provide AFDC eligibility until age 19 for youth who meet the age and school attendance criteria specified in the approved title IV-A plan. To extend title IV-E coverage under the title IV-A plan option, the youth also must continue to meet the title IV-E eligibility criteria under § 472(a) of the Act. If the title IV-A plan option is not exercised, eligibility for title IV-E ceases at the end of the month the otherwise eligible youth turns 18.

Comments:

26(b). If the title IV-A plan option was exercised, was the youth a full-time student in a secondary school or equivalent?

Indicate **N/A** for a child under age 18 or if the title IV-A plan option is not elected. Otherwise, indicate **YES** or **NO**.

YES **NO** N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

If Question 26(b) is **NO**, the response to Question 26(d) also is **NO**.

If the age and school attendance option is authorized in the State's approved title IV-A plan (in effect on July 16, 1996), the otherwise eligible youth must be: (1) a full-time student in a secondary school or its equivalent level of vocational or technical training; and (2) expected to complete the educational program before reaching age 19. School records, independent living plans, or other equivalent documentation are examples of evidence that may be used to satisfy the school attendance requirement.

Comments:

(L) AGE AND EXTENDED TITLE IV-E FOSTER CARE ASSISTANCE *Continued*

[Statutory Citation: §§ 406, 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR § 233.90(b)]

26(c). If the title IV-A plan option is exercised, is the youth expected to complete that educational program before his or her 19th birthday?

Indicate **N/A** for a child under age 18 or if the title IV-A plan option is not elected. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

If Question 26(c) is **NO**, the response to Question 26(d) also is **NO**.

Comments:

26(d). Are the requirements met to extend eligibility coverage under the title IV-A plan option?

Indicate **N/A** for a child under age 18 or if the title IV-A plan option is not elected and title IV-E funds are not claimed for the youth, age 18-19 years old. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response is **NO**, the youth, age 18-19 years old, is ineligible for title IV-E.

For extended title IV-E eligibility under the title IV-A plan option, the title IV-E agency must document that the otherwise eligible youth is a full-time student in a secondary school or its equivalent (Question 26[b]) and is expected to complete the educational program before age 19 (Question 26[c]). Eligibility for title IV-E, then, ceases at the end of the month the otherwise eligible youth, age 18-19, leaves school or at the end of the month the otherwise eligible youth turns 19, whichever occurs earlier. Title IV-E eligibility also stops at the end of the month in which it is determined the otherwise eligible youth, age 18-19, will not complete the educational program before reaching age 19.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

26(d)(1). If Question 26(d) is NO, were title IV-E funds paid for the period of ineligibility?

Indicate **N/A** for a child under age 18, or if Question 26(d) is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response is **YES**, the title IV-E maintenance funds paid for the period of ineligibility outside the PUR are disallowed. If the title IV-E maintenance funds were paid for the period of ineligibility in the PUR, the case is an error case and the ineligible payments are disallowed.

Record the ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(M) TITLE IV-E AGENCY RESPONSIBILITY FOR PLACEMENT AND CARE

[Statutory Citation: §§ 472(a)(2)(B)(i) of the Act; Regulatory Citation: 45 CFR § 1356.71(d)(1)(iii)]

27. Did the title IV-E agency have responsibility for the placement and care of the child for the period the child was in an out-of-home placement during the PUR?

Indicate **YES** or **NO** and record the name of the title IV-E agency with responsibility for placement and care of the child.

YES NO

Agency name: _____

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Federal statutes at § 472(a)(2)(B) of the Act require the responsibility for placement and care of a child to be vested with the title IV-E agency or another public agency or Tribe (also referred to as “public agency”) that has a written agreement, as provided for under § 472(a)(2)(B)(ii), in effect with the title IV-E agency. Evidence of responsibility for placement and care of the child can be documented in the voluntary placement agreement, court order, or court transcript.

Comments:

27(a). If Question 27 is NO, did another public agency have responsibility for the placement and care of the child?

Indicate **N/A** if Question 27 is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

Agency name: _____

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Record the name of the agency with responsibility for placement and care of the child. If an individual, a private agency, or a public agency (that does not have a title IV-E agreement with the title IV-E agency) has placement and care responsibility for the child during the PUR, and explain this response below in *Comments*.

Federal statutes at § 472(a)(2)(B) of the Act require the responsibility for placement and care of a child to be vested with the title IV-E agency or another public agency or Tribe (also referred to as “public agency”) that has a written agreement, as provided for under § 472(a)(2)(B)(ii) of the Act, in effect with the title IV-E agency. Evidence of responsibility for placement and care of the child can be documented in the voluntary placement agreement, court order, or court transcript.

Comments:

27(b). If another public agency had this responsibility, was there a title IV-E agreement in effect between this agency and the title IV-E agency?

Indicate **N/A** if Question 27 is **YES** or Question 27(a) is **NO**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

If Question 27(b) is **NO**, the response to Question 27(c) also is **NO**.

An agreement under § 472(a)(2)(B)(ii) of the Act permits the public agency to administer the title IV-E foster care program on the title IV-E agency’s behalf for a child under the placement and care of the public agency.

Comments:

(M) TITLE IV-E AGENCY RESPONSIBILITY FOR PLACEMENT AND CARE *Continued*

[Statutory Citation: §§ 472(a)(2)(B)(i) of the Act; Regulatory Citation: 45 CFR § 1356.71(d)(1)(iii)]

27(c). Were the requirements regarding placement and care met?

Indicate **YES** or **NO**.

YES NO

If Question 27 and Question 27(a) are **NO**, the response to Question 27(c) also is **NO**. If the bold **NO** box is checked, the child is ineligible to have title IV-E payments made on the child's behalf and this indicates a potential error case or case with ineligible payments.

The title IV-E agency must document that it or another public agency with which it has an agreement, as provided for under § 472(a)(2)(B)(ii) of the Act, has responsibility for placement and care of the child.

Evidence of responsibility for placement and care of the child can be documented in the voluntary placement agreement, court order, or court transcript.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Comments:

27(d). If Question 27(c) is NO, were title IV-E funds paid for the period in which the placement and care responsibility requirement was not met?

Indicate **N/A** if Question 27(c) is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response to Question 27(d) is **YES**, the child is ineligible to have title IV-E payments made on the child's behalf and the title IV-E maintenance payments made for the period of ineligibility outside the PUR are disallowed. If the title IV-E maintenance payments are paid for the period of ineligibility in the PUR, the case is an error case and the ineligible payments are disallowed.

Placement and care responsibility may be granted at removal or at any point in the foster care episode; however, title IV-E maintenance payments may not be claimed before the month the eligibility requirement is met for the otherwise eligible child.

The title IV-E payments also may not be claimed for the period beginning on the day of the month the agency loses placement and care authority for the child.

Record any ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(N) PLACEMENT IN LICENSED FOSTER CARE SETTINGS

[Statutory Citation: §§ 472(b) & (c) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)]

Complete for **every** foster care placement where the child resided during the PUR.

Use the supplemental sheet (Appendix 1) to record separately each additional foster care placement during the PUR.

NOTE: All provider information recorded below will be kept confidential and will not be disclosed for any purposes outside of the review.

28. **Provider Name:** _____

29. **Provider Street Address:** _____

30. **Provider City:** _____

31. **Provider State:** _____

32. **Date(s) of child’s stay in this foster care placement (month/day/year):**

Record the dates covering the entire time the child was in the foster care setting.

From _____ to _____

From _____ to _____

Comments:

33. **Type of foster care setting (check one):**

Indicate the type of setting in which the child lived during the PUR. Under § 472(c)(2) of the Act, an allowable foster care placement for title IV-E eligibility purposes is a foster family home, group home, public childcare institution of 25 children or fewer, or private childcare institution. The *Other* category should be used only when the child has not lived in one of the placement types listed.

Foster Family Home Group Home Public Childcare Institution (25 children or fewer)

Private Childcare Institution Supervised Independent Living Placement

Other (**Specify Other**): _____

NOTE: Beginning on October 1, 2010, the definition of a childcare institution also includes a supervised independent living placement in which a youth age 18 years or older is living independently. [See § 472(c) of the Act.] A youth who is eligible to remain in foster care until age 19 pursuant to a State title IV-A plan option (as in effect July 16, 1996) may be placed in a supervised independent living setting. If such youth, age 18-19, is placed in this type of setting, indicate **N/A** for questions 33(a)-37.

Comments:

(N) PLACEMENT IN LICENSED FOSTER CARE SETTINGS *Continued*

[Statutory Citation: § 472(b) & (c) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)]

33(a). If Question 33 is *Other*, were title IV-E funds paid for the period in which the child resided in the placement during the PUR?

Indicate **YES** or **NO** only if the response to Question 33 is **Other**, otherwise indicate **N/A**.

YES NO N/A

If the **Other** category is selected in Question 33, the child is ineligible for title IV-E while in that placement and the associated title IV-E maintenance payments are disallowed.

If the title IV-E maintenance payments are for periods in the PUR in which the child is ineligible, the case is in error and the title IV-E maintenance payments are disallowed.

Record all ineligible periods on the attached **Improper Payment Chart**.

A child is not eligible under title IV-E if the child’s foster care placement is a setting other than one of the placement types listed in Question 33. A child is not eligible under title IV-E for the period in which the child is in a placement setting such as a detention center, hospital or other medical facility, public institution of more than 25 children, pre-adoptive family home that is not licensed as a foster family home, or supervised setting in which the child under age 18 is living independently.

Comments:

34. Was the foster care provider in Question 33 fully licensed during the child’s placement that falls within the PUR?

Indicate **N/A** if the response to Question 33 is **Other**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, the child is ineligible to have title IV-E maintenance payments made on the child’s behalf and this indicates a potential error case or case with ineligible payments.

Record the entire period(s) of licensure that includes the entire PUR.

Licensure period (month/day/year): From _____ to _____

From _____ to _____

The title IV-E agency must document that the child’s foster care placement is fully licensed or approved for the child’s placement during the PUR, even when the placement is an out-of-State foster care setting. Interim, provisional, or other such type license issued pending complete satisfaction of the licensing agency’s requirements for full licensure are not acceptable for title IV-E eligibility. For the IV-E review, the term “fully licensed” refers to foster care settings that meet all of the applicable licensing requirements for full licensure, approval, certification, or other synonymous term. [See 45 CFR § 1355.20, definition of “foster family home,” and 8.3A.8c of the CWPM.]

Comments:

(N) PLACEMENT IN LICENSED FOSTER CARE SETTINGS *Continued*

[Statutory Citation: § 472(b) & (c) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)]

34(a). If Question 34 is NO, were title IV-E funds paid for the period during which the foster care provider was not fully licensed during the PUR?

Indicate **N/A**, if the response to Question 33 is **Other** or Question 34 is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If Question 34(a) is **YES**, the title IV-E maintenance payments are disallowed for the ineligible child.

If the title IV-E maintenance payment is for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the case is in error and the title IV-E maintenance payment is disallowed. Record any ineligible periods on the attached **Improper Payment Chart**.

- For a foster family home licensed before March 27, 2000: Beginning October 1, 2000, must meet full licensure.
- For a foster family home licensed on or after March 27, 2000: Beginning April 1, 2000, must meet full licensure.
- For childcare institutions: Regardless of licensing date, must meet full licensure.

The otherwise eligible child is considered eligible for the entire month if residing in a title IV-E allowable foster family home or child-care institution that becomes fully licensed within the month. [See 8.3A.15, Question #1 of the CWPM.] However, if during the month a foster family home or child-care institution license becomes provisional, probationary, suspended, revoked, or otherwise not in a fully licensed status due to its failure to satisfy each of the licensing agency’s requirements for full licensure, the title IV-E agency may not claim foster care maintenance payments for the period in which the foster care provider is not fully licensed. The child placed in that foster family home or child-care institution becomes ineligible beginning on the day of the month the foster care provider loses its full licensure status. The otherwise eligible child placed in such foster care setting can become eligible again under title IV-E for the entire month in which the foster care setting comes into full compliance with the licensing requirements.

Comments:

35. Were the title IV-E requirements related to the licensure of the child’s placement met?

Indicate **YES** or **NO**. The response to Question 35 is **NO** if the response to Question 33 is **Other** or the response to Question 34 is **NO**.

YES NO

For title IV-E eligibility under 45 CFR § 1356.71(d)(1)(iv), the child must reside in a foster family home or childcare institution that is fully licensed for the duration of the child’s placement. Federal financial participation may not begin until the first day of the child’s placement in the foster care setting in the month in which full compliance with the title IV-E eligibility requirements are met by the child.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Record ineligible period(s) on the attached **Improper Payment Chart**.

Comments:

(O) SAFETY REQUIREMENTS

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

Complete for **every** foster care setting where the child resided during the PUR.

Use the supplemental sheet (Appendix 1) to record separately each additional foster care placement during the PUR.

36. Was the child's placement during the PUR a foster family home?

Indicate **YES** or **NO**. The response to Question 36 is **NO** if the child's placement was not a foster family home.

YES NO

NOTE: If **YES**, answer Question 36(a), 36(b), or 36(c) and the sub-questions based on when the foster family home became newly licensed.

For title IV-E eligibility, the child's foster family home must comport with the safety requirements under § 471(a)(20) of the Act as applicable, 45 CFR § 1356.30, and ACYF-CB-PI-10-02. The title IV-E agency must document that the foster parents meet the applicable safety requirements for the period for which the title IV-E foster care maintenance payments are made on behalf of the child residing in the foster family home during the PUR. The documentation requirements for the criminal records check (*CRC*) (or background safety checks for former opt-out States) for foster family homes differ based on whether a foster parent(s) becomes newly licensed before or after October 1, 2008 (or the title IV-E agency's approved delayed effective date in either case), as differentiated in Questions 36a–36c. The reviewer must examine each license and licensing period to determine which documentation requirements apply to a foster family home.

The CB uses the term “newly licensed” to refer to a foster family home licensed for the first time. The term also refers to a foster family home for which a previous license has expired or is terminated in accordance with the licensing agency's policy.

The reviewer is not required to verify the title IV-E agency's compliance with the title IV-E plan requirement that the required *CRC* (or background safety checks for former opt-out States) be completed prior to the licensure of the prospective foster parent. However, the reviewer must examine the title IV-E agency's documentation to verify that the applicable requirement was met satisfactorily for the period for which the foster care maintenance payment was made on behalf of the child in the foster care placement during the PUR. Once it is determined that the applicable safety requirement was met at any point prior to or during the PUR, the reviewer does not have to verify subsequent compliance with the requirement during the licensing renewal process.

NOTE: A license alone is not sufficient documentation of compliance with the applicable safety requirement.

Comments:

(O) SAFETY REQUIREMENTS *Continued*

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

36(a). If the foster family home was newly licensed before October 1, 2008, and the title IV-E agency did not “opt out” of the 1997 criminal record check requirement, was a CRC completed satisfactorily on the foster parent(s)?

Indicate **N/A** if (1) the child’s placement was not a foster family home; (2) the State “opted out” of the 1997 CRC requirement prior to October 1, 2008; or (3) the foster family home was newly licensed before November 19, 1997, and remained continuously licensed after this date. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Question 36(a) applies to the CRC requirement for those foster family homes newly licensed between November 19, 1997, and October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check in either case). If the title IV-E agency did not opt out of the 1997 CRC provisions prior to October 1, 2008, for these foster family homes, Federal requirements under § 471(a)(20) of the Act mandate the title IV-E agency to document the results of a CRC. [ACYF-CB-PI-10-02]

For the IV-E review, the CRC requirement is considered met for the PUR for foster family homes newly licensed between November 19, 1997, and October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check in either case) if the documentation clearly verifies that: (1) a CRC is completed at either the local, State or Federal level; (2) the foster parent has not been convicted of any of the prohibited felonies listed under § 471(a)(20)(A)(i) and (ii) of the Act; and (3) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met. Note that a request for a CRC without obtaining the results of the CRC is not sufficient documentation of compliance with the safety requirement.

Comments:

36(a)(1). If Question 36(a) is NO, were title IV-E funds paid for the period the CRC requirement was not satisfied for the foster parent(s)?

Indicate **YES** or **NO** if the response to Question 36(a) is **NO**. Indicate **N/A** if the response to Question 36(a) is **YES**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

For the IV-E review, the documentation must clearly verify that the CRC requirement is met for the period in the PUR in which the title IV-E foster care maintenance payment is made for the child. If the requirement is not fully met as noted in Question 36(a), the child placed in the foster care setting is ineligible under title IV-E. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the child's case is in error and the ineligible title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(O) SAFETY REQUIREMENTS *Continued*

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

36(b). If the foster family home was newly licensed before October 1, 2008, and the title IV-E agency “opted out” of the 1997 CRC requirement, were the safety measures completed satisfactorily on the foster parent(s)?

Indicate **N/A** if: (1) the child’s placement was not a foster family home; (2) the State did not “opt out” of the 1997 CRC requirement prior to October 1, 2008; or (3) the foster family home was newly licensed before March 27, 2000, and remained continuously licensed after this date. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

NOTE: The opt-out provision does not apply to foster parents newly licensed on or after October 1, 2008, or the State’s approved delayed implementation date.

Question 36(b) applies to the safety measures pertaining to the background checks for those foster family homes newly licensed between March 27, 2000, and October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check). If the title IV-E agency opted out of the 1997 CRC provisions prior to October 1, 2008, for the applicable foster family homes Federal requirements under 45 CFR § 1356.30(a) mandate the title IV-E agency to document compliance with the safety considerations established in accordance with 45 CFR § 1356.30(e) and ACYF-CB-PI-10-02.

For the IV-E review, the safety requirement is considered met for the PUR for those foster family homes newly licensed between March 27, 2000, and October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check) if the documentation clearly verifies that: (1) all of the background safety checks prescribed by the licensing agency where the foster family home is located are met for the foster parent; and (2) title IV-E maintenance payments are not made for a period in the PUR that is prior to these conditions being met. The documentation will be accepted based upon the degree it clearly specifies (1) the background checks completed, (2) the date completed, (3) the individual on whom completed, (4) the individual completing the background check or reviewing the results of the background check, and (5) the evidence reviewed. A request for a background check without the results of the record search is not sufficient documentation of compliance.

Comments:

36(b)(1). If Question 36(b) is NO, were title IV-E funds paid for the period the safety measures were not satisfied for the foster parent(s)?

Indicate **N/A** if the response to Question 36(b) is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

For the IV-E review, the documentation must clearly verify that the safety requirement is met for the period in the PUR for which the title IV-E foster care maintenance payment is made for the child. If the requirement is not fully met as noted in Question 36(b), the child placed in the foster care setting is ineligible under title IV-E. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the child’s case is in error and the ineligible title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(O) SAFETY REQUIREMENTS *Continued*

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

36(c). If the foster family home was newly licensed on or after October 1, 2008, was a fingerprint-based CRC of the National Crime Information Databases (NCID) completed satisfactorily on the foster parent(s)?

Indicate **N/A**, if (1) the child’s placement was not a foster family home; or (2) the foster family home was newly licensed before October 1, 2008 (or the approved delayed implementation date) and remained continuously licensed after this date. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Question 36(c) applies to the *CRC* for those foster family homes newly licensed on or after October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check of the *NCID*). For the noted foster family homes, Federal requirements under § 471(a)(20) of the Act mandate the title IV-E agency to document a *CRC* that includes a fingerprint-based check of the *NCID*. [ACYF-CB-PI-10-02]

For the IV-E review, the *CRC* requirement is considered met for the PUR for those foster family homes newly licensed on or after October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check of the *NCID*) if the documentation clearly verifies that: (1) a *CRC* is completed that includes a fingerprint-based check of the *NCID*; (2) the foster parent has not been convicted of any of the prohibited felonies listed in §§ 471(a)(20)(A)(i) and (ii) of the Act; and (3) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met. A request for a *CRC* without the results of the record search is not sufficient documentation of compliance with the safety requirement.

Comments:

36(c)(1). If Question 36(c) is NO, were title IV-E funds paid for the period the fingerprint-based CRC of the NCID was not completed satisfactorily on the foster parent(s)?

Indicate **YES** or **NO** if the response to Question 36(c) is **NO**. Indicate **N/A** if the response to Question 36(c) is **YES**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

For the IV-E review, the documentation must clearly verify that the safety requirement is met for the period in the PUR for which the title IV-E foster care maintenance payment is made for the child. If the requirement is not fully met as noted in Question 36(c), the child placed in the foster care setting is ineligible under title IV-E. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the child’s case is in error and the ineligible title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(O) SAFETY REQUIREMENTS *Continued*

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

37. If the child’s placement during the PUR was a childcare institution, were the safety requirements completed satisfactorily for the caregiver staff of the institution?

Indicate **N/A** if the child is not placed in a childcare institution during the PUR. Otherwise, indicate **YES** or **NO**.

YES **NO** N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Question 37 applies to the safety requirements pertaining to the background checks for childcare institutions that undergo a licensure process on or after March 27, 2000. The safety requirement applies regardless of whether the background checks are completed for the initial license, a license renewal, or a re-licensure on or after March 27, 2000. Federal requirements under 45 CFR § 1356.30(f) mandate the title IV-E agency to document that the background checks with respect to the caregiver staff of the childcare institution are completed in accordance with the licensing agency’s requirements where the childcare institution is located. [ACYF-CB-PI-10-02]

For the IV-E review, reviewers will examine the background check documentation to determine for the PUR: (1) whether all of the licensing agency’s established policies with respect to the type and frequency of background checks for each applicable caregiver staff are fully completed for the most recent period of the licensing agency’s monitoring schedule prior to (or, if applicable, during) the PUR; and (2) whether the background check requirements are fully satisfied for the period in the PUR for which the title IV-E foster care maintenance payment is made for the child residing in the childcare institution during the PUR. The documentation will be accepted based upon the degree it clearly specifies for each applicable caregiver staff (1) the background checks completed, (2) the date completed, (3) the individual on whom completed, (4) the individual completing the background check or reviewing the result of the background check, and (5) the evidence reviewed. A request for a background check without the results of the record search is not sufficient documentation of compliance.

Comments:

37(a). If Question 37 is NO, were title IV-E funds paid for the period that the safety requirements were not completed satisfactorily for the caregiver staff of the childcare institution?

Indicate **YES** or **NO** if the response to Question 37 is **NO**. Indicate **N/A** if the response to Question 37 is **YES**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

Title IV-E foster care maintenance payments may not be made for a child placed in a childcare institution that does not meet the applicable safety requirements under § 471(a)(20)(A) of the Act and 45 CFR § 1356.30(f).

For the IV-E review, the documentation must clearly verify that the safety requirement is met for the period in the PUR for which the title IV-E foster care maintenance payment is made for the child placed in the childcare institution. If the safety requirements are not fully met as noted in Question 37 for each applicable caregiver staff, the child placed in the foster care setting is ineligible under title IV-E. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the child’s case is in error and the ineligible title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(P) CASE FINDINGS GLOSSARY

After the On-Site Review Instrument is completed, determine whether the sample case is a non-error case or an error case and indicate this on the first page of the instrument. For a non-error case and an error case, indicate whether underpayments were identified and whether ineligible payments were made.

Eligible Child: A child is considered eligible when all title IV-E eligibility criteria pertaining to the child and the child's foster care placement are met. The child must be in a foster care placement that is allowable under title IV-E in order for the otherwise eligible child to be considered as meeting all title IV-E criteria for eligibility.

Ineligible Child: A child is ineligible if a title IV-E eligibility criterion pertaining to the child or the child's foster care placement is not met.

Underpayment: An underpayment occurs when a title IV-E agency unknowingly does not claim an allowable title IV-E maintenance payment for an eligible child and the 2-year filing period specified under 45 CFR § 95.7 has not expired. An underpayment has not occurred when the title IV-E agency chooses not to claim the allowable payment or the 2-year filing period has expired.

Non-Error Case with Ineligible Payment: A non-error case with ineligible payment occurs when (1) a title IV-E maintenance payment is made for a period solely outside the PUR for an ineligible child or (2) an unallowable title IV-E maintenance payment is made for a period in or outside the PUR for an eligible child.

Error Case: An error case occurs when a title IV-E maintenance payment is made for a period within the PUR on behalf of an ineligible child. This includes the period within the PUR prior to the month the child meets an eligibility requirement.

APPENDIX 1: LICENSING/SAFETY CHECKLIST FOR MULTIPLE FOSTER CARE PLACEMENTS

Use this page to record an additional foster care placement during the PUR.

Title IV-E Agency _____ Sample Number _____

(N) PLACEMENT IN LICENSED FOSTER CARE SETTINGS

Complete for **every** foster care placement where the child resided during the PUR.

Use this supplemental sheet to record separately each additional foster care placement during the PUR.

*All provider information recorded below will be kept *confidential* and will not be disclosed for any purposes outside of the review.

28. **Provider Name:** _____

29. **Provider Street Address:** _____

30. **Provider City:** _____

31. **Provider State:** _____

32. **Date(s) of child’s stay in this foster care placement (month/day/year):**

Record the dates covering the entire time the child is in the foster care setting.

From _____ to _____

From _____ to _____

33. **Type of foster care setting (check one):**

Foster Family Home Group Home Public Childcare Institution (25 children or fewer)

Private Childcare Institution Supervised Independent Living Placement

Other (Specify Other): _____

33(a). **If Question 33 is Other, were title IV-E funds paid for the period in which the child resided in the placement during the PUR?**

YES NO N/A

34. **Was the foster care provider in Question 33 fully licensed during the child’s placement that fell within the PUR?**

YES NO N/A

Licensure period (month/day/year): From _____ to _____

From _____ to _____

34(a). **If Question 34 is NO, were title IV-E funds paid for the period during which the foster provider was not fully licensed during the PUR?**

YES NO N/A

35. **Were the title IV-E requirements related to the licensure of the child’s placement met?**

YES NO

(O) SAFETY REQUIREMENTS

Title IV-E Agency _____ Sample Number _____

Complete for **every** foster care setting where the child resided during the PUR.

Use this supplemental sheet to record separately each additional foster care placement during the PUR.

36. Was the child’s placement during the PUR a foster family home?

YES NO

36(a). If the foster family home was newly licensed before October 1, 2008, and the title IV-E agency did not “opt out” of the 1997 criminal record check requirement, was a criminal records check (CRC) completed satisfactorily on the foster parent(s)?

YES NO N/A

36(a)(1). If Question 36(a) is NO, were title IV-E funds paid for the period the CRC requirement was not satisfied for the foster parent(s)?

YES NO N/A

36(b). If the foster family home was newly licensed before October 1, 2008, and the title IV-E agency “opted out” of the 1997 CRC requirement, were the safety measures completed satisfactorily on the foster parent(s)?

YES NO N/A

36(b)(1). If Question 36(b) is NO, were title IV-E funds paid for the period the safety measures were not satisfied for the foster parent(s)?

YES NO N/A

36(c). If the foster family home was newly licensed on or after October 1, 2008, was a fingerprint-based CRC of the National Crime Information Databases (NCID) completed satisfactorily on the foster parent(s)?

YES NO N/A

36(c)(1). If Question 36(c) is NO, were title IV-E funds paid for the period the fingerprint-based CRC of the NCID was not completed satisfactorily on the foster parent(s)?

YES NO N/A

37. If the child’s placement during the PUR was a childcare institution, were the safety requirements completed satisfactorily for the caregiver staff of the institution?

YES NO N/A

37(a). If Question 37 is NO, were title IV-E funds paid for the period the safety requirements were not completed satisfactorily for the caregiver staff of the childcare institution?

YES NO N/A

APPENDIX 2: IMPROPER PAYMENT CHART

This chart is used to record the improper payments identified during the IV-E review. Improper payments are overpayments, duplicate payments, erroneous and otherwise ineligible title IV-E maintenance payments, and underpayments. The reviewer must provide a brief description of all improper payments, regardless of whether the sample case is determined an error case. As noted below, all payment amounts are calculated by the ACF fiscal specialist. The ACF fiscal specialist should review the payment history in detail to ensure that costs identified as title IV-E are allowable and claimable.

Title IV-E Agency: _____ Sample Number: _____

Checklist Item #	Eligibility Issue or Payment Issue	Begin Date	End Date	Payment Amount (ACF Fiscal Specialist Completes)

For Fiscal Computations

A. Federal Share for Foster Care Maintenance Payments (FCMP) Calculation

Disallowance: Refer to the instructions for calculating the maintenance payment disallowance and formula calculation spreadsheet for initial and primary reviews.

B. Federal Share for Foster Care Administration Costs Calculation

Disallowance: Refer to the instructions for calculating administrative cost disallowance and formula calculation spreadsheet for initial and primary reviews.

C. Period of Ineligibility and Underpayments

Calculate the months of improper title IV-E payments for maintenance and administrative costs beginning with the first month of ineligibility to the end of the month that precedes the on-site review.

Appendix 2: Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review

1. Title IV-E Foster Care Eligibility Review Guide
2. Child Welfare Policy Manual, Section on Title IV-E Foster Care, Children's Bureau Issuance. The document is accessible at <http://www.acf.hhs.gov/programs/cb/>.
3. Final Rule, January 25, 2000 (65 CFR § 4020)
4. Section 472 of the Social Security Act
5. Title IV-E Foster Care Eligibility Review On-Site Review Instrument and Instructions
6. 45 CFR Part 1356
7. Eligibility determination procedures and applicable forms and worksheets of the title IV-E agency under review and the applicable Aid to Families with Dependent Children (AFDC) eligibility factors
8. Approved plans for title IV-A (AFDC) and title IV-E of the Social Security Act
9. The licensing agency requirements governing safety requirements for foster family homes and childcare institutions.
10. Other material submitted by the title IV-E agency to CB that pertains to the eligibility review, including court orders and a non-technical summary of how an automated system (if applicable) is used to determine the eligibility and the system logic behind the eligibility calculation, including screen prints.

Appendix 3: Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team During the Pre-Review Conference Call And Before Reviewing Records On Site

The pre-review conference call is held between the Children’s Bureau (CB) and the title IV-E agency representatives at least 45 calendar days before the on-site review and after the CB’s review of material submitted by the title IV-E agency. On site, discussion topics may supplement the orientation provided to the team before its review of case records. The CB Regional Office leads the pre-review and on-site discussions and uses the title IV-E agency material to guide the discussions.

Case Sampling. Discuss the case selection process, including:

- Period under review (PUR)
- Types of sample case substitutions (the title IV-E agency must send eligibility changes or title IV-E payment adjustments to the CB Regional Office before the title IV-E agency receives the sample)
- Whether a stratified sample should be drawn for the primary review to include juvenile justice cases or other special title IV-E populations, and whether a 10 percent oversample of cases is sufficient

Payment History. Discuss information contained in the payment history and request supplemental information when data is questionable or missing.

Policy and Practice. Ask the title IV-E agency to describe its practice and applicable statute or policy concerning:

- Removals and Legal Documentation
 - How does a child typically come into foster care (for example, court order, voluntarily placed or relinquished), including time frames applicable to removal and the mechanism for initiating court removals (for example, removal petitions)?
 - Are court petitions filed, and, if so, when, and for what purpose?
 - What kinds of court orders are used to remove children (for example, pick-up

order, endorsement, emergency, or shelter)?

- What constitutes a bona fide court order? Is a signature required, and, if so, who must sign. Who may sign in lieu of the mandated signer? Is an electronic signature or a signature stamp permissible? Is a date required on the court order?
- In what type of court proceeding, and how frequently, is the “reasonable efforts to finalize the permanency plan” determined?
- When does the definitive finding of child abuse or neglect typically occur? In what type of court proceeding and court order does it take place? (for example, adjudicatory hearing)?
- How does the title IV-E agency policy define trial home visits?
- Does the title IV-E agency claim title IV-E reimbursement for children voluntarily placed? Who may enter into a voluntary placement agreement? What is the duration of such an agreement?

- AFDC Relatedness

- How does the title IV-E agency ensure that Aid to Families with Dependent Children (AFDC) eligibility is determined using the July 16, 1996 look-back date, or an earlier date for applicable cases? The response should explain whether the determination is manual or automated, the AFDC State plan requirements concerning the two-step process for determining financial need and for determining deprivation, age, and school attendance. What types of documentation verify eligibility for each requirement?
- How is eligibility determined? How is agency endorsement of the eligibility decision documented?

- How does the title IV-E agency ensure that AFDC eligibility is determined using the appropriate begin date of the AFDC eligibility requirements? What documentation will be available for review to substantiate eligibility?
 - Does the title IV-A State plan permit the title IV-E agency to exercise the option to pay title IV-E foster care maintenance payments on behalf of youth over the age of 18? If so, how is compliance with the school attendance option documented?
 - Placement and Care Responsibility
 - Are there title IV-E agreements for placement and care between the title IV-E agency and another public agency or federally recognized Tribe?
 - How does the title IV-E agency document that the title IV-E agency, or an entity with a title IV-E agreement, had placement and care responsibility for the title IV-E eligible child, including an 18-year-old youth?
 - Licensure
 - What mechanism does the title IV-E agency use to authorize facilities to operate as foster care providers (for example, licensing, approval) and which entities are regulated to authorize the foster care providers?
 - What types of facilities are authorized to operate as foster care providers (for example, foster family homes, childcare institutions)? Are group homes licensed as foster family homes or as childcare institutions?
 - What types of licenses or approvals (for example, full, temporary, provisional) are issued to foster family homes and childcare institutions and under what conditions?
 - For how long is a license or approval valid? If there is an expiration date, how far in advance does the provider have to apply for renewal? Does the title IV-E agency's policy or program mandate automatic renewal of the license/approval if the provider makes timely application? If there is no automatic renewal, is there a grace period after expiration before the provider is considered unlicensed?
 - What documentation verifies licensure or approval of the child's placement with the foster care provider? If a child is placed in another jurisdiction, how does the title IV-E agency document licensure or approval of the child's placement with a foster care provider who resides outside the title IV-E agency's jurisdiction?
 - Safety
 - What is the begin date for implementing the criminal records check (CRC) requirement for foster parents, including fingerprint-based checks of national crime information databases? If there is delayed implementation of the requirement, what is the CB approval date? Does the title IV-E agency require fingerprint-based checks of national crime information databases for foster family homes licensed before October 1, 2008? What documentation verifies compliance with the CRC requirements for a child placed within the title IV-E agency's jurisdiction? If a child is placed outside the title IV-E agency's jurisdiction, how does the title IV-E agency document the completion of the CRC requirement?
 - For States that previously *opted out* of the 1997 criminal records check provision, what background safety checks must be conducted and how frequently must they be completed for the foster parents? What documentation verifies compliance with the safety requirements for a child placed within the title IV-E agency's jurisdiction? If a child is placed outside the title IV-E agency's jurisdiction, how does the title IV-E agency document the completion of the safety requirement?
- Did the State implement the criminal records check provisions, including fingerprint-based checks of national crime information databases, by October 1, 2008? If not, did the State have an approved delayed effective date? If so, what is the delayed effective date for

implementing the criminal records check provisions? (Applicable to foster family homes newly licensed on or after March 27, 2000, but before October 1, 2008, or the State's approved delayed effective date to implement the fingerprint-based check of the NCID).

- For childcare institutions, what safety checks must be completed and how frequently must they be completed for the caregiver staff? What documentation verifies compliance with the safety requirements for a child placed within and outside the title IV-E agency's jurisdiction?
- For childcare institutions, what background checks are required to be completed for the newly hired caregiver staff? What background checks are required to be completed on an on-going basis and how frequent are they required to be completed? What documentation verifies compliance with the safety requirements for a child placed within the title IV-E agency's jurisdiction? What documentation verifies compliance with the safety requirements for a child placed outside the title IV-E agency's jurisdiction?

Systems and Processes. Ask the title IV-E agency to describe the systems and processes that are in place to support accurate determinations of eligibility and proper claiming of title IV-E payments. The discussion should include:

- The ongoing processes or mechanisms, such as a quality assurance system, that routinely examine the effectiveness of its processes for eligibility determination,

documentation and prevention of ineligible payments and underpayments.

- The staff development and training program that addresses the skills and knowledge base needed to carry out the duties with regard to the title IV-E program. The information should say at what point trainings occur and whether the training program is at all levels of the agency (for example, caseworkers, local supervisors, managers and/or administrators, and the Central Office) and outside the agency (for example, courts, or tribes)
- The automated processes and system interfaces to assist with obtaining information pertinent to determining title IV-E eligibility.

On-Site Review Logistics and Activities. Discuss plans for the logistical arrangements for team members and on-site activities during the review week, including:

- Hotel accommodations and travel arrangements
- Room space requirements for reading records and conferences
- Record preparation, location, and sample numbering
- Team composition and expected work hours
- Use of electronic files
- Review week agenda

Next Steps. Determine whether an additional conference call is necessary and what additional information, such as the placement history, the title IV-E agency should provide for the on-site review.

Appendix 4: On-Site Quality Control Tasks for the Title IV-E Foster Care Eligibility Review

The Children’s Bureau (CB) Regional Office Team Leader for the on-site review and the CB Central Office Co-Leader are responsible for ensuring that quality control functions are performed during the on-site review in order to ensure consistency, objectivity, and accuracy in reviewing cases. First and second level quality checks are conducted of all cases in the sample. Each case in the sample must undergo a first level check by the CB Regional Office Team Leader or designee. The Central Office Co-Leader also will assist with this task. A second level check of the On-Site review instrument for all cases in the sample is completed by the CB Central Office Co-Leader.

The quality assurance reviewer must sign and date the On-Site Review Instrument to indicate it was quality checked. The following are some tasks that are performed to ensure quality control.

1. Verify that all case records in the sample and oversample are available at the review site since an unavailable case may be counted as an error record.
 2. Review each completed instrument to ensure that:
 - all elements are completed on the Face Sheet, including whether the sample is a non-error case and whether there are improper payments, including underpayments;
 - all questions are answered and source of documentation is recorded;
 - dates recorded are logical;
 - a reason is noted for any item rated “N/A”;
 3. Re-read the first record read by each reviewer to ensure that the reviewer understood the instrument and applied an accurate interpretation of the law and regulations.
 4. Re-read all records identified as errors or with other payment issues. This is done by the CB Regional Office Team Leader or designee and the Central Office Co-Leader
 5. Re-read records of reviewers who appear to have difficulty completing the instrument.
- a reason is noted for any item recorded as “underpayment”, “ineligible”, or “potential error”;
 - recording on the instrument is legible;
 - information is completed on all foster care placements where child resided during the PUR;
 - reason for ineligibility and period of ineligibility are recorded on the Improper Payment Chart at the end of the checklist;
 - reason for underpayments are recorded on the Improper Payment Chart at the end of the instrument; and
 - all necessary corrections were made by the reviewer, if the instrument is returned to the reviewer for revisions.

Appendix 5: Title IV-E Foster Care Eligibility Reviews Table of Completed Case Records and Description of Improper Payments

This table is an example of a case log that the Children’s Bureau On-Site Review Team Leader or designee completes to account for the review and disposition of each sample case drawn for the review. The case log may be modified as determined necessary by the Team Leader.

Title IV-E Agency:					PUR:										
Sample	AFCARS#	Reviewer	Compliance		Disallowance					Underpayment				QA	
			Error	Non Error	Reason	Error		Non Error		Total FFP	FFP				Reason
						Main	Adm	Main	Adm		Main	Adm	Total FFP		

AFCARS Number: The encrypted number identified in the "recnumbr" column of the AFCARS sample listing
 Main: Amount of Maintenance Payment
 Adm: Amount of Associated Administration Cost
 FFP: Federal Financial Participation
 QA: Quality Assurance Review of the Sample Case (Indicate the initials of individual completing the QA)

Appendix 6: Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program

Title IV-E FCMP Eligibility Criterion	Statutory Citation (Social Security Act)	Regulatory Citation
Contrary to the Welfare	§ 472(a)(2)(A)(ii)	45 CFR § 1356.21(c)
Reasonable Efforts to Prevent Removals*	§ 472(a)(2)(A)(ii), § 471(a)(15)(B)(i)	45 CFR § 1356.21(b)(1)
Reasonable Efforts to Make and Finalize a Permanency Plan*	§ 472(a)(2), §471(a)(15)(B)(ii) and (C)	45 CFR § 1356.21(b)(2)
Aid to Families with Dependent Children (AFDC) Eligibility	§ 472(a)(1) and (3)	45 CFR § 1356.71(d)(1)(v)
Placement and Care Responsibility Vested with the Title IV-E Agency	§ 472(a)(2)(B)	45 CFR § 1356.71(d)(1)(iii)
Placement in a Licensed Foster Family Home or Childcare Institution	§ 472(a)(2)(C), (b), and (c)	45 CFR § 1356.71(d)(1)(iv) 45 CFR § 1355.20
Voluntary Placement Agreements and Best Interests Determinations	§ 472(a)(2)(A)(i), (d)-(g)	45 CFR § 1356.22
Safety Requirements for Foster Care Providers†	§ 471(a)(20)	45 CFR § 1356.30

*The act of making reasonable efforts to prevent a child's removal from the home and/or to make and finalize a permanency plan is a title IV-E plan requirement, and compliance with such is assessed during the course of the review of the title IV-E agency's child and family services programs. The judicial determination regarding the act of making reasonable efforts to prevent a child's removal from the home or to make and finalize a permanency plan is an eligibility criterion. The title IV-E agency's performance in obtaining the requisite judicial determination is assessed through the IV-E review.

†Title IV-E agencies must conduct criminal records checks on all prospective foster and adoptive parents to comply with the title IV-E plan. The results of the criminal records check affect the title IV-E agency's ability to license foster and adoptive homes. The provision also must be treated as an eligibility criterion, given its impact on the licensing process.

Appendix 7: Time Frames for Title IV-E Foster Care Eligibility Review Activities

A subsequent primary review is conducted within 3 months of the anniversary date on which the previous on-site review was completed. A secondary review is conducted during the second AFCARS reporting period that follows the completion date of the title IV-E agency's PIP.

Time Frame and Activity

6 months before on-site review:

- CB Regional Office and title IV-E agency representative determine the dates for the on-site review
- CB Regional Office provides the review date and site location to the CB Central Office Team Leader for the IV-E reviews
- CB Central Office Team Leader for the IV-E reviews develops a national review schedule based on information provided by the CB Regional Office and transmits the schedule for posting on the CB Web site

120 calendar days before on-site review:

- CB Regional Office sends the title IV-E agency written confirmation of the scheduled date for the on-site review
- CB Regional Office requests a copy of the title IV-E agency's payment histories and policies relevant to the review
- CB identifies its members of the review team
- Title IV-E agency identifies its members of the review team

90 calendar days before on-site review:

- Title IV-E agency transmits the requested policies to CB Regional Office
- CB Regional Office transmits the requested title IV-E policies to CB Central Office team members
- CB Regional Office and Central Office review the title IV-E agency's policies as well as the approved title IV-E and title IV-A plans to prepare for the pre-review conference call with the title IV-E agency
- CB Regional Office and Central Office Co-Leaders collaborate with the title IV-E agency to plan logistical arrangements for the on-site review, including hotel accommodations and transportation for review team members

45 to 60 calendar days before on-site review:

- CB Central Office statistician selects review sample from the title IV-E agency's AFCARS data for the PUR
- CB Central Office statistician transmits sample listing to the title IV-E agency and CB Regional Office
- Title IV-E agency transmits payment histories for sample cases to CB Regional Office and obtains CB Regional Office concurrence on case substitutions with oversample cases
- Title IV-E agency begins organizing case records to make sure case material and documentation relevant to the on-site review are available
- CB Regional Office schedules and convenes conference call with title IV-E agency and CB Central Office team member(s) to provide an overview of the review procedures; to discuss review activities, and to discuss the agency's material. Title IV-E agency arranges space for meetings and review activities conducted on site during the review week

30 calendar days before on-site review:

- Title IV-E agency submits to CB Regional Office additional information and policy material, if requested
- CB Regional Office finalizes agenda of activities for the on-site review and transmits it to title IV-E agency and CB Central Office team member(s), including any additional agency material

On-Site Review

30 calendar days following on-site review:

- CB Regional Office reviews additional case documentation submitted by the title IV-E agency and notifies the title IV-E agency of approval or disapproval (this is an ongoing process)
- CB Regional Office transmits to the title IV-E agency the Final Report of compliance and notifies the title IV-E agency of any payment disallowances
- CB Regional Office transmits an electronic copy of the Final Report, and disallowance notice with Attachment B, D and F, to the CB Central Office Team Leader for the IV-E reviews

60 calendar days following on-site review:

- Title IV-E agency submits payment adjustments via the Quarterly Report of Expenditures (Form CB-496)
- Title IV-E agency submits a written notice to appeal the review findings, at the option of the title IV-E agency, to the Departmental Appeals Board within 30 calendar days following receipt of disallowance letter
- CB Regional Office sends a copy of the title IV-E agency's appeal, if applicable, to the CB Central Office, Associate Commissioner and the Team Leader for the IV-E review

90 calendar days following receipt of noncompliance notice by the title IV-E agency

- Title IV-E agency submits completed Program Improvement Plan (PIP) to CB Regional Office following written receipt of notification of noncompliance. If necessary, CB Regional Office may grant a 30-day extension to receive additional documentation
- 30 calendar days following receipt of PIP from the title IV-E agency: (1) CB Regional Office reviews completed PIP for approval or disapproval (2) CB Regional Office provides feedback to the title IV-E agency regarding the adequacy of the PIP
- CB Regional Office transmits an electronic copy of the approved PIP and approval letter, including PIP approval date, to CB Central Office Team Leader for Eligibility Monitoring

30 calendar days following notification of PIP disapproval by CB Regional Office

- Title IV-E agency submits revised PIP to CB Regional Office

2 – 3 weeks following receipt of revised PIP from the title IV-E agency:

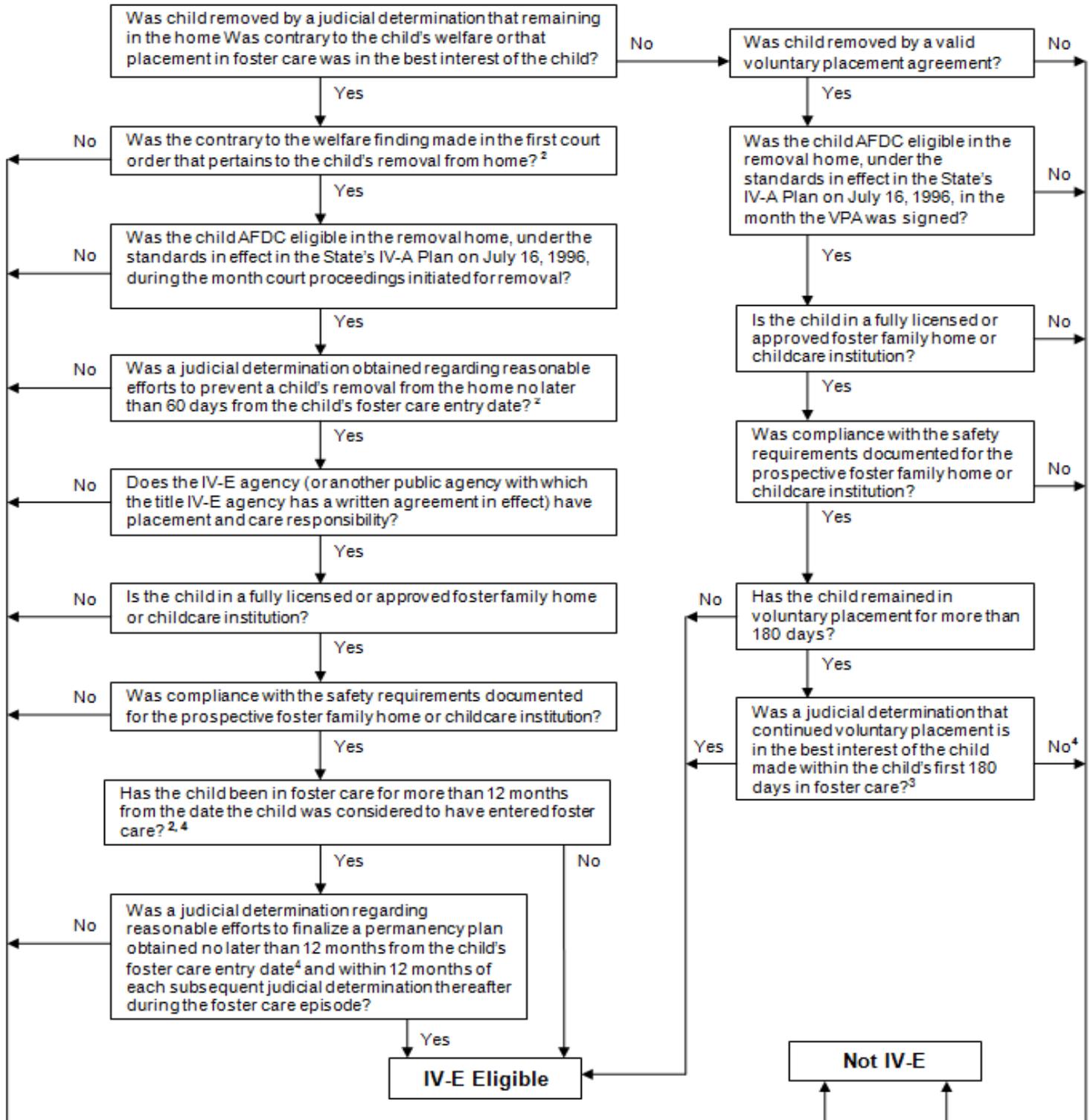
- CB Regional Office reviews completed PIP for approval or disapproval
- CB Regional Office notifies the title IV-E agency of approval or disapproval of PIP and, if disapproved, notifies the title IV-E agency of immediate scheduling of secondary review

12 calendar months following notification of approved PIP:

- Title IV-E agency completes PIP implementation (PIP may be completed at any point during the 12-month period)
- CB Regional Office notifies the title IV-E agency of completion of the PIP and schedules a date for the secondary review.

Appendix 8: Title IV-E Foster Care Eligibility Chart

This flowchart depicts the eligibility determination process for a title IV-E foster care eligibility case. Chapter 1 and Chapter 4 of this guide contain further details.



¹ Title IV-E foster care eligibility requirements have changed over time. This chart will be accurate and most useful for cases to which the current regulations, which were effective March 27, 2000, apply.

² For children who entered care on or after March 27, 2000.

³ If No, the child is eligible for title IV-E payments made in the first 180 days; eligibility ends on the 181st day in foster care.

⁴ The date that a child is considered to have entered foster care is the earlier of a judicial finding of abuse or neglect or 60 days from the date the child is removed from the home.

Appendix 9: Matrix of AFDC Factors Related to Title IV-E Foster Care Eligibility¹

Factor	Statutory, Regulatory, or Policy Reference
State AFDC plan, July 16, 1996	§ 472(a), Social Security Act
Child met income need standards	45 CFR § 233.20
Child had resources of \$10,000 or less	§ 472(a)(3)(B), Social Security Act
Child deprived of parental support <ul style="list-style-type: none"> ▪ Death of parent ▪ Continued absence of parent ▪ Physical or mental incapacity of parent (documented by medical professional) ▪ Unemployment of principle wage earner 	Former § 406(a), Social Security Act 45 CFR § 233.90(c) 45 CFR § 233.100
Child met age requirement <ul style="list-style-type: none"> ▪ Under age 18, or ▪ Age 18, but under age 19 and full-time student (Title IV-A State plan option) 	Former § 406(a), Social Security Act 45 CFR § 233.90(b)(3)
Child lived with specified relative within 6 months of the initiation of court proceedings to remove the child, or signing of the voluntary placement agreement (VPA). <ul style="list-style-type: none"> ▪ Specified relative is a parent or any relation by blood, marriage, or adoption within the fifth degree of kinship to the child ▪ Specified relative exercised responsibility for daily care and control of child 	Former § 406(a)(1) § 472(a)(3)(A)(ii)(II), Social Security Act 45 CFR § 233.90(c)(1)(v) 45 CFR § 233.90(c)(1)(v)(B)
Child “lived with” and “removed from” same specified relative <ul style="list-style-type: none"> ▪ AFDC based on home of specified relative who is basis of “contrary to welfare” judicial finding or who signed the VPA ▪ AFDC eligible during month that court proceedings were initiated to remove the child, or the month that the VPA was signed. 	45 CFR § 1356.21(l) ACYF-CB-PI-06-06 § 472(a)(3)(A) & (B), Social Security Act

¹ Eligibility decisions should not be based solely on this summary matrix. Refer to the applicable statutory, regulatory, or policy citation as well as the approved plans for title IV-A and title IV-E, for further information.

Appendix 10: Provider Requirements, Title IV-E Foster Care Eligibility

LICENSURE

Provider Type	Federal Provision	Implementation Date
FFH licensed before 03/27/2000	Full licensure	09/27/2000
FFH licensed on/after 03/27/2000	Full licensure	03/27/2000
Childcare institution	Full licensure	Upon licensure

SAFETY

Non-Opt-Out State

Provider Type	Federal Provision	Implementation Date
FFH licensed before 11/19/1997	Safety Requirement N/A	Safety requirement N/A
FFH licensed between 11/19/1997 and 09/30/2008	Prospective Foster Parent, CRC ¹	11/19/1997 ⁴
FFH licensed on/after 10/01/2008	Prospective Foster Parent, CRC ² with Fingerprint-based check of the NCID ³	10/01/2008 ⁴

Former Opt-Out-State

Provider Type	Federal Provision	Implementation Date
FFH licensed before 03/27/2000	Safety Requirement N/A	Safety Requirement N/A
FFH licensed between 03/27/2000 and 09/30/2008	Prospective Foster Parent, Safety Considerations	03/27/2000 ⁴
FFH licensed on/after 10/1/2008	Prospective Foster Parent, CRC ² with Fingerprint-based check of the NCID ³	10/01/2008 ⁴

Childcare Institution

Provider Type	Federal Provision	Implementation Date
Childcare institution licensed before 3/27/2000	Safety Requirement N/A	Safety Requirement N/A
Childcare institution licensed on/or after 3/27/2000	Caregiver Staff, Safety Considerations	03/27/2000

¹ Criminal Record Check at either the State, local, or Federal law enforcement level.

² Criminal Record Check at the Federal law enforcement level.

³ National Crime Information Database of the Federal Bureau of Investigation.

⁴ If State had an approved delayed effective date, then the delayed effective date is the implementation date.



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR

CHILDREN & FAMILIES

Administration on Children, Youth and Families
Children's Bureau

**Title IV-E Foster Care Eligibility
On-Site Review Instrument and Instructions
December 2012**



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Title IV-E Foster Care Eligibility On-Site Review Instrument and Instructions

December 2012 Version

(A) CASE FINDINGS

Complete this section after completing the entire instrument (check if applicable).

Case Type: Non-Error Case Error Case

For either case type, case includes: Underpayments
 Ineligible Payments

(B) QUALITY ASSURANCE CHECK COMPLETED SIGNATURES

First-Level QA Reviewer's Signature: _____

Second-Level QA Reviewer's Signature: _____

(C) INSTRUCTIONS

- Complete this instrument for each foster care episode during the PUR.
- Answer each question on the instrument and read each question's instructions for an explanation of how to answer it.
- Indicate "**N/A**" if the question is not applicable and state the reason the question does not apply. Refer to the "Title IV-E Foster Care Eligibility Review Guide" for additional guidance on review policy and procedures.
- Verify that each eligibility factor is documented and record the documentation source in the "Comments" section after each question.
- Responses in bold font are *potential* case errors or ineligible payments.
- Record additional foster care placements during the period under review (PUR) on the appended "Licensing/Safety Checklist for Multiple Placements" (Appendix 1) and the data for improper payments on the appended "Improper Payment Chart" (Appendix 2).
- All statutory citations refer to the applicable section of the Social Security Act (the Act).
- Use pencil and print legibly.

(D) GENERAL CASE INFORMATION

1. **Sample PUR (month/day/year):**

Record the begin date and end date of the 6-month sample PUR, using the month, date, and year format.
_____ to _____

2. **State postal code and random sample selection number:**

Record the two-letter State postal code and the selection number assigned to the sample case.

3. **Case ID:**

Record the case number the title IV-E agency uses as an identifier for the child's file. _____

4. **County or local office:**

Record the name of the county or local office that has assignment for the child's file.

5. **Review date (month/day/year):**

Record the month, date, and year the case is reviewed. _____

6. **Reviewed by:**

Record the name of the individual reviewing the case.

Comments:

(E) CHILD INFORMATION

The child's name will be kept *confidential* and will not be disclosed for any purposes outside of the review.

7. Child's name:

Record the first and last name of the child whose case is being reviewed.

8. Child's date of birth (month/day/year):

Enter the birth date of the child whose case is being reviewed. _____

9. Child's age as of the first day of the PUR:

Enter the age of the child on the first day of the PUR. If the child is less than one (1) year old on the first day of the PUR, enter a zero (0). Documentation of age is not necessary for the title IV-E foster care eligibility review (IV-E review) unless there are questions about the age of a youth who may be 17 years old or older. Then, a birth certificate or equivalent source document is used to verify the birth date. Section 406 of the Act limits title IV-E eligibility to children under the age of 18, or up to age 19 if the school attendance option is exercised in the State's 1996 title IV-A plan.

Age: _____

NOTE: Beginning 10-01-2010, the title IV-E agency may exercise the title IV-E plan option to extend assistance to age 21, under § 475(8) of the Act. If the title IV-E agency has approval to exercise the title IV-E plan option, the IV-E agency's 18- to 21-year-olds are not subject to the IV-E review at this time and are excluded from the review sample.

Comments:

(F) RELEVANT DATES (may precede PUR)

[Statutory Citation: §§ 472(a)(1) & (2) of the Act and 475(5)(F); Regulatory Citation: 45 CFR §§ 1355.20(a), 1356.21(k), and 1356.22]

10. On what date was the child removed from home?

Enter the date of physical removal unless the child was constructively removed. If the child was constructively removed, enter the date the court sanctioned the judicial removal, in a judicial removal, or the date of the final signature on a voluntary placement agreement, in a voluntarily placement. (A constructive removal occurs when a judicial ruling or voluntary placement agreement sanctions the child's removal from the parent or another specified individual, but the child is living with an interim caregiver at the time of the removal. It applies to a removal that occurs on or after 3-27-2000 for a child who has not lived with an interim caregiver longer than 6 months prior to the constructive removal. If the constructive removal occurred before 3-27-2000, note that below in *Comments*. Also, if the child had lived with an interim caregiver longer than 6 months before the constructive removal, note that below. The case is not marked as in error when answering Question 10, if the constructive removal requirement is not met. The eligibility requirements pertaining to constructive removals are specifically addressed at Questions 21(a) and 22.)

Removal date (month/day/year): _____

Question 10 records the date of the child's most recent physical or constructive removal from the home of a parent or another specified relative in accordance with a court order or voluntary placement agreement.

Comments:

(F) RELEVANT DATES (may precede PUR) Continued

[Statutory Citation: §§ 472(a)(1) & (2) of the Act and 475(5)(F); Regulatory Citation: 45 CFR §§ 1355.20(a), 1356.21(k), and 1356.22]

11. On what date did the child enter foster care?

Check the **N/A** box, if appropriate, based on the following instructions:

For a removal according to a voluntary placement agreement: Indicate **N/A**.

For a court-ordered removal before March 27, 2000: Indicate **N/A**.

For a court-ordered removal on or after March 27, 2000: Indicate **N/A** if the foster care episode terminated before 60 days of removal and a judicial finding of abuse or neglect was not rendered prior to the end of the foster care episode.

N/A

Otherwise, record the **date the child entered foster care** based on the following information:

- **Initial placement in foster care setting:**

Record the month, date, and year the child is considered to have entered foster care, as based on the definition in § 475(5)(F) of the Act and Federal regulations at 45 CFR § 1355.20(a) and described below, if the child initially was placed in a foster care setting (foster family home or childcare institution) at removal.

- **Initial placement in non-foster care setting:**

(1) Record the month, date, and year the child was placed in a foster care setting, if the child initially was placed in a detention facility or other non-foster care setting and was in the non-foster care setting longer than 60 days before being placed in a foster care setting. Or,

(2) Record the month, date, and year the child entered foster care as defined below, if the child's placement into foster care from a non-foster care setting occurred within 60 days of his or her removal from the home.

Entry date (month/day/year): _____

As defined in § 475(5)(F) of the Act and 45 CFR § 1355.20(a), the date the child is considered to have entered foster care is the date that is the earlier of either a judicial finding to the effect that the child has been subjected to child abuse or neglect or 60 calendar days after the date the child is removed from the home through a court order or voluntary placement agreement. The *date the child entered foster care* usually is not the same date as the date of removal (Question 10 or Question 13). The date recorded in Question 11 is the date used to determine when to obtain the initial judicial determination of reasonable efforts to finalize the permanency plan (Question 19). The title IV-E agency may use the date the child is physically removed from home. However, for the IV-E review, the "*date child entered foster care*" is the date as defined in § 475(5)(F) of the Act and 45 CFR § 1355.20(a), consistent with the U.S. DHHS Departmental Appeals Board (DAB) Decision No. 1903.

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

12. Was the child's removal the result of a court order?

If the removal was pursuant to a court order, indicate **YES**.

If the removal was not pursuant to a court order, indicate **NO**.

YES

NO

NOTE: If **NO** is the response to this question and Question 15, the response also is **NO** to Question 18. For title IV-E eligibility, a child's removal must be in accordance with the requisite *judicial determination* (Question 12) or a *voluntary placement agreement* (Question 15).

For Questions 13 and 14: The judicial determination in court-ordered removals must be: (1) made in a valid court order; (2) made on a case-by-case basis and child-specific; (3) explicitly stated in the court order; and (4) in conformity with Federal regulatory time frames to satisfy compliance with the title IV-E requirements. Affidavits, *nunc pro tunc* court orders and other similar-purpose documents are not acceptable documentation to support a judicial finding (except as provided in § 479B of the Act for a limited period for Tribes). If an acceptable court order is not furnished, an official transcript of the court proceeding is the only alternative to substantiate that the judicial determination requirement has been met satisfactorily (45 CFR 1356.21(d)(1)). The precise language, *contrary to the welfare* or *reasonable efforts*, does not have to be included in the court ruling. However, consistent with DAB Decision No. 1998, there must be an expressed statement in the court order or court transcript that can be clearly understood as a determination that the required judicial finding is made.

Comments:

13. If Question 12 was YES, was there a judicial finding of *contrary to the welfare*?

If the child was voluntarily placed, indicate **N/A**. Otherwise, indicate **YES** or **NO**.

YES

NO

N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments.

For title IV-E purposes, in a court-ordered removal there must be a judicial determination to the effect that continuation in the home with the specified relative (from whom there was a physical or constructive removal) would be *contrary to the child's welfare*, or that foster care placement is in the child's best interests.

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

13(a). If the child was removed from the home before March 27, 2000, was the *contrary to the welfare* finding in a court ruling issued within 6 months of the child’s removal? Or was there a removal petition filed within 6 months of the child’s removal that resulted in a judicial finding of *contrary to the welfare*?

For a removal on or after March 27, 2000, or if the child was removed via a voluntary placement agreement, indicate **N/A**.

For a removal before March 27, 2000, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments. Then, the child is ineligible under title IV-E for the entire foster care episode.

Record the judicial finding date and removal petition date.

Judicial finding date (month/day/year): _____

Removal petition date (month/day/year): _____

Consistent with DAB Decision No. 1508, if the judicial finding of *contrary to the welfare* is not rendered within 6 months of the child’s removal (Question 10), the requisite judicial finding may be in a court ruling that stems from court proceedings initiated no later than 6 months from the date of the child’s removal from the home. Calculation of the 6-month period is based on calendar months and is not counted from date-to-date. The resultant court order must expressly adopt the pertinent language of the petition in a manner such that it is reasonably understood that the requisite judicial finding is made. For compliance, the court order cannot merely sustain the petition. Title IV-E maintenance may not be claimed for a period prior to the court ruling that explicitly makes the judicial finding. If the judicial determination is not made as required, the child is ineligible for title IV-E foster care for the entire foster care episode.

Comments:

13(b). If the child was removed from the home on or after March 27, 2000, was the *contrary to the welfare* finding stated in the court ruling for removal?

For a removal before March 27, 2000, or if the child was removed via a voluntary placement agreement, indicate **N/A**.

For a removal on or after March 27, 2000, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments. Then, the child is ineligible under title IV-E for the entire foster care episode.

Record the judicial finding date.

Judicial finding date (month/day/year): _____

The judicial determination regarding *contrary to the welfare* must be made in the first court ruling that sanctions, even temporarily, the child’s removal from the home (Question 10). The first court ruling refers to the judicial order that stems from the first court proceeding on the child’s removal. If the judicial determination is not made in the first court ruling pertaining to that removal from home, this eligibility requirement is not met. [See 45 CFR § 1356.21(c).]

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

13(c). Was the requirement met for the judicial finding of *contrary to the welfare*?

Indicate **N/A** if the child was voluntarily placed. Otherwise, indicate **YES** or **NO** based on the response to Questions 13, 13(a), and 13(b).

Explain below in *Comments* the specific reason the requirement is not satisfied.

YES NO N/A

If Question 13(c) is **NO**, this case is an error case and the child is ineligible under title IV-E for the entire foster care episode.

If **NO**, record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

13(d). Were title IV-E funds paid before the month in which the *contrary to the welfare* requirement was met?

Indicate **N/A** if the child was voluntarily placed. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

Regardless of the removal date, the title IV-E agency may claim title IV-E maintenance payments from the first day of the child's placement in the month in which all title IV-E eligibility criteria are met for the child. [See 8.3A.15, Question #1 of the CB Child Welfare Policy Manual (CWPM).]

If a title IV-E maintenance payment was made for a period that was prior to the month in which the eligibility requirement was met and the ineligible period was outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment was made for a period that was prior to the month in which the eligibility requirement was met and the ineligible period was in the PUR, the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

14. If Question 12 is *YES*, was there a judicial finding regarding *reasonable efforts to prevent removal*?

If the child was voluntarily placed, indicate **N/A**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments. Then, the child is ineligible under title IV-E for the entire foster care episode.

For title IV-E purposes, a judicial removal must include a determination to the effect that the title IV-E agency has made reasonable efforts to prevent the removal of the child from the specified relative (Question 10) or that reasonable efforts are not necessary prior to removal. If the child was removed before March 27, 2000, the requirement may be satisfied with a judicial finding that reasonable efforts have been made to reunify the child and family after removal.

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

14(a). If the child was removed from the home before March 27, 2000, what is the date of the judicial finding regarding reasonable efforts?

For a removal on or after March 27, 2000, or if the child was removed via a *voluntary placement agreement*, indicate **N/A**.

N/A

For a removal before March 27, 2000, record the date of the court ruling that contains the judicial finding of either *reasonable efforts to prevent removal* or *reasonable efforts to reunify*. If both judicial findings were made, record each date.

Reasonable efforts to prevent removal date (month/day/year): _____

Reasonable efforts to reunify date (month/day/year): _____

The judicial determination to the effect that either reasonable efforts have been made to prevent removal (or are not required) or that reasonable efforts have been made to reunify the child and family after removal satisfies this reasonable efforts requirement. If the eligibility criterion is not satisfied, the child is ineligible for the duration of the foster care episode. [See 45 CFR § 1356.21(b)(1).]

Comments:

14(b). If the child was removed from the home on or after March 27, 2000, what is the date of the judicial finding regarding reasonable efforts to prevent removal? Was the judicial finding regarding reasonable efforts to prevent removal determined within 60 days of the child's removal?

For a removal before March 27, 2000, or if the child was removed via a *voluntary placement agreement*, indicate **N/A**.

For a removal on or after March 27, 2000, indicate **YES** or **NO** regarding the timeliness of the judicial finding.

YES NO N/A

If the bold **NO** box is checked, this indicates an error case with ineligible payments. Then, the child is ineligible under title IV-E for the entire foster care episode.

Record the judicial finding date.

Judicial finding date (month/day/year): _____

The judicial determination to the effect that *reasonable efforts to prevent removal* have been made (or are not required) must be obtained no later than 60 days from the date the child is removed from the specified relative (Question 10). The "clock" for the 60-day period begins the day after the child is physically removed. If the child is constructively removed, the "clock" begins on the date the court sanctions the removal. If the eligibility criterion is not satisfied within the time frame prescribed in the Federal regulations, the child is ineligible for the entire foster care episode. [See 45 CFR § 1356.21(b)(1).]

Comments:

(G) REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§ 471(a)(15)(B) and 472(a)(2) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(b), (c), & (d)]

14(c). Was the requirement met for the judicial finding of reasonable efforts to prevent removal?

Indicate **N/A** if the child was voluntarily placed. Otherwise, indicate **YES** or **NO** based on the response to Questions 14, 14(a), and 14(b).

Explain below in *Comments* the specific reason the requirement is not satisfied.

YES NO N/A

If Question 14(c) is **NO**, this is an error case and the child is ineligible for the entire foster care episode.

If **NO**, record ineligible period(s) on the attached *Improper Payment Chart*.

Comments:

14(d). Were title IV-E funds paid before the month of the judicial finding of reasonable efforts to prevent removal?

Indicate **N/A** if child was voluntarily placed. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

Regardless of the removal date, the title IV-E agency may claim title IV-E maintenance from the first day of the child's placement in the month in which all title IV-E eligibility criteria are met for the child [See 8.3A.15, Question #1 of the CWPM.]

If a title IV-E maintenance payment is made for a period prior to the month in which the eligibility requirement is met and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment is made for a period prior to the month in which the eligibility requirement is met and the ineligible period is in the PUR, the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached *Improper Payment Chart*.

Comments:

(H) VOLUNTARY PLACEMENTS

[Statutory Citation: §§ 472(d), (e), and (f) of the Act; Regulatory Citation: 45 CFR § 1356.22]

15. Was the child's removal pursuant to a voluntary placement agreement?

Indicate **YES** or **NO**. If the removal was pursuant to a voluntary placement agreement, enter **YES**.

If the removal was not pursuant to a voluntary placement agreement, enter **NO**.

YES NO

NOTE: If **NO** is the response to this question and Question 12, the response also is **NO** to Question 18. For title IV-E eligibility, a child must be removed in accordance with the requisite judicial determination (Question 12) or a voluntary placement agreement (Question 15).

Comments:

(H) VOLUNTARY PLACEMENTS *Continued*

[Statutory Citation: §§ 472(d), (e), and (f) of the Act; Regulatory Citation: 45 CFR § 1356.22]

16. If Question 15 is YES, was the *voluntary placement agreement* signed by the parent or legal guardian and the title IV-E agency?

Indicate **N/A** if this was a court-ordered removal. Otherwise, indicate **YES** or **NO**.

YES

NO

N/A

If the response is **NO**, this is an error case.

Record the signature date of the agreement. If signings occurred on different dates, record the date of the final signature.

Voluntary placement agreement signature date (month/day/year): _____

Consistent with § 472(f)(2) of the Act, the parent or legal guardian and the title IV-E agency representative must sign the *voluntary placement agreement* for it to be valid. If all required parties did not sign the *voluntary placement agreement*, the child is ineligible for title IV-E for the entire foster care episode.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

16(a). Were title IV-E funds paid for a period prior to when the *voluntary placement agreement* was signed by the parent, legal guardian or the title IV-E agency?

Indicate **N/A** if this was a court-ordered removal. Otherwise, indicate **YES** or **NO**.

YES

NO

N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

The title IV-E agency may claim title IV-E maintenance from the first day of the child's placement in the month in which all title IV-E eligibility criteria are met for the child. [See 8.3A.15, Question #1 of the CWPM.]

If a title IV-E maintenance payment was made for a period prior to the month in which the eligibility requirement was met and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment was made for a period prior to the month in which the eligibility requirement was met and the ineligible period is in the PUR, the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(H) VOLUNTARY PLACEMENTS *Continued*

[Statutory Citation: §§ 472(d), (e), and (f) of the Act; Regulatory Citation: 45 CFR § 1356.22]

17. Was there a judicial determination regarding the child's *best interests* within 180 days of the foster care placement through a *voluntary placement agreement*?

Indicate **YES** or **NO** and record the date of the judicial finding, including the month, date, and year. Indicate **N/A**, if the judicial determination was not obtained and fewer than 180 days have elapsed since the foster care placement date (or signature date, if the child was constructively removed) and the last day of the PUR. Also, indicate **N/A** if the child was judicially removed.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Judicial finding date (month/day/year): _____

As specified in § 472(e) of the Act, to extend title IV-E eligibility beyond 180 days of placement in foster care, there must be a judicial determination within the first 180 days of the foster care episode to the effect that continued out-of-home placement is in the child's *best interests*, thereby extending foster care placement through the *voluntary placement agreement*. The "clock" for the first 180 days of the foster care episode begins on the date the child is physically placed in foster care. If constructively removed, the "clock" for the first 180 days of the foster care episode begins on the date the voluntary placement agreement is signed by all necessary parties. If signings are on different dates, it begins on the date of the final signature.

NOTE: If the *voluntary placement agreement* is terminated, revoked, or otherwise no longer in effect prior to obtaining the judicial determination regarding the child's best interests, title IV-E eligibility ends on the day the voluntary placement agreement is terminated, revoked, or not in effect and the child becomes ineligible for the remainder of the foster care episode. Under these conditions, the response is **NO** to Question 17.

Comments:

17(a). If Question 17 is **NO**, were title IV-E funds paid for the period of ineligibility?

Indicate **N/A** if this was a court-ordered removal. Otherwise, indicate **YES** or **NO**, based on a **NO** response to Question 17.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

If a title IV-E maintenance payment is made for the period in which compliance with the requirement is not met and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If a title IV-E maintenance payment is made for the period in which compliance with the requirement is not met and the ineligible period is in the PUR; the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

If more than 180 days of the child's placement in foster care have elapsed in a removal through a valid *voluntary placement agreement* and there has been no judicial determination of *best interests*, the child's eligibility for title IV-E ceases on the 181st day. The child's eligibility also ceases on the day the *voluntary placement agreement* is terminated, revoked, or not in effect if this occurs prior to obtaining the judicial determination regarding the child's *best interests*.

Comments:

(I) VALID REMOVALS

[Statutory Citation: §§ 472(a)1 & 2 of the Act; Regulatory Citation: 45 CFR § 1356.21(k)(2)]

18. Has there been a *valid removal* of the child from the home during the most recent foster care episode?

Indicate **YES** or **NO**. The response is **NO** if the response is **NO** to Questions 12 and 15. The response also is **NO** if the child is removed from the parent or another specified relative through a court order or voluntary placement agreement, and the child remains with the same relative in that home under that relative's responsibility and the title IV-E agency's supervision.

YES

NO

If **NO**, the child is ineligible for title IV-E for the entire foster care episode.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

For title IV-E eligibility, a *valid removal* is a removal that is in accordance with a *voluntary placement agreement* (VPA) or a judicial finding of *contrary to the welfare* (CTW) that sanctions the removal (physical or constructive) of the child from the parent or legal guardian who signs the VPA or whose home is the subject of the CTW finding. [See § 472(a)(1) of the Act and 45 CFR § 1356.21(k).]

Consistent with 45 CFR § 1356.21(k)(2), a removal is not valid under title IV-E when the child is removed from the specified relative through a voluntary placement agreement or a court order, and the child remains with that same specified relative in the home under that relative's responsibility and the title IV-E agency's supervision.

For court-ordered removals, the physical removal from the above-referenced specified relative must coincide with the CTW finding. If the physical removal does not take place by the end of the next business day of the CTW finding and the court order does not specify an alternative time frame for removal, the child is ineligible for the entire foster care episode unless there is an extenuating circumstance that delays the physical removal. If there is an extenuating circumstance related to the delayed removal, notify the Children's Bureau (CB) team leader so that the relevant case information can be referred to the CB Central Office for further consideration.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Comments:

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan)

Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

For Questions 19, 19(a), 19(b), 19(c), 19(d), and 19(e): Answer each question in sequential order to verify that a judicial determination of *reasonable efforts to finalize the permanency plan* was satisfied for the 12-month period that includes the PUR.

To maintain title IV-E eligibility in a judicial removal, there must be a judicial determination to the effect that the title IV-E agency has made reasonable efforts to finalize the child's permanency plan. [See 45 CFR § 1356.21(b)(2).] The judicial determination of *reasonable efforts to finalize the permanency plan* must be (1) made in a valid court order; (2) made on a case-by-case basis and child-specific; (3) explicitly stated in the court order; and (4) in conformity with Federal regulatory time frames to satisfy compliance with the title IV-E requirements for court-ordered removals. Affidavits, *nunc pro tunc* court orders, and other similar-purpose documents are not acceptable documentation to support a judicial finding, except as provided in § 479B of the Act for a limited period for Tribes. If an acceptable court order is not furnished, an official transcript of the court proceeding is the only alternative to substantiate that the judicial determination requirement is met satisfactorily. [See 45 CFR § 1356.21(d).] The precise language, *reasonable efforts*, does not have to be included in the court ruling. However, consistent with DAB Decision No. 1998, there must be an expressed statement in the court order or court transcript that can be clearly understood as a determination that the title IV-E agency has made reasonable efforts, as required for title IV-E eligibility.

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan) Continued

Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

For a removal before March 27, 2000: The judicial determination must have occurred *by March 27, 2001*, and at least once every 12 months thereafter while the child is in foster care. If the judicial determination is not made by March 27, 2001, ineligibility for title IV-E payments is from April 1, 2001, until the judicial determination requirement is met. The reviewer is not required to verify the title IV-E agency’s compliance with the March 27, 2001, implementation date. The reviewer must verify whether the judicial determination requirement was satisfactorily met for the 12-month period that includes the PUR. If the judicial determination requirement was not met for the PUR, then the reviewer must go back to the date the requirement was met or March 27, 2001, whichever was later, to establish the period of ineligibility.

For a removal on or after March 27, 2000: The initial judicial determination must be made no later than 12 months from the date on which the child is considered to have entered foster care (Question 11). Thereafter, the judicial determination must be made at least once every 12 months while the child is in foster care. The reviewer must verify whether the judicial determination requirement was satisfactorily met for the 12-month period that includes the PUR. If the judicial determination requirement was not met for the PUR, then the reviewer must go back to the date the requirement was met to establish eligibility.

Regardless of the removal date, calculation of the 12-month period is based on calendar months and is not counted from date to date.

Periodicity Chart for Judicial Determination of Reasonable Efforts to Finalize the Permanency Plan

Record information in the following chart only if necessary to determine the most recent judicial finding attained prior to the PUR and to determine whether an initial or subsequent judicial finding is required during the 12-month period that includes the PUR. If the chart is completed and an untimely judicial determination is identified with ineligible payments, record the ineligible period(s) on the attached “Improper Payment Chart.” The below chart may be a helpful tool to use in some circumstances, but its completion is not required.

Date Removed (month/day/year): _____

- Removal before March 27, 2000: Refer to Question 10

Date Entered Foster Care (month/day/year): _____

- Removal on or after March 27, 2000: Refer to Question 11

Date judicial determination due (month/year)	Date judicial determination made (month/year)	Is this decision timely? (Indicate Yes or No)	If decision is untimely, is title IV-E maintenance paid for the period? (Indicate Yes or No)

Comments:

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan) Continued

Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

19. Was the child in foster care 12 months or more before the last day of the PUR?

Indicate **N/A** if the removal was the result of a *voluntary placement agreement*. Otherwise, indicate **YES** or **NO**. A **YES** response is based on the date in Question 10, for a removal before March 27, 2000; or Question 11, for a removal on or after March 27, 2000. If Question 19 is **NO**, a judicial determination of *reasonable efforts to finalize the permanency plan* was not due for the PUR. Questions 19(a)–19(e) are **N/A**.

YES NO N/A

Comments:

19(a). If Question 19 is YES, what was the date of the most recent judicial determination of reasonable efforts to finalize before the PUR?

Indicate **N/A** if: (1) the removal was the result of a *voluntary placement agreement*; (2) the response to Question 19 is **NO**; (3) the date of the initial judicial determination fell within the PUR; or (4) the due date for the judicial determination fell within the 12-month period immediately before the PUR but was not made. Explain below in *Comments* the specific reason for the **N/A** response. Otherwise, record the month and year of the last judicial determination obtained before the beginning of the PUR.

N/A

Date of most recent judicial finding (month/year): _____

Question 19(a) establishes whether an *initial* or *subsequent* judicial finding is required for the 12-month period that includes the PUR.

Comments:

19(b). What was the due date of the judicial determination due 12 months from the date recorded in Question 19(a)?

Indicate **N/A** if the removal was the result of a *voluntary placement agreement*. Otherwise, record the date of the judicial determination that was due 12 months from the date recorded in Question 19(a). If a date is not recorded in Question 19(a) because the required judicial determination was not made before the PUR, record the month and year it should have been made and note below in *Comments* the reason for the recorded date.

N/A

Due date of judicial finding (month/year): _____

Comments:

19(c). On what date was the judicial determination in Question 19(b) made?

Indicate **N/A** if: (1) the removal is the result of a *voluntary placement agreement* or (2) 12 months have not elapsed since the date recorded in Question 19(b) and a judicial determination was not made during that interim period. Explain below in *Comments* the specific reason for the **N/A** response. Otherwise, for the judicial determination referenced in Question 19(b), record in Question 19(c) the month and year that the *initial* or *subsequent* judicial determination was made. If the judicial determination was due but not made, note this below in *Comments*.

N/A

Date of judicial finding (month/year): _____

Comments:

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan) Continued

Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

19(d). Was the judicial determination recorded in Question 19(c) timely?

Indicate **N/A** if the removal was the result of a *voluntary placement agreement* or if Question 19(c) is **N/A** because 12 months have not elapsed since the date recorded in Question 19(b) and a judicial determination was not made during that interim period. Explain below in *Comments* the specific reason for the **N/A** response. Otherwise, indicate **YES** or **NO** based on the date recorded in Question 19(c).

YES

NO

N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

A judicial determination is not considered timely if the finding is not made within the required 12-month time frame. The date of the latest judicial determination is used to determine the date the subsequent one must be made. An untimely judicial determination renders the child ineligible beginning on the first day of the month after it is due and continuing to the first day of the month it is attained.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Comments:

19(e). If Question 19(d) is NO, were title IV-E funds paid as a result of the untimely judicial determination?

Indicate **N/A** if the response to Question 19(d) is **N/A** or **YES**. Otherwise, indicate **YES** or **NO**.

YES

NO

N/A

If the response to Question 19(e) is **YES**, this indicates a potential error case or case with ineligible payments.

If the untimely judicial determination is attained in the month immediately following the month it is due, the child regains eligibility beginning that month and title IV-E maintenance payments that are made for that period are considered properly paid. On the other hand, if the untimely judicial determination is not attained within the month immediately following the month it is due, the child loses eligibility until the requisite judicial determination is made and the associated title IV-E maintenance payments are disallowed. [See 45 CFR § 1356.21(b)(2).]

If the title IV-E maintenance payment is made for a period in which the child is not eligible and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If the title IV-E maintenance payment is made for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is in error and the title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(J) ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan) Continued

Applicable to Court-Ordered Removals Only

[Statutory Citation: § 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

19(f). Is the requirement met for the judicial finding of reasonable efforts to finalize the permanency plan?

Indicate **N/A** if the removal was the result of a *voluntary placement agreement*. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response is **NO**, the child is ineligible to have title IV-E payments made on the child's behalf.

The response to Question 19(f) is **YES** if 12 months have not elapsed since the date in Question 19(b) or the response to Question 19(d) is **YES**.

The response to Question 19(f) is **NO** if the judicial determination is not (1) child specific; (2) to the effect that the title IV-E agency has made *reasonable efforts to finalize the child's permanency plan*; (3) explicitly stated in the court order or court transcript; and (4) in conformity with regulatory time frames.

If the title IV-E maintenance payment is made for the period in which the child is ineligible and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed.

If the title IV-E maintenance payment is made for the period in which the child is ineligible and the ineligible period is in the PUR, the child's sample case is in error and the title IV-E maintenance payment is disallowed.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

20. Was the child removed from the home of a specified relative?

Indicate **YES** or **NO** and record from whose home the child was physically or constructively removed (e.g., parent, aunt, legal guardian) according to a court order (Question 12) or *voluntary placement agreement* (Question 15). For title IV-E eligibility, the removal home is the home of the specified relative who is the subject of the *contrary to welfare* judicial determination, or who signs the *voluntary placement agreement*.

YES NO

Removal Home: _____

If the bold **NO** box is checked, this indicates an error case with ineligible payments, and the child is ineligible under title IV-E for the entire foster care episode.

In a judicial removal, the court order might indicate that the child was removed from the home of various individuals, such as a specified relative or an unrelated caregiver. In a voluntary placement, a parent or legal guardian (related or unrelated) might have signed the *voluntary placement agreement*. However, to qualify for title IV-E, a valid removal of the child from a specified relative must occur for the most recent foster care episode. [See 45 CFR § 1356.21(k).] A specified relative may be a parent or any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the child. [See 45 CFR § 233.90(c)(1)(v).] When the child is living with an interim caregiver at removal, the child is considered to be constructively removed from the specified relative who is the subject of the *contrary to welfare* judicial determination or who signs the *voluntary placement agreement*. A constructive removal is a non-physical removal that occurs only on paper from that specified relative. Constructive removals apply to judicial or voluntary removals occurring on or after March 27, 2000, for a child who has not lived with an interim caregiver longer than 6 months prior to the constructive removal.

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY *Continued*

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

21. If Question 20 is *YES*, was the child *living with* that specified relative in the month court proceedings were initiated or the date the voluntary placement agreement was signed?

If Question 20 is **NO**, indicate **N/A**. Otherwise, indicate **YES** if the child was living with the specified relative (referred to in Question 20) in the month that court proceedings were initiated to remove the child, or on the date the *voluntary placement agreement* was signed (date that is recorded in Question 16). Indicate **NO** if the child was not living with that specified relative during either time frame.

YES NO N/A

Date child last lived with specified relative (month/day/year): _____

Date court proceedings initiated (judicial removal only) (month/day/year): _____

Date *voluntary placement agreement* signed (month/day/year): _____

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

For judicial removals, the date the court proceedings were initiated to judicially remove the child is usually the date the removal petition is filed with the court.

NOTE: If a removal petition (1) is not filed or (2) is filed after the removal court order, then use the date of the removal court order as the date the court proceedings were initiated.

Comments:

21(a). If Question 21 is *NO*, had the child lived with the specified relative within 6 months of the date the court proceedings were initiated, or the date the *voluntary placement agreement* was signed?

Indicate **N/A** if Question 20 is **NO** or Question 21 is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

Date child last lived with specified relative (month/year): _____

Date court proceedings initiated (judicial removal only) (month/year): _____

Date *voluntary placement agreement* signed (date recorded in Question 16) (month/year): _____

If the response is **NO** to Questions 21 and 21(a), the child is ineligible for title IV-E for the entire foster care episode and the case is an error case.

For title IV-E eligibility purposes, a child must be living with a specified relative during the month in which court proceedings are initiated to remove the child from that relative's home or the month in which the specified relative signed a *voluntary placement agreement*. The only exception to this requirement is when a child has not been living with that specified relative in such month, but has lived with that relative within 6 months of the initiation of court proceedings or signing of the *voluntary placement agreement*. [See § 472(a)(3)(A)(II) of the Act and 45 CFR § 1356.21(l)(2).] When the child is living with an interim caregiver at removal, the child is considered to be constructively removed from the specified relative who is the subject of the *contrary to welfare* judicial determination or who signs the *voluntary placement agreement*. Calculation of the 6-month period for the *living with* requirement is based on calendar months and is not counted from date to date. For judicial removals, the date the court proceedings are initiated is usually the date on which the removal petition is filed with the court.

NOTE: If a removal petition (1) is not filed or (2) is filed after the removal court order, then use the date of the removal court order as the date the court proceedings are initiated.

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY *Continued*

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

22. Were the removal from and living with requirements met by the same specified relative?

Indicate **YES** if the response is **YES** to Question 20 and either Question 21 or Question 21(a). Otherwise, indicate **NO**.

YES

NO

If **NO**, the case is in error and the child is ineligible for the entire foster care episode.

NOTE: The court decision in *Rosales v. Thompson* permits States only in the Ninth Circuit to base AFDC eligibility on the home of any specified relative with whom the child has lived at some point in the 6 months before the removal. The *Rosales* court decision cannot be applied in the case of a child removed before the approval date of the State's title IV-E plan to implement the provision or after the month the annual redetermination of AFDC eligibility was due between June 2006 and June 2007. As of June 30, 2007, all children who were found eligible solely under the *Rosales* exception became ineligible for the remainder of the foster care episode. [See ACYF-CB-PI-06-06.]

Comments:

23. Was AFDC eligibility based on the circumstances in the home of the specified relative against whom the contrary to the welfare judicial determination was made or who signed the voluntary placement agreement?

Indicate **YES** or **NO**, and record the home that is the basis of the AFDC determination (e.g., parent, aunt).

YES

NO

AFDC home: _____

If the answer is **NO**, or the basis of the AFDC determination is not a specified relative (e.g., a non-related legal guardian), the child is ineligible for title IV-E for the entire foster care episode.

NOTE: If the response is **NO** because the agency made the eligibility determination on the wrong individual's home, the title IV-E agency may reconstruct the AFDC factors based on the circumstances in the home on which the AFDC determination should be made (Question 20). If the title IV-E agency does not reconstruct the AFDC factors, the eligibility requirement with regard to the AFDC home is not met and the child is ineligible under title IV-E for the entire foster care episode. Also, if the eligibility requirement is not met after reconstruction, the child is ineligible under title IV-E for the entire foster care episode.

For title IV-E eligibility, a child must be eligible for AFDC (in effect July 16, 1996) in the specified relative's home from which the child is removed according to a *voluntary placement agreement* or judicial determination to the effect that it is *contrary to the child's welfare* to remain in the home. If the child is not AFDC-eligible in the specified relative's home from which the child was voluntarily or judicially removed, the child is ineligible for title IV-E for the duration of the foster care episode under ACYF-CB-PI-06-06.

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY *Continued*

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

24. Was AFDC *eligibility* based on the circumstances in the specified relative’s home in the month the court proceedings were initiated or the month the voluntary placement agreement was signed?

This question applies to the specified relative’s home listed in Question 23. Indicate **YES** or **NO** and record the first month of AFDC eligibility for the foster care episode, not the month the eligibility determination is completed.

YES NO

AFDC eligibility month (month/year): _____

NOTE: If the response is **NO**, the title IV-E agency may reconstruct the AFDC factors to verify the correct AFDC eligibility month. If the title IV-E agency does not reconstruct the AFDC factors, the eligibility requirement with regard to the AFDC month is not met and the child is ineligible under title IV-E for the entire foster care episode. Also, if the eligibility requirement is not met after reconstruction, the child is ineligible under title IV-E for the entire foster care episode.

The child must be eligible for AFDC in the removal home (Question 23) in the month the *voluntary placement agreement* is signed or court proceedings were initiated that lead to the judicial removal, but “prior to” the child’s physical or constructive removal. [See § 472(a)(3)(A) of the Act and 8.4A, Question #21 of the CWPM.] “Prior to” removal means the agency must consider the child’s household circumstances prior to the day of the child’s removal. Any familial or economic changes that occur after the child’s removal may not be considered. The court proceedings that lead to the removal may be the result of a removal petition or a court order. Use the month of the removal court order if a removal petition is not filed or is filed after the month of the removal court order.

The title IV-E agency’s determination process must document AFDC eligibility in the home of the specified relative who is the subject of the *contrary to welfare* judicial determination or who signs the *voluntary placement agreement*. When the child is removed from a specified relative other than the parent, the title IV-E agency can consider the AFDC assistance unit to include only the child and the child’s minor siblings in the same household as the child when looking at financial need in that specified relative’s home. However, that specified relative is included in the AFDC assistance unit if doing so is required by the State’s title IV-A plan as in effect on July 16, 1996.

Comments:

24(a). Was *financial need* established?

Indicate **YES** or **NO**.

YES NO

If **NO**, the child is ineligible for the entire foster care episode.

The title IV-E agency must document its determination that financial eligibility is met for the month the *voluntary placement agreement* is signed or the court removal proceedings are initiated, but prior to the child’s physical or constructive removal. The child’s financial need must be established based on the income and resources available to the child and the other members included in the AFDC assistance unit. [See 8.4A, Question #18 of the CWPM.] For AFDC eligibility, the AFDC assistance unit’s income must not exceed the State’s AFDC income standard and the combined resources must not exceed \$10,000. [See § 472(a)(3)(B) of the Act.]

Comments:

(K) AFDC (Aid to Families with Dependent Children) ELIGIBILITY *Continued*

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 233.20, 233.90 and 1356.21(k) & (l)]

24(b). Was deprivation of parental support or care established?

Indicate **YES** or **NO**.

YES

NO

If **NO**, the child is ineligible for the entire foster care episode.

The title IV-E agency's documentation must specify how the child is deprived of parental support or care. *Deprivation* must be due to the death, absence, physical or mental incapacity of one parent; or due to unemployment (or underemployment) of the principal wage earner. The determination of *deprivation* is based on parental factors in the month the *voluntary placement agreement* is signed or the removal court proceedings are initiated, but prior to the child's physical or constructive removal from the home. Parental factors are considered regardless of whether the child is judicially or voluntarily removed from the parent or another specified relative. [See 45 CFR § 233.90(c) and 8.4A, QA #21 of the CWPM.]

Comments:

25. Did the child meet the AFDC requirements for eligibility?

Indicate **YES** or **NO**. The response is **NO** if the response is **NO** to Question 20, 21(a), 22, 23, 24, 24(a), or 24(b).

YES

NO

If the bold **NO** box is checked, this indicates an error case with ineligible payments and the child is ineligible under title IV-E for the entire foster care episode.

To qualify for AFDC, the title IV-E agency, at a minimum, must establish and document for the month of the *voluntary placement agreement* or initiation of removal court proceedings that the child is removed, physically or constructively, from the home of a specified relative (Question 20); living with that same specified relative within 6 months of the child's removal (Questions 21 and 22); AFDC-eligible in that home in the month of, and prior to, removal (Questions 23-24); financially needy (Question 24[a]); and deprived of parental support or care (Question 24[b]).

Explain below in *Comments* the specific reason the requirement is not satisfied.

Comments:

25(a). If Question 25 is NO, were title IV-E funds paid for the period of ineligibility?

Indicate **N/A** if Question 25 is **YES**. Otherwise, indicate **YES** or **NO**.

YES

NO

N/A

If Question 25(a) is **YES**, this is an error case and the child is ineligible for the entire foster care episode.

Record ineligible periods on the attached ***Improper Payment Chart***.

Comments:

(L) AGE AND EXTENDED TITLE IV-E FOSTER CARE ASSISTANCE

[Statutory Citation: §§ 406, 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR § 233.90(b)]

26. Was the youth 18 years or older at any point during the PUR?

Indicate **YES** or **NO**.

YES

NO

Question 26 applies to youth who are age 18-19 years old under the State’s title IV-A plan for AFDC. As such, school attendance is not an eligibility consideration unless the youth is 18 years old or older and the title IV-E agency chooses under its title IV-A plan to claim title IV-E maintenance payments for a youth up to age 19.

Sections 406 and 472 of the Act limit title IV-E coverage to children under the age of 18 unless certain conditions are met to extend title IV-E assistance to youth who are age 18-19 years old, as elected in the State’s title IV-A plan for AFDC.

NOTE: Beginning 10-01-2010, the title IV-E agency may opt to extend assistance up to age 21 under § 475(8) of the Act. If the title IV-E agency exercises the title IV-E plan option, the case of the 18-year-old or older youth is excluded from the review sample.

Comments:

26(a). If Question 26 is YES, does the title IV-E agency have an approved title IV-A plan option to extend title IV-E coverage to youth age 18-19 years old?

Indicate **N/A** for a child under age 18. Otherwise, indicate **YES** or **NO**.

YES

NO

N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

If Question 26(a) is **NO**, the response to Question 26(d) also is **NO** for the youth, age 18 to 19 years old.

The State may have elected in its title IV-A plan (in effect on July 16, 1996) to provide AFDC eligibility until age 19 for youth who meet the age and school attendance criteria specified in the approved title IV-A plan. To extend title IV-E coverage under the title IV-A plan option, the youth also must continue to meet the title IV-E eligibility criteria under § 472(a) of the Act. If the title IV-A plan option is not exercised, eligibility for title IV-E ceases at the end of the month the otherwise eligible youth turns 18.

Comments:

26(b). If the title IV-A plan option was exercised, was the youth a full-time student in a secondary school or equivalent?

Indicate **N/A** for a child under age 18 or if the title IV-A plan option is not elected. Otherwise, indicate **YES** or **NO**.

YES

NO

N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

If Question 26(b) is **NO**, the response to Question 26(d) also is **NO**.

If the age and school attendance option is authorized in the State’s approved title IV-A plan (in effect on July 16, 1996), the otherwise eligible youth must be: (1) a full-time student in a secondary school or its equivalent level of vocational or technical training; and (2) expected to complete the educational program before reaching age 19. School records, independent living plans, or other equivalent documentation are examples of evidence that may be used to satisfy the school attendance requirement.

Comments:

(L) AGE AND EXTENDED TITLE IV-E FOSTER CARE ASSISTANCE *Continued*

[Statutory Citation: §§ 406, 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR § 233.90(b)]

26(c). If the title IV-A plan option is exercised, is the youth expected to complete that educational program before his or her 19th birthday?

Indicate **N/A** for a child under age 18 or if the title IV-A plan option is not elected. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

If Question 26(c) is **NO**, the response to Question 26(d) also is **NO**.

Comments:

26(d). Are the requirements met to extend eligibility coverage under the title IV-A plan option?

Indicate **N/A** for a child under age 18 or if the title IV-A plan option is not elected and title IV-E funds are not claimed for the youth, age 18-19 years old. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response is **NO**, the youth, age 18-19 years old, is ineligible for title IV-E.

For extended title IV-E eligibility under the title IV-A plan option, the title IV-E agency must document that the otherwise eligible youth is a full-time student in a secondary school or its equivalent (Question 26[b]) and is expected to complete the educational program before age 19 (Question 26[c]). Eligibility for title IV-E, then, ceases at the end of the month the otherwise eligible youth, age 18-19, leaves school or at the end of the month the otherwise eligible youth turns 19, whichever occurs earlier. Title IV-E eligibility also stops at the end of the month in which it is determined the otherwise eligible youth, age 18-19, will not complete the educational program before reaching age 19.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

26(d)(1). If Question 26(d) is NO, were title IV-E funds paid for the period of ineligibility?

Indicate **N/A** for a child under age 18, or if Question 26(d) is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the response is **YES**, the title IV-E maintenance funds paid for the period of ineligibility outside the PUR are disallowed. If the title IV-E maintenance funds were paid for the period of ineligibility in the PUR, the case is an error case and the ineligible payments are disallowed.

Record the ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(M) TITLE IV-E AGENCY RESPONSIBILITY FOR PLACEMENT AND CARE

[Statutory Citation: §§ 472(a)(2)(B)(i) of the Act; Regulatory Citation: 45 CFR § 1356.71(d)(1)(iii)]

27. Did the title IV-E agency have responsibility for the placement and care of the child for the period the child was in an out-of-home placement during the PUR?

Indicate **YES** or **NO** and record the name of the title IV-E agency with responsibility for placement and care of the child.

YES NO

Agency name: _____

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Federal statutes at § 472(a)(2)(B) of the Act require the responsibility for placement and care of a child to be vested with the title IV-E agency or another public agency or Tribe (also referred to as “public agency”) that has a written agreement, as provided for under § 472(a)(2)(B)(ii), in effect with the title IV-E agency. Evidence of responsibility for placement and care of the child can be documented in the voluntary placement agreement, court order, or court transcript.

Comments:

27(a). If Question 27 is NO, did another public agency have responsibility for the placement and care of the child?

Indicate **N/A** if Question 27 is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

Agency name: _____

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Record the name of the agency with responsibility for placement and care of the child. If an individual, a private agency, or a public agency (that does not have a title IV-E agreement with the title IV-E agency) has placement and care responsibility for the child during the PUR, and explain this response below in *Comments*.

Federal statutes at § 472(a)(2)(B) of the Act require the responsibility for placement and care of a child to be vested with the title IV-E agency or another public agency or Tribe (also referred to as “public agency”) that has a written agreement, as provided for under § 472(a)(2)(B)(ii) of the Act, in effect with the title IV-E agency. Evidence of responsibility for placement and care of the child can be documented in the voluntary placement agreement, court order, or court transcript.

Comments:

27(b). If another public agency had this responsibility, was there a title IV-E agreement in effect between this agency and the title IV-E agency?

Indicate **N/A** if Question 27 is **YES** or Question 27(a) is **NO**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

If Question 27(b) is **NO**, the response to Question 27(c) also is **NO**.

An agreement under § 472(a)(2)(B)(ii) of the Act permits the public agency to administer the title IV-E foster care program on the title IV-E agency’s behalf for a child under the placement and care of the public agency.

Comments:

(M) TITLE IV-E AGENCY RESPONSIBILITY FOR PLACEMENT AND CARE *Continued*

[Statutory Citation: §§ 472(a)(2)(B)(i) of the Act; Regulatory Citation: 45 CFR § 1356.71(d)(1)(iii)]

27(c). Were the requirements regarding placement and care met?

Indicate **YES** or **NO**.

YES

NO

If Question 27 and Question 27(a) are **NO**, the response to Question 27(c) also is **NO**. If the bold **NO** box is checked, the child is ineligible to have title IV-E payments made on the child's behalf and this indicates a potential error case or case with ineligible payments.

The title IV-E agency must document that it or another public agency with which it has an agreement, as provided for under § 472(a)(2)(B)(ii) of the Act, has responsibility for placement and care of the child.

Evidence of responsibility for placement and care of the child can be documented in the voluntary placement agreement, court order, or court transcript.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Comments:

27(d). If Question 27(c) is NO, were title IV-E funds paid for the period in which the placement and care responsibility requirement was not met?

Indicate **N/A** if Question 27(c) is **YES**. Otherwise, indicate **YES** or **NO**.

YES

NO

N/A

If the response to Question 27(d) is **YES**, the child is ineligible to have title IV-E payments made on the child's behalf and the title IV-E maintenance payments made for the period of ineligibility outside the PUR are disallowed. If the title IV-E maintenance payments are paid for the period of ineligibility in the PUR, the case is an error case and the ineligible payments are disallowed.

Placement and care responsibility may be granted at removal or at any point in the foster care episode; however, title IV-E maintenance payments may not be claimed before the month the eligibility requirement is met for the otherwise eligible child.

The title IV-E payments also may not be claimed for the period beginning on the day of the month the agency loses placement and care authority for the child.

Record any ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(N) PLACEMENT IN LICENSED FOSTER CARE SETTINGS

[Statutory Citation: §§ 472(b) & (c) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)]

Complete for **every** foster care placement where the child resided during the PUR.

Use the supplemental sheet (Appendix 1) to record separately each additional foster care placement during the PUR.

NOTE: All provider information recorded below will be kept confidential and will not be disclosed for any purposes outside of the review.

28. **Provider Name:** _____

29. **Provider Street Address:** _____

30. **Provider City:** _____

31. **Provider State:** _____

32. **Date(s) of child's stay in this foster care placement (month/day/year):**

Record the dates covering the entire time the child was in the foster care setting.

From _____ to _____

From _____ to _____

Comments:

33. **Type of foster care setting (check one):**

Indicate the type of setting in which the child lived during the PUR. Under § 472(c)(2) of the Act, an allowable foster care placement for title IV-E eligibility purposes is a foster family home, group home, public childcare institution of 25 children or fewer, or private childcare institution. The *Other* category should be used only when the child has not lived in one of the placement types listed.

Foster Family Home Group Home Public Childcare Institution (25 children or fewer)

Private Childcare Institution Supervised Independent Living Placement

Other (**Specify Other**): _____

NOTE: Beginning on October 1, 2010, the definition of a childcare institution also includes a supervised independent living placement in which a youth age 18 years or older is living independently. [See § 472(c) of the Act.] A youth who is eligible to remain in foster care until age 19 pursuant to a State title IV-A plan option (as in effect July 16, 1996) may be placed in a supervised independent living setting. If such youth, age 18-19, is placed in this type of setting, indicate **N/A** for questions 33(a)-37.

Comments:

(N) PLACEMENT IN LICENSED FOSTER CARE SETTINGS *Continued*

[Statutory Citation: § 472(b) & (c) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)]

33(a). If Question 33 is *Other*, were title IV-E funds paid for the period in which the child resided in the placement during the PUR?

Indicate **YES** or **NO** only if the response to Question 33 is ***Other***, otherwise indicate **N/A**.

YES NO N/A

If the ***Other*** category is selected in Question 33, the child is ineligible for title IV-E while in that placement and the associated title IV-E maintenance payments are disallowed.

If the title IV-E maintenance payments are for periods in the PUR in which the child is ineligible, the case is in error and the title IV-E maintenance payments are disallowed.

Record all ineligible periods on the attached ***Improper Payment Chart***.

A child is not eligible under title IV-E if the child’s foster care placement is a setting other than one of the placement types listed in Question 33. A child is not eligible under title IV-E for the period in which the child is in a placement setting such as a detention center, hospital or other medical facility, public institution of more than 25 children, pre-adoptive family home that is not licensed as a foster family home, or supervised setting in which the child under age 18 is living independently.

Comments:

34. Was the foster care provider in Question 33 fully licensed during the child’s placement that falls within the PUR?

Indicate **N/A** if the response to Question 33 is ***Other***. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, the child is ineligible to have title IV-E maintenance payments made on the child’s behalf and this indicates a potential error case or case with ineligible payments.

Record the entire period(s) of licensure that includes the entire PUR.

Licensure period (month/day/year): From _____ to _____

From _____ to _____

The title IV-E agency must document that the child’s foster care placement is fully licensed or approved for the child’s placement during the PUR, even when the placement is an out-of-State foster care setting. Interim, provisional, or other such type license issued pending complete satisfaction of the licensing agency’s requirements for full licensure are not acceptable for title IV-E eligibility. For the IV-E review, the term “fully licensed” refers to foster care settings that meet all of the applicable licensing requirements for full licensure, approval, certification, or other synonymous term. [See 45 CFR § 1355.20, definition of “foster family home,” and 8.3A.8c of the CWPM.]

Comments:

(N) PLACEMENT IN LICENSED FOSTER CARE SETTINGS *Continued*

[Statutory Citation: § 472(b) & (c) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)]

34(a). If Question 34 is *NO*, were title IV-E funds paid for the period during which the foster care provider was not fully licensed during the PUR?

Indicate *N/A*, if the response to Question 33 is *Other* or Question 34 is *YES*. Otherwise, indicate *YES* or *NO*.

YES NO N/A

If Question 34(a) is *YES*, the title IV-E maintenance payments are disallowed for the ineligible child.

If the title IV-E maintenance payment is for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the case is in error and the title IV-E maintenance payment is disallowed. Record any ineligible periods on the attached ***Improper Payment Chart***.

- For a foster family home licensed before March 27, 2000: Beginning October 1, 2000, must meet full licensure.
- For a foster family home licensed on or after March 27, 2000: Beginning April 1, 2000, must meet full licensure.
- For childcare institutions: Regardless of licensing date, must meet full licensure.

The otherwise eligible child is considered eligible for the entire month if residing in a title IV-E allowable foster family home or child-care institution that becomes fully licensed within the month. [See 8.3A.15, Question #1 of the CWPM.] However, if during the month a foster family home or child-care institution license becomes provisional, probationary, suspended, revoked, or otherwise not in a fully licensed status due to its failure to satisfy each of the licensing agency’s requirements for full licensure, the title IV-E agency may not claim foster care maintenance payments for the period in which the foster care provider is not fully licensed. The child placed in that foster family home or child-care institution becomes ineligible beginning on the day of the month the foster care provider loses its full licensure status. The otherwise eligible child placed in such foster care setting can become eligible again under title IV-E for the entire month in which the foster care setting comes into full compliance with the licensing requirements.

Comments:

35. Were the title IV-E requirements related to the licensure of the child’s placement met?

Indicate *YES* or *NO*. The response to Question 35 is *NO* if the response to Question 33 is *Other* or the response to Question 34 is *NO*.

YES NO

For title IV-E eligibility under 45 CFR § 1356.71(d)(1)(iv), the child must reside in a foster family home or childcare institution that is fully licensed for the duration of the child’s placement. Federal financial participation may not begin until the first day of the child’s placement in the foster care setting in the month in which full compliance with the title IV-E eligibility requirements are met by the child.

Explain below in *Comments* the specific reason the requirement is not satisfied.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(O) SAFETY REQUIREMENTS

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

Complete for **every** foster care setting where the child resided during the PUR.

Use the supplemental sheet (Appendix 1) to record separately each additional foster care placement during the PUR.

36. Was the child's placement during the PUR a foster family home?

Indicate **YES** or **NO**. The response to Question 36 is **NO** if the child's placement was not a foster family home.

YES

NO

NOTE: If **YES**, answer Question 36(a), 36(b), or 36(c) and the sub-questions based on when the foster family home became newly licensed.

For title IV-E eligibility, the child's foster family home must comport with the safety requirements under § 471(a)(20) of the Act as applicable, 45 CFR § 1356.30, and ACYF-CB-PI-10-02. The title IV-E agency must document that the foster parents meet the applicable safety requirements for the period for which the title IV-E foster care maintenance payments are made on behalf of the child residing in the foster family home during the PUR. The documentation requirements for the criminal records check (*CRC*) (or background safety checks for former opt-out States) for foster family homes differ based on whether a foster parent(s) becomes newly licensed before or after October 1, 2008 (or the title IV-E agency's approved delayed effective date in either case), as differentiated in Questions 36a–36c. The reviewer must examine each license and licensing period to determine which documentation requirements apply to a foster family home.

The CB uses the term “newly licensed” to refer to a foster family home licensed for the first time. The term also refers to a foster family home for which a previous license has expired or is terminated in accordance with the licensing agency's policy.

The reviewer is not required to verify the title IV-E agency's compliance with the title IV-E plan requirement that the required *CRC* (or background safety checks for former opt-out States) be completed prior to the licensure of the prospective foster parent. However, the reviewer must examine the title IV-E agency's documentation to verify that the applicable requirement was met satisfactorily for the period for which the foster care maintenance payment was made on behalf of the child in the foster care placement during the PUR. Once it is determined that the applicable safety requirement was met at any point prior to or during the PUR, the reviewer does not have to verify subsequent compliance with the requirement during the licensing renewal process.

NOTE: A license alone is not sufficient documentation of compliance with the applicable safety requirement.

Comments:

(O) SAFETY REQUIREMENTS *Continued*

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

36(a). If the foster family home was newly licensed before October 1, 2008, and the title IV-E agency did not “opt out” of the 1997 criminal record check requirement, was a CRC completed satisfactorily on the foster parent(s)?

Indicate **N/A** if (1) the child’s placement was not a foster family home; (2) the State “opted out” of the 1997 CRC requirement prior to October 1, 2008; or (3) the foster family home was newly licensed before November 19, 1997, and remained continuously licensed after this date. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Question 36(a) applies to the CRC requirement for those foster family homes newly licensed between November 19, 1997, and October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check in either case). If the title IV-E agency did not opt out of the 1997 CRC provisions prior to October 1, 2008, for these foster family homes, Federal requirements under § 471(a)(20) of the Act mandate the title IV-E agency to document the results of a CRC. [ACYF-CB-PI-10-02]

For the IV-E review, the CRC requirement is considered met for the PUR for foster family homes newly licensed between November 19, 1997, and October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check in either case) if the documentation clearly verifies that: (1) a CRC is completed at either the local, State or Federal level; (2) the foster parent has not been convicted of any of the prohibited felonies listed under § 471(a)(20)(A)(i) and (ii) of the Act; and (3) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met. Note that a request for a CRC without obtaining the results of the CRC is not sufficient documentation of compliance with the safety requirement.

Comments:

36(a)(1). If Question 36(a) is NO, were title IV-E funds paid for the period the CRC requirement was not satisfied for the foster parent(s)?

Indicate **YES** or **NO** if the response to Question 36(a) is **NO**. Indicate **N/A** if the response to Question 36(a) is **YES**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

For the IV-E review, the documentation must clearly verify that the CRC requirement is met for the period in the PUR in which the title IV-E foster care maintenance payment is made for the child. If the requirement is not fully met as noted in Question 36(a), the child placed in the foster care setting is ineligible under title IV-E. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the child's case is in error and the ineligible title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(O) SAFETY REQUIREMENTS *Continued*

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

36(b). If the foster family home was newly licensed before October 1, 2008, and the title IV-E agency “opted out” of the 1997 CRC requirement, were the safety measures completed satisfactorily on the foster parent(s)?

Indicate **N/A** if: (1) the child’s placement was not a foster family home; (2) the State did not “opt out” of the 1997 CRC requirement prior to October 1, 2008; or (3) the foster family home was newly licensed before March 27, 2000, and remained continuously licensed after this date. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

NOTE: The opt-out provision does not apply to foster parents newly licensed on or after October 1, 2008, or the State’s approved delayed implementation date.

Question 36(b) applies to the safety measures pertaining to the background checks for those foster family homes newly licensed between March 27, 2000, and October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check). If the title IV-E agency opted out of the 1997 CRC provisions prior to October 1, 2008, for the applicable foster family homes Federal requirements under 45 CFR § 1356.30(a) mandate the title IV-E agency to document compliance with the safety considerations established in accordance with 45 CFR § 1356.30(e) and ACYF-CB-PI-10-02.

For the IV-E review, the safety requirement is considered met for the PUR for those foster family homes newly licensed between March 27, 2000, and October 1, 2008 (or the title IV-E agency’s approved delayed effective date for the fingerprint-based check) if the documentation clearly verifies that: (1) all of the background safety checks prescribed by the licensing agency where the foster family home is located are met for the foster parent; and (2) title IV-E maintenance payments are not made for a period in the PUR that is prior to these conditions being met. The documentation will be accepted based upon the degree it clearly specifies (1) the background checks completed, (2) the date completed, (3) the individual on whom completed, (4) the individual completing the background check or reviewing the results of the background check, and (5) the evidence reviewed. A request for a background check without the results of the record search is not sufficient documentation of compliance.

Comments:

36(b)(1). If Question 36(b) is NO, were title IV-E funds paid for the period the safety measures were not satisfied for the foster parent(s)?

Indicate **N/A** if the response to Question 36(b) is **YES**. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

For the IV-E review, the documentation must clearly verify that the safety requirement is met for the period in the PUR for which the title IV-E foster care maintenance payment is made for the child. If the requirement is not fully met as noted in Question 36(b), the child placed in the foster care setting is ineligible under title IV-E. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the child's case is in error and the ineligible title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(O) SAFETY REQUIREMENTS *Continued*

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

36(c). If the foster family home was newly licensed on or after October 1, 2008, was a fingerprint-based CRC of the National Crime Information Databases (NCID) completed satisfactorily on the foster parent(s)?

Indicate **N/A**, if (1) the child's placement was not a foster family home; or (2) the foster family home was newly licensed before October 1, 2008 (or the approved delayed implementation date) and remained continuously licensed after this date. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Question 36(c) applies to the *CRC* for those foster family homes newly licensed on or after October 1, 2008 (or the title IV-E agency's approved delayed effective date for the fingerprint-based check of the *NCID*). For the noted foster family homes, Federal requirements under § 471(a)(20) of the Act mandate the title IV-E agency to document a *CRC* that includes a fingerprint-based check of the *NCID*. [ACYF-CB-PI-10-02]

For the IV-E review, the *CRC* requirement is considered met for the PUR for those foster family homes newly licensed on or after October 1, 2008 (or the title IV-E agency's approved delayed effective date for the fingerprint-based check of the *NCID*) if the documentation clearly verifies that: (1) a *CRC* is completed that includes a fingerprint-based check of the *NCID*; (2) the foster parent has not been convicted of any of the prohibited felonies listed in §§ 471(a)(20)(A)(i) and (ii) of the Act; and (3) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met. A request for a *CRC* without the results of the record search is not sufficient documentation of compliance with the safety requirement.

Comments:

36(c)(1). If Question 36(c) is NO, were title IV-E funds paid for the period the fingerprint-based CRC of the NCID was not completed satisfactorily on the foster parent(s)?

Indicate **YES** or **NO** if the response to Question 36(c) is **NO**. Indicate **N/A** if the response to Question 36(c) is **YES**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

For the IV-E review, the documentation must clearly verify that the safety requirement is met for the period in the PUR for which the title IV-E foster care maintenance payment is made for the child. If the requirement is not fully met as noted in Question 36(c), the child placed in the foster care setting is ineligible under title IV-E. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the child's case is in error and the ineligible title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(O) SAFETY REQUIREMENTS *Continued*

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

37. If the child’s placement during the PUR was a childcare institution, were the safety requirements completed satisfactorily for the caregiver staff of the institution?

Indicate **N/A** if the child is not placed in a childcare institution during the PUR. Otherwise, indicate **YES** or **NO**.

YES NO N/A

If the bold **NO** box is checked, this indicates a potential error case or case with ineligible payments.

Question 37 applies to the safety requirements pertaining to the background checks for childcare institutions that undergo a licensure process on or after March 27, 2000. The safety requirement applies regardless of whether the background checks are completed for the initial license, a license renewal, or a re-licensure on or after March 27, 2000. Federal requirements under 45 CFR § 1356.30(f) mandate the title IV-E agency to document that the background checks with respect to the caregiver staff of the childcare institution are completed in accordance with the licensing agency’s requirements where the childcare institution is located. [ACYF-CB-PI-10-02]

For the IV-E review, reviewers will examine the background check documentation to determine for the PUR: (1) whether all of the licensing agency’s established policies with respect to the type and frequency of background checks for each applicable caregiver staff are fully completed for the most recent period of the licensing agency’s monitoring schedule prior to (or, if applicable, during) the PUR; and (2) whether the background check requirements are fully satisfied for the period in the PUR for which the title IV-E foster care maintenance payment is made for the child residing in the childcare institution during the PUR. The documentation will be accepted based upon the degree it clearly specifies for each applicable caregiver staff (1) the background checks completed, (2) the date completed, (3) the individual on whom completed, (4) the individual completing the background check or reviewing the result of the background check, and (5) the evidence reviewed. A request for a background check without the results of the record search is not sufficient documentation of compliance.

Comments:

37(a). If Question 37 is NO, were title IV-E funds paid for the period that the safety requirements were not completed satisfactorily for the caregiver staff of the childcare institution?

Indicate **YES** or **NO** if the response to Question 37 is **NO**. Indicate **N/A** if the response to Question 37 is **YES**.

YES NO N/A

If the bold **YES** box is checked, this indicates a potential error case or case with ineligible payments.

Title IV-E foster care maintenance payments may not be made for a child placed in a childcare institution that does not meet the applicable safety requirements under § 471(a)(20)(A) of the Act and 45 CFR § 1356.30(f).

For the IV-E review, the documentation must clearly verify that the safety requirement is met for the period in the PUR for which the title IV-E foster care maintenance payment is made for the child placed in the childcare institution. If the safety requirements are not fully met as noted in Question 37 for each applicable caregiver staff, the child placed in the foster care setting is ineligible under title IV-E. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is outside the PUR, the title IV-E maintenance payment is disallowed. If the title IV-E maintenance payment is paid for a period in which the child does not meet the eligibility requirement and the ineligible period is in the PUR, the child's case is in error and the ineligible title IV-E maintenance payment is disallowed.

Record ineligible period(s) on the attached ***Improper Payment Chart***.

Comments:

(P) CASE FINDINGS GLOSSARY

After the On-Site Review Instrument is completed, determine whether the sample case is a non-error case or an error case and indicate this on the first page of the instrument. For a non-error case and an error case, indicate whether underpayments were identified and whether ineligible payments were made.

Eligible Child: A child is considered eligible when all title IV-E eligibility criteria pertaining to the child and the child's foster care placement are met. The child must be in a foster care placement that is allowable under title IV-E in order for the otherwise eligible child to be considered as meeting all title IV-E criteria for eligibility.

Ineligible Child: A child is ineligible if a title IV-E eligibility criterion pertaining to the child or the child's foster care placement is not met.

Underpayment: An underpayment occurs when a title IV-E agency unknowingly does not claim an allowable title IV-E maintenance payment for an eligible child and the 2-year filing period specified under 45 CFR § 95.7 has not expired. An underpayment has not occurred when the title IV-E agency chooses not to claim the allowable payment or the 2-year filing period has expired.

Non-Error Case with Ineligible Payment: A non-error case with ineligible payment occurs when (1) a title IV-E maintenance payment is made for a period solely outside the PUR for an ineligible child or (2) an unallowable title IV-E maintenance payment is made for a period in or outside the PUR for an eligible child.

Error Case: An error case occurs when a title IV-E maintenance payment is made for a period within the PUR on behalf of an ineligible child. This includes the period within the PUR prior to the month the child meets an eligibility requirement.

APPENDIX 1: LICENSING/SAFETY CHECKLIST FOR MULTIPLE FOSTER CARE PLACEMENTS

Use this page to record an additional foster care placement during the PUR.

Title IV-E Agency _____ Sample Number _____

(N) PLACEMENT IN LICENSED FOSTER CARE SETTINGS

Complete for **every** foster care placement where the child resided during the PUR.

Use this supplemental sheet to record separately each additional foster care placement during the PUR.

*All provider information recorded below will be kept *confidential* and will not be disclosed for any purposes outside of the review.

28. **Provider Name:** _____

29. **Provider Street Address:** _____

30. **Provider City:** _____

31. **Provider State:** _____

32. **Date(s) of child’s stay in this foster care placement (month/day/year):**

Record the dates covering the entire time the child is in the foster care setting.

From _____ to _____

From _____ to _____

33. **Type of foster care setting (check one):**

Foster Family Home Group Home Public Childcare Institution (25 children or fewer)

Private Childcare Institution Supervised Independent Living Placement

Other (Specify Other): _____

33(a). If Question 33 is *Other*, were title IV-E funds paid for the period in which the child resided in the placement during the PUR?

YES NO N/A

34. Was the foster care provider in Question 33 *fully licensed* during the child’s placement that fell within the PUR?

YES NO N/A

Licensure period (month/day/year): From _____ to _____

From _____ to _____

34(a). If Question 34 is *NO*, were title IV-E funds paid for the period during which the foster provider was not *fully licensed* during the PUR?

YES NO N/A

35. Were the title IV-E requirements related to the licensure of the child’s placement met?

YES NO

(O) SAFETY REQUIREMENTS

Title IV-E Agency _____ Sample Number _____

Complete for **every** foster care setting where the child resided during the PUR.

Use this supplemental sheet to record separately each additional foster care placement during the PUR.

36. Was the child’s placement during the PUR a foster family home?

YES NO

36(a). If the foster family home was newly licensed before October 1, 2008, and the title IV-E agency did not “opt out” of the 1997 criminal record check requirement, was a criminal records check (CRC) completed satisfactorily on the foster parent(s)?

YES NO N/A

36(a)(1). If Question 36(a) is NO, were title IV-E funds paid for the period the CRC requirement was not satisfied for the foster parent(s)?

YES NO N/A

36(b). If the foster family home was newly licensed before October 1, 2008, and the title IV-E agency “opted out” of the 1997 CRC requirement, were the safety measures completed satisfactorily on the foster parent(s)?

YES NO N/A

36(b)(1). If Question 36(b) is NO, were title IV-E funds paid for the period the safety measures were not satisfied for the foster parent(s)?

YES NO N/A

36(c). If the foster family home was newly licensed on or after October 1, 2008, was a fingerprint-based CRC of the National Crime Information Databases (NCID) completed satisfactorily on the foster parent(s)?

YES NO N/A

36(c)(1). If Question 36(c) is NO, were title IV-E funds paid for the period the fingerprint-based CRC of the NCID was not completed satisfactorily on the foster parent(s)?

YES NO N/A

37. If the child’s placement during the PUR was a childcare institution, were the safety requirements completed satisfactorily for the caregiver staff of the institution?

YES NO N/A

37(a). If Question 37 is NO, were title IV-E funds paid for the period the safety requirements were not completed satisfactorily for the caregiver staff of the childcare institution?

YES NO N/A

APPENDIX 2: IMPROPER PAYMENT CHART

This chart is used to record the improper payments identified during the IV-E review. Improper payments are overpayments, duplicate payments, erroneous and otherwise ineligible title IV-E maintenance payments, and underpayments. The reviewer must provide a brief description of all improper payments, regardless of whether the sample case is determined an error case. As noted below, all payment amounts are calculated by the ACF fiscal specialist. The ACF fiscal specialist should review the payment history in detail to ensure that costs identified as title IV-E are allowable and claimable.

Title IV-E Agency: _____ Sample Number: _____

Checklist Item #	Eligibility Issue or Payment Issue	Begin Date	End Date	Payment Amount (ACF Fiscal Specialist Completes)

For Fiscal Computations

A. Federal Share for Foster Care Maintenance Payments (FCMP) Calculation

Disallowance: Refer to the instructions for calculating the maintenance payment disallowance and formula calculation spreadsheet for initial and primary reviews.

B. Federal Share for Foster Care Administration Costs Calculation

Disallowance: Refer to the instructions for calculating administrative cost disallowance and formula calculation spreadsheet for initial and primary reviews.

C. Period of Ineligibility and Underpayments

Calculate the months of improper title IV-E payments for maintenance and administrative costs beginning with the first month of ineligibility to the end of the month that precedes the on-site review.