

INDIANA DEPARTMENT of CHILD SERVICES

PRIMARY REVIEW

TITLE IV-E FOSTER CARE ELIGIBILITY

Report of Findings for April 1, 2011 – September 30, 2011

Introduction

During the week of April 16 through 20, 2012, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the State's title IV-E foster care program. The review was conducted in collaboration with the State of Indiana Department of Child Services (DCS) and was completed by a review team comprised of representatives from DCS, CB Central and Regional Offices, ACF Regional Grants Management Office, and peer reviewers.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether Indiana's title IV-E foster care program was in compliance with the eligibility requirements outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of the State's financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of Review

The primary review encompassed a sample of the State's foster care cases that a title IV-E maintenance payment was made for a period during the six-month period under review (PUR) of April 1, 2011 – September 30, 2011. A computerized statistical sample of 125 cases (80 cases plus 45 oversample cases) was drawn from the State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 59 cases from the original sample plus 21 oversample cases. Fourteen (14) cases were excluded from the original sample and six (6) cases were excluded from the oversample because no title IV-E foster care maintenance payment was made for a period of activity during the PUR. Seven (7) cases were excluded from the original sample because they were closed prior to the PUR. Three (3) cases were excluded from the original sample because they were waiver demonstration cases. The State provided documentation to support excluding these cases from the review sample and replacing them with cases from the oversample.

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

- Judicial determinations regarding reasonable efforts and contrary to the welfare as set forth in §472(a) (2) (A) of the Act and 45 CFR 1356.21 (b) (1) and (2), and (c), respectively;
- Voluntary placement agreements as set forth in §472(a) (2) (A) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested within the State agency as stipulated in §472(a) (2) (B) of the Act and 45 CFR §1356.71 (d) (I) (iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the State plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71 (d)(I)(v).
- Placement in a licensed foster family home or child care institution as defined in §472 (b) and (c) of the Act and 45 CFR §1355.20 (a); and
- Safety requirements for the child's foster care placement as required at 45 CFR §1356.3

The case file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider’s file was also examined to ensure the foster family home or child care institution where the child was placed during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child were also reviewed to verify the expenditures were properly claimed under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating when the child was not eligible on the date of activity in the PUR for which the title IV-E maintenance was paid. A sample case was cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity. In addition, underpayments were indentified for a sample case when an allowable title IV-E maintenance payment was not claimed by the State for an eligible child during the 2 year filing period specified in 4 CFR §95.7, unless the title IV-E agency elected not to claim the payment or the filing period had expired. The CB and the State agreed that the State would have 30 days following the onsite review to submit additional documentation for a case that during the onsite review was identified as in error, in undetermined status or not in error but with ineligible payments. Following the onsite review, OS 14 was in undetermined status. Based on supplemental documentation, as well as further review of the case facts, OS 14, is determined to be an error case.

Compliance Finding

The review team determined that 76 of the 80 cases met eligibility requirements, that is, were deemed non-error cases, for the PUR. Four (4) cases were determined as in error during the PUR. Two (2) non-error cases were ineligible for Federal funding for a period of claiming. Accordingly, Federal funds claimed for title IV-E foster care maintenance payments, including related administrative costs, associated with error cases and non-error cases with ineligible payments are being disallowed. In addition, five (5) non-error cases were indentified to have periods of eligibility for which the State did not claim allowable title IV-E maintenance payments. Because the number of cases in error is fewer than five (5), Indiana is in substantial compliance for the PUR.

Case Summary

The following charts record the error cases, non-error cases with ineligible payments; underpayments; reasons for the improper payments; improper payment amounts; and Federal provisions for which the State did not meet the compliance mandates. Note that the calculation of erroneous payments is based on Indiana’s Federal Financial Participation (FFP) rates of the administrative and maintenance costs at the Federal Medical Assistance Percentages (FMAP) for the applicable years(s) for each sample case.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
OS 14	Valid removal under title IV-E did not occur because the physical removal and judicial order for removal did not coincide. 45 CFR 1356.21(k)(2) Child ineligible for the entire foster care episode. Reported Disallowance Period; Ineligible: 1/1/09-12/31/11	\$26,532.00 Maint. \$17,909.00 Admin.

59	A maintenance payment was claimed for 1 (one) day while the child was hospitalized. The placement provider before and after hospitalization did not remain unchanged. [§472 (b) and (c) of the Act; 45 CFR §1355.20(a); 45 CFR 1356.60(a)(1)(i); Child Welfare Manual 8.3B, #7] Ineligible: 8/30/11-8/31/11	\$16.63 Maint.
63	Title IV-E maintenance payment was claimed for 3 (three) days in the PUR prior to the judicial determination of reasonable efforts to prevent removal was made. [§472(a)(1) of the Act; 45 CFR §1356.21(b)(1)] Ineligible Payment Period: 4/1/11-4/3/11	\$49.90 Maint.
69	Title IV-E maintenance payment was claimed for 4 (four) days in the PUR prior to the judicial determination of reasonable efforts to prevent removal was made. [§472(a)(1) of the Act; 45 CFR §1356.21(b)(1)] Ineligible: 7/21-11-7/25/11	\$83.15 Maint.

\$26,681.68 Maint.
\$17,909.00 Admin.

Total: \$44,590.68

Non-error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
03	Foster care maintenance payments made while a child was hospitalized for 10 (ten) days. The placement provider before and after hospitalization did not remain unchanged. [§472 (b) and (c) of the Act; 45 CFR §1355.20(a); 45 CFR 1356.60(a)(1)(i); Child Welfare Manual 8.3B, #7] Ineligible: 3/1/10- 3/11/10	\$1,792.00 Maint.
24	Safety considerations with respect to staff of the child care institutions were not met in a timely manner. [§471 (a) (20) of the Act; 45 CFR §1356.30 (f)] Ineligible: 7/8/10-11/10/10	\$18,319.00 Maint. \$1,984.00 Admin.

\$20,111.00 Maint.
\$1,984.00 Admin.

Total: \$22,095.00

Underpayment Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
7	Eligible child in child caring institution that meets the provider requirements. Eligible: from 5/13/10 - 8/18/10	\$9,502.28 Maint.
10	Eligible child in foster home that meets the provider requirements. Eligible: from 2/1/10 - 4/1/10	\$1,090.80 Maint.
20	Eligible child in foster home that meets the provider requirements. Eligible: from 3/1/10 - 3/11/11	\$182.93 Maint.
59	Eligible child in foster home that meets the provider requirements. Eligible: from 3/1/10 - 3/17/10	\$309.06 Maint.
OS 27	Eligible child in foster home that meets the provider requirements. Eligible: from 11/1/11-1/3/12	\$1,682.05 Maint.

Total: \$12,767.12

Strengths and Promising Practices

During the on-site review, it was noted that the agency and the court have implemented practices within their collaborative systems approach to strengthen the efficiency of their judiciary processes. A strong working relationship between agency systems was evident throughout the review process and well documented in their court case files and court orders. Additionally, it was apparent throughout the review of the licensing files that Indiana provides relevant training to ensure staff are knowledgeable of licensing requirements and are able to monitor adherence consistently. These approaches seem to have led to improved program performance and successful program operations. Specifically, the following practices and processes of the title IV-E foster care eligibility program were observed during the review:

- In the majority of cases reviewed, court orders contained individualized case-specific judicial determinations.
- Findings of reasonable efforts to finalize permanency generally were done more frequently than required.
- Most court orders and judicial determinations of reasonable effort to prevent placements were found in the first order along with the judicial determinations of whether remaining at home was contrary to the child's welfare.
- Responsibility for placement and care vested with the State agency or another public agency is well documented.
- Foster family home and child caring institution licenses were current during the PUR and safety checks were being completed in a timely manner.

Areas in Need of Improvement

Although there were less than five (5) error cases, the findings of this review indicate the State needs to further develop and implement procedures to improve program performance in the following areas

below. For each issue, there is a discussion of the nature of the area needing improvement, the specific title IV-E requirement to which it relates and the corrective action the State should undertake.

Issue #1: Judicial Requirements for a Valid Removal

During the review, one (1) case was found to be in error because the physical removal from the home did not coincide with the judicial order for removal. In this case, the court made the judicial determination that it was contrary to the child's welfare to remain in the home; however, the agency did not remove the child from the home on the date this determination was ordered. Therefore, a valid removal did not occur in this case.

Title IV-E Requirement:

In accordance with 45 CFR 1356.21(k)(2), the child must be physically removed from the home of the specified relative from whom the child is judicially removed. The physical removal of the child from that home must coincide with the judicial finding that it is contrary to the child's welfare to remain in the home unless there is a court order that specifies an alternative timeframe for removal. If a court makes a judicial determination that it is contrary to the child's welfare to remain at home (without specifying an alternative timeframe) and the child does, in fact, remain at home and no removal occurs, the requirement for removal is not met and the child is ineligible for title IV-E for the duration of the foster care episode.

Recommended Corrective Action:

It is recommended that the State provide additional training to staff on the title IV-E guidelines for claiming eligible children.

Issue #2: Underpayments

During the review, there were five (5) cases identified that the State did not claim title IV-E maintenance payments for periods in which they were entitled. In all cases, the children met all of the title IV-E eligibility requirements including placement in a fully licensed foster care setting that complied with the safety requirements. These cases met the eligibility requirements, yet the State did not claim title IV-E maintenance funds for all of the days that could have been claimed. The State cited the reason for not claiming in these instances was due to no billing being received by the foster care provider. These underpayments amount to a total of \$12,767.12 in allowable claims.

Title IV-E Requirement:

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

Recommended Corrective Action:

It is recommended that the State review the underpayments to determine any systemic issues that may have been integral in episodes of eligible children being unclaimed. Additional training should be developed and provided to focus on eliminating improper payment errors, including ineligible payments and eligible payments that could potentially contribute to the oversight of claiming for eligible children. The focus on underpayments would allow the State to maximize reimbursements for allowable costs of care for eligible children under title IV-E.

Issue #3: Coding of AFCARS data element 59

Fourteen (14) cases were excluded from the original sample and six (6) cases were excluded from the oversample because no title IV-E foster care maintenance payment was made for a period of activity during the PUR, as documented by the State.

Title IV-E Requirement:

The case sample and oversample drawn for the title IV-E review consist of cases of individual children with a "1" coded in AFCARS data element 59, "Sources of Federal Financial Support/Assistance for Child," for the six-month reporting period of the PUR. As provided for in Appendix A of 45 CFR §1355.40, the AFCARS data element 59 inquires whether title IV-E foster care maintenance payments are paid on behalf of a child in foster care during the PUR. If title IV-E foster care maintenance payments are paid on behalf of the child, the data element should be coded "1." If title IV-E foster care maintenance payments are not being paid on behalf of the child, the data element should be coded "0."

Recommended Corrective Action:

It is recommended that the State, in answering foster care element 59, ensures a common understanding among staff to only indicate whether a title IV-E foster care maintenance payment was paid on behalf of the child during the reporting period. Staff training and data system monitoring should be conducted to ensure that coding is accurately reflected. Data entry and processing systems should be evaluated to determine internal accuracy and consistency of the data.

The validity of the sample and oversample depends on the accuracy with which the State agency completes the AFCARS data element 59. It is critical that State agencies report data element 59 accurately.

Issue #4: Documentation of Financial Need and Deprivation

The State's SACWIS system, ICWIS, is programmed to make the IV-E eligibility determination using the AFDC eligibility standards that were in effect in Indiana as of July 16, 1996. Information from Indiana's public assistance system, ICES (Indiana Client Eligibility System), is also used to provide additional financial information on the family.

Based on the documentation provided during the review, there was some difficulty in determining that the specified child was financially needy and deprived of parental support during the month of removal from the home. The combination of ICWIS computer screen shots and ICES information did not clearly document the month in which the AFDC eligibility determination was made. In order to assess that the determination met title IV-E requirements, it was necessary to rely on the output information produced by ICWIS and ICES. The input information that produced the ICWIS and ICES screenshots was not clearly evident in the eligibility determination.

Title IV-E Requirement:

Federal provisions at §472(a)(3) of the Act and 45 CFR 1356.71(d)(1)(v) require title IV-E agencies to adhere to AFDC eligibility rules as in effect in the State's AFDC plan on July 16, 1996. If electronic files are used on site, the automated system must be a valid representation of the State's business practice and policy pertaining to the eligibility determination process. It is expected that automated system will completely and clearly document the child's eligibility and apply all eligibility factors consistently and accurately in every eligibility determination. Refer to Chapter 3 of the review guide for the eligibility reviews for additional information on the "Use of Electronic Files for Review".

Recommended Corrective Action:

In strengthening the documentation of AFDC eligibility determination, the State should further validate eligibility outcomes by including additional information on the steps that were taken to evaluate the family dynamics during the month of removal, thus showing clear justification for the eligibility decision.

Disallowances

A disallowance in the amount of \$26,681.68 in maintenance payments and \$17,909.00 in related administrative costs of Federal Financial Participation (FFP) is assessed for title IV-E foster care payments claimed for the error cases.

Additional amounts of \$20,111.00 in maintenance payments and \$1,984.00 in related administrative costs of Federal Financial Participation (FFP) are disallowed for title IV-E foster care payments claimed improperly for the non-error cases.

The total disallowance as a result of this review is \$66,685.68 in FFP. The State also must identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the PUR. No future claims should be submitted on these cases until it is determined that all eligibility requirements have been satisfied.

Next Steps

Since Indiana was found to be in substantial compliance, no formal corrective action plan is required in follow-up to this review. We commend the State for their ongoing efforts in examining program deficiencies and implementing measures that have resulted in improvements to their title IV-E program. As part of the State's continued efforts to improve its title IV-E foster care eligibility program, CB recommends that DCS examine identified program deficiencies and develop measurable, sustainable strategies that target the root cause of any areas hindering the State from operating an accurate foster care eligibility program. The CB Regional Office is available to assist the State in identifying strategies and obtaining existing technical assistance to support in the proper and efficient administration of the title IV-E foster care maintenance program. The next eligibility review will be held in three years.