

**State of Kansas
Primary Review
Title IV-E Foster Care Eligibility
Department for Children and Families
Report of Findings for
April 1, 2013 through September 30, 2013**

Introduction

During the week of March 10, 2014, 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 Kansas Department of Children and Families (DCF) and was completed by a review team comprised of representatives from Kansas DCF, CB central office and regional office (RO), cross-state peer reviewers, and ACF Regional Grants Management Office. The review was conducted at the DCF Learning Center in Topeka, Kansas.

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

Scope of the Review

The primary review encompassed a sample of the state's foster care cases that received a title IV-E maintenance payment for the six-month period under review (PUR) of April 1-September 30, 2013. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from state data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which included seventy four (74) from the initial sample. Six (6) oversample cases were reviewed when the six (6) Kansas Department of Corrections' (KDOC) sample cases were excluded from the original sample because no title IV-E maintenance payments were made for a period in the PUR. Kansas DCF has a Memorandum of Understanding with KDOC that allows it to claim title IV-E maintenance funds for youth in KDOC custody who meet the eligibility requirements. The DCF and KDOC provided an acceptable explanation regarding these six cases prior to their removal from the sample.

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

- Judicial determinations regarding reasonable efforts and contrary to the welfare as set forth in §472(a)(2)(A) of the Act and 45 CFR §1356.21(b)(1) and (2), (c) and (d), respectively;
- Voluntary placement agreements as set forth in §472(a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR §1356.22;

- Responsibility for placement and care vested with State agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the State title IV-A plan in effect July 16, 1996 as required by §472(a)(1) and (3) of the Act and 45 CFR §1356.71(d)(1)(v);
- Placement in a licensed foster family home or child care institution as defined in §472 (b) and (c) of the Act and 45 CFR §1355.20); and
- Safety requirements for the child's foster care placement as required at 45 CFR §1356.30.

The case file information of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider's file information also was examined to ensure the foster family home or childcare institution where the child resided during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child were reviewed to verify that the expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating if the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was claimed. A sample case was cited as non-error with an ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was claimed for the unallowable activity. In addition, underpayments were identified for a sample case when allowable title IV-E maintenance costs were not claimed by the state for an eligible child during the two year filing period specified in 45 CFR §95.7 unless the title IV-E agency elected not to claim the payment or the filing period had expired.

Compliance Finding

The review team determined that 77 of the cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Three (3) cases were identified as in error for either part or all of the review period. In addition, there was one (1) non-error case with identified underpayments.

Based on these review findings, CB has determined that the Kansas DCF title IV-E foster care program is in substantial compliance with federal eligibility requirements for the PUR. Substantial compliance in a primary review is achieved when four (4) or fewer cases are in error. The next review of Kansas' title IV-E eligibility program will be a primary review, conducted three years from the date of this review.

Case Record Summary

The following chart records the three error cases with ineligible payments, reasons for the ineligible payments, payment amounts, and federal provisions as to why the claims were ineligible. The subsequent chart records the one case with an underpayment, reasons for the underpayment, payment amount, and federal provisions under which the state could have claimed.

Sample Number	Error Reason & Eligibility Period	Payment (FFP)
KS 21	Ineligible child due to lack of contrary to the welfare finding, 472(a)(2)(A)(ii) of the Act and 45 CFR 1356.21 (c). Ineligible: Entire FC episode; Reported Disallowance Period: 9/3/09-3/10/14	Maintenance \$34,490.03 Administrative \$23,216.00
KS 36	Ineligible child due to parental income exceeding state AFDC standard, 472(a)(3) of the Act and 45 CFR § 1356.71(d)(1)(v). Ineligible : Entire FC episode; Reported Disallowance Period: 6/8/12-3/10/14	Maintenance \$9,884.52 Administrative \$10,018.00
KS 41	Ineligible child due to lack of contrary to the welfare finding and no safety check on provider, 472(a)(2)(A)(ii) of the Act and 45 CFR 1356.21(c) and 471(a)(20)(A) of the Act and 45 CFR 1356.30, respectively. Ineligible : Entire FC episode; Reported Disallowance period: 3/5/13-12/31/13	Maintenance \$8,364.12 Administrative \$3,789.00

Maintenance: \$52,738.67 FFP
Administrative: \$37,023 FFP
Total: \$89,761.67 FFP

Underpayment Cases

Sample Number	Underpayment Reason & Eligibility Period	Payment (FFP)
KS 35	IV-E maintenance was not claimed for an eligible child placed with a fully licensed provider. [§472(b) and (c) of the Act and 45 CFR §1355.20 and §1356.71(d)(1)(iv)]. Eligible period: 8/8/13-8/25/13	Maintenance \$249.77

Total: \$249.77 FFP

Recommendations for Further Improvement

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

Issue #1 Payment History:

The payment history received from the state did not contain the complete payment history for each case in the sample and oversample drawn for the title IV-E review. The payment history provided by the state listed payments through December 30, 2013. It should have included those title IV-E payments made through February 28, 2014. The regional office received the complete payment history on April 15, 2014. This was after the review had occurred.

Title IV-E Requirement:

For each of the sample and oversample case records, the state agency must provide CB RO with the complete payment history before the on-site review as outlined in federal regulations at 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. All payments in the payment history should include the following: 1) the invoice number or other identifier; 2) the amount paid and service period covered; 3) the activity or service paid and funding source; 4) the date of payment; 5) the date of payment adjustment or reversal and period covered; 6) the child's name and case number; and 7) the provider's name and number. The state should consult CB's Title IV-E Foster Care Eligibility Review Guide for further guidance on the payment history and the expected elements of it for the eligibility review.

Recommendations for Quality Improvement:

The state must be able to develop a consistent, reliable and accurate payment history that is able to track all foster care maintenance and administrative payments made on behalf of each child in its care. This record, either in electronic or paper form, should include all information necessary to provide a complete account of payment activity, as listed above. The CB urges the state to identify the systemic factors underlying its payment history deficiencies and develop strategies to correct them in advance of the next title IV-E eligibility review.

Issue #2 Underpayments:

One case in the Kansas review resulted in an underpayment due to the tracking system for licensed foster homes. Title IV-E was not claimed for a child residing with a foster care provider whose license status had changed from a “temporary license” to a “fully licensed” status during the same month. The agency could have claimed for the entire month of program eligibility and placement with this foster care provider. The State’s tracking system does not recognize that title IV-E maintenance payments can be claimed for the entire period the otherwise eligible child resides in a foster family home with a temporary license that change to a full license within the same month.

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 that are covered by the federal definition of foster care maintenance found at §475(4) of the Act. Under §472 of the Act, title IV-E maintenance payments may be claimed from the first day of the foster care placement in the month in which all title IV-E eligibility criteria are met. The payment may be claimed for the entire month when an eligible child has resided in the foster care placement for the entire month. However, if the eligible child is placed on a date in the month other than the first of the month, title IV-E funds may be claimed for the period beginning with the actual date of foster care placement.

Recommendations for Quality Improvement:

We recommend that Kansas enhance its Continuous Quality Improvement (CQI) system to include the review of title IV-E cases to ensure that Kansas is maximizing its potential of claiming title IV-E maintenance funds for eligible children including when they are in fully-licensed placements. This will help Kansas identify gaps and ensure complete and proper claiming for children in fully licensed placements. It is further recommended that the state update its tracking system to recognize the potential for claiming title IV-E maintenance for children placed in those foster homes whose status changes from having a temporary license to being fully licensed during the same month.

Issue # 3 Judicial Determinations:

Federal regulations at 45 CFR 1356.21 (b) and (c) outline the requirements for initial court order language regarding “contrary to the welfare”. In the Kansas 2005 title IV-E review, one of the strengths noted was the strong court orders specifically in Sedgwick County. However, one of the error cases during the 2014 review that lacked the required initial language regarding “contrary to the welfare” was from Sedgwick County and the child in this case has been in care since 2/12/13. The second case with this issue was from Clay County. This child has been in care since 2009 without the contrary to the welfare language being found in the initial court order. Title IV-E maintenance payments have been claimed for extended periods throughout each child’s out-of-home placement.

Title IV-E Requirement:

Title IV-E eligibility requirements include protections for children and families as an important aspect of eligibility criteria. The title IV-E protections related to judicial determinations were developed to ensure that children are placed in foster care as a last resort and that children are provided timely outcomes for permanency. A removal pursuant to a court order must be the result of a judicial determination of “contrary to the welfare” and “reasonable efforts” as specified in §472(a)(2)(A) of the Act. A judicial determination must be made on a case-by-case basis and explicitly stated in the court orders. The court orders must definitively articulate the judge’s child-specific ruling pertaining to “contrary to the welfare” and “reasonable efforts” determinations.

Recommendations for Quality Improvement:

We encourage Kansas to continue its efforts to educate court officials and agency staff on the necessity of clearly and accurately reflecting judicial determinations that are explicitly documented as part of their continuous quality improvement process for the title IV-E eligibility program. The court orders also must be specific to the circumstances and events of each child’s case. Including in the court order the facts upon which the “contrary to the welfare” and “reasonable efforts” determinations are based significantly improves the quality of the court order and provides a historical accounting of the child’s situation leading to judicial decisions. As such, each court order should include child-specific determinations starting with the emergency order for removal, and continuing into orders for permanency hearings, reunification, adoption or another planned arrangement for permanency. We are encouraged by the Kansas Office of Judicial Administration’s past initiatives to improve the documentation of judicial determinations and timeliness in the court orders. Based on this review, we recommend a continued focus on strategies to make sure all court orders are meaningful and specific to the unique circumstances of the children and families involved.

It is very clear that DCF has a strong working relationship with the Kansas Office of Judicial Administration. The Court Improvement Program (CIP) Specialist participated in this review by remaining on site and providing technical assistance the entire week. It also was apparent the CIP Specialist collaborates with staff at all levels of DCF. It is recommended that DCF continue this collaboration with the state CIP to improve the quality of the court orders for child welfare and juvenile justice cases. Kansas clearly has some exemplary orders on which to model continued statewide improvement efforts. Examples of these orders as well as those marginally meeting requirements will be utilized in the CB regional office’s efforts to provide technical assistance to DCF and the Kansas Office of Judicial Administration.

Issue #4 Safety Checks:

The same error case missing the original “contrary to welfare” language also did not have timely safety checks on facility staff during the period of the child’s placement in the PUR for which title IV-E maintenance payments were claimed. During the review of cases, it was noted that state policy regarding safety checks was not followed in several of the cases in which children were placed in a licensed facility. The Kansas Department of Health and Environment (KDHE) is the licensing agency for child care facilities. State policy permits a facility to hire an individual without the completed safety checks but the application for those checks must be submitted to KDHE within seven days of employment. Per state policy, these individuals are not allowed unsupervised contact with children prior to the completion of a safety check. The review of cases found delays in the submission of application checks ranging from two weeks to six months. In one extreme case, the time lapse was over a year. Although only one case was found to be in error during the PUR, several other cases did not meet the requirements outside the PUR. These cases were those juvenile justice cases that KDOC has not made a title IV-E maintenance claim on but plans to do so in the future.

Title IV-E Requirement:

Title IV-E agencies are reviewed against the requirements of title IV-E of the Act and federal regulations regarding 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. As a condition of the title IV-E plan and child eligibility, the agencies must have procedures that address safety considerations of the caregiver staff of childcare institutions. Federal requirements mandate the title IV-E agency to document that the background safety 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.

Recommendations for Quality Improvement:

During the week of the review, a program administrator with KDHE was present to assist with questions and technical assistance regarding the state licensing requirements. The KDHE has indicated a commitment to working closely with the facilities being licensed to ensure that applications for safety checks are submitted timely. It is recommended that DCF and KDOC implement procedures to verify safety checks are being processed timely. It is further recommended that the Kansas Department of Health and Environment, The Department for Children and Families (DCF) and the Kansas Department of Corrections (KDOC) partner to develop a CQI process for ensuring that facilities; DCF, and KDOC staff are adequately trained on the safety check process. Eligibility specialists should have access to system verification that the required safety checks are completed prior to title IV-E claiming for the child’s placement and should categorize the child as non-IV-E eligible for the period of the child’s placement that the safety requirement is not met.

Issue #5 AFCARS Element 59 Coding:

As noted previously, six KDOC cases from the original sample pull were excluded due to a lack of title IV-E payments during the PUR. The KDOC staff indicated a title IV-E claim had not been prepared since December 31, 2012 because one piece of data needed to distribute one administration cost pool, Program Code 57141 Intake and Assessment, was not available. This cost pool is distributed in part across all juveniles in out-of-home custody of the Department of Corrections. Although KDOC was not claiming title IV-E funding, these cases continued to show in the state's data submitted to AFCARS. Kansas DCF staff, while planning for the on-site review, discovered the six (6) KDOC cases did not have a payment history. The state's explanation was not clear as to why payments were not claimed for a period in the PUR or for the coding of "1" in AFCARS data element 59, title IV-E foster care.

Title IV-E Requirement:

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. Consistent with Appendix A of 45 CFR §1355.40, foster care element 59 is coded as "1" to indicate title IV-E foster care when title IV-E foster care maintenance assistance is the applicable source of income for the child's care at any time during the six-month AFCARS period for a child meeting all title IV-E eligibility criteria. Element 59 is coded as "0" when title IV-E foster care maintenance payments are not the applicable income source for the child's care.

Recommendations for Quality Improvement:

There was confusion surrounding the state's explanation for why claims have not been submitted for the KDOC children, the AFCARS coding and whether the cases should be excluded from the sample. Due to the responsibility DCF has as the state title IV-E agency for overseeing the administration of the IV-E program within the state and lingering questions following discussions with KDOC, it was agreed that an assessment of the six KDOC cases separately from the regular case sample during the review week would be conducted for training and quality assurance. The cases were reviewed individually by a state and a federal reviewer. The reviewers confirmed exclusion of the cases from the regular review sample was appropriate because title IV-E maintenance payment had not been claimed for a period in the PUR in any of the cases. The reviewer's also determined AFCARS element 59 was incorrectly coded because the subject children did not meet the requirements for the title IV-E program.

Eligibility issues regarding timely completion of safety checks on facility staff for each child's placement in a childcare facility during the PUR were noted. The concerns about compliance with the safety requirements for caregiver staff of child care institutions are the same as those discussed above under Issue #3. The CB regional office will provide a separate report to the state with additional details about the findings from the special review of the KDOC cases.

Staff from KDOC indicated claims will be made for all title IV-E eligible cases not claimed since December 2012. In view of the eligibility issues noted regarding the safety requirements, it is recommended that all cases identified as title IV-E eligible in the KDOC population be reviewed for accuracy of eligibility decisions and AFCARS coding. Title IV-E foster care maintenance payments may not be claimed for a period of activity unless it is determined the child meets all of the title IV-E eligibility requirements including those related to the child's placement. It is also recommended that Kansas DCF and KDOC develop a system to routinely check and track eligibility on cases submitted for title IV-E reimbursement. Finally, training of KDOC staff and periodic monitoring of the state data system by DCF is recommended to ensure AFCARS coding correctly reflects the funding source for the child's care.

Strengths

Eligibility Determinations

Kansas has a well-trained, knowledgeable, and tenured eligibility unit. The eligibility unit is housed throughout Kansas in the DCF central office and in various regional offices while being centrally supervised at the central office level. The eligibility unit works well with the various field staff throughout the state to help ensure that the case files and documentation are thorough and complete.

The eligibility unit has access to multiple databases to provide verification of income and resources such as earned wages, child support, family support services, and Social Security benefits. The unit is composed of tenured staff as well as additional staff who have a clear understanding of title IV-E foster care eligibility requirements related to the AFDC requirements of financial need, deprivation, and living with and removal from a specified relative. As evidenced by the cases reviewed, eligibility staff are verifying and clearly documenting the persons in the home at the time of removal.

The eligibility unit has an eligibility work group. The purpose of the group is to identify policy issues, strengthen practice, and provide training via case reviews. It is composed of support service administration, quality assurance (QA) supervisors, and eligibility supervisors. The group meets in person one to three times a year and also conducts frequent conference calls. In addition, the eligibility unit has a QA process in place. Every quarter a sample of title IV-E eligible cases are pulled. These cases are reviewed for IV-E determination accuracy. According to the staff, participating in this process provides a valuable educational experience for all involved: agency peer viewers, supervisors, and QA readers.

Disallowance

For the three cases determined not to be eligible for title IV-E foster care maintenance payments during the PUR, the state is ineligible to receive federal financial participation (FFP) under the title IV-E foster care maintenance program. Also, the state is ineligible for title IV-E foster care administrative costs relating to these error cases. The amount of ineligible maintenance payments for these cases is \$52,738.67 FFP. The associated

unallowable administrative cost for these cases is \$37,023.00 FFP. The total amount of disallowance is \$89,761.67 FFP. The erroneous maintenance payments and administrative costs include all payments claimed through December 31, 2013. In addition to this amount, any costs claimed subsequent to December 31, 2013 pertaining to the ineligible periods must be refunded to the federal government.

Next Steps:

The CB regional office will continue to follow-up with Kansas DCF regarding the state's eligibility process and future steps to be taken to address the concerns outlined in this report.