

KENTUCKY

Title IV-E Foster Care Eligibility Review *For the period October 1, 2003 to March 31, 2004*

Introduction:

During November 1-5, 2004, the Administration for Children and Families (ACF) staff from the Central and Regional Offices and the State of Kentucky staff conducted an eligibility review of Kentucky's Title IV-E Foster Care Program. The purposes of the Title IV-E Foster Care Eligibility Review were (1) to determine if Kentucky was in compliance with the child and provider eligibility requirements as outlined in 45 CFR 1356.71 and Section 472 of the Social Security Act; and (2) to validate the basis of Kentucky's financial claims to ensure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

This was Kentucky's second primary review. Its initial primary review was held December 3-7, 2001. At that time, the State was found to be in substantial conformity with title IV-E eligibility requirements because the State had eight (8) or fewer cases in error.

Scope of the Review:

The Kentucky Title IV-E Foster Care Review encompassed a sample of all the Title IV-E Foster Care cases that received a foster care maintenance payment during the period of October 1, 2003 to March 31, 2004. A computerized statistical sample of eighty cases, plus 20 over sample cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS data, which were transmitted by the State agency to the ACF for the period under review. Each child's case file was reviewed for the determination of Title IV-E eligibility, and the related provider's file was reviewed to ensure that the foster home or child care institution in which the child was placed was licensed or approved for the period of the review.

Case Record Summary:

During the primary review, all eighty sample cases were reviewed. Two (2) of the cases were determined to be in error for either part or all of the period under review. Attachment A of this report details each sample case, the reason(s) for ineligibility and the ineligible dollar amounts associated with that

case. One identified error case was related to reasonable efforts to prevent removal and one error case was related to AFDC eligibility and financial need.

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Listed below are specifics of each case:

1. AFDC Eligibility and Financial Need - Case #56 - This case was determined to be ineligible based on question 20(a) - Did the State determine that the child was AFDC-eligible during the month the voluntary placement agreement was signed or removal petition was filed? In this case, the answer initially was YES. The AFDC eligibility month was July of 2003. This child was determined to be IV-E reimbursable from July 1, 2003 to November 30, 2003, but should have been determined **NOT** eligible due to the child's income of \$499 Retirement Survivor Disability Insurance (RSDI).
Statutory Citation: Section 472(a)(1) and (4); Regulatory Citation: 45 CFR 1356.71(d)(1)(v)

2. Reasonable Efforts to Reunify Child and Family - Case #38 - This case was determined to be ineligible based on question #12 related to "Reasonable Efforts to Reunify Child and Family." The Emergency Court Order (ECO) was signed by the judge and there was documentation in that order that addressed "reasonable efforts to reunify the family" even though the child had been abandoned. This ECO was a form type order and the judge then went on to check the box on the form that "Reasonable Efforts to Reunify were **NOT** provided."
Statutory Citation: Section 472(a)(1), 471(a)(15)(b)(i); and Regulatory Citation: 45 CFR 1356.21(c)

Areas In Need of Improvement:

During the review, the following areas were identified as areas in need of improvement:

- 1. Judicial Determinations of Reasonable Efforts.** Two sample cases were determined to be ineligible to receive title IV-E payments during the specified period the payments were claimed because the cases did not meet the Federal requirements related to the judicial determination of reasonable efforts. Courts consistently should review the efforts of the State agency to: 1.) prevent a child's removal from home, when such efforts will not jeopardize the child's safety and 2.)

make and finalize a permanency plan. The court's review must be timely and the ruling must be child specific and explicitly expressed in the court ruling.

We recommend that the State agency continue its collaboration with the judicial community to emphasize and strengthen the link between judicial findings and Title IV-E eligibility.

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2. ***"No-End Licensure Process"***. According to Kentucky policy and practice, foster family homes are licensed or approved annually. The licensing/approval status of a home does not change if the renewal process is not completed timely. The foster family home retains licensure until the license is officially revoked and participation in the foster care program is terminated. When there is a lapse in a license, the home may be closed to intake for new placements until renewal and children living there during that period are allowed to remain in the home. We noted that annual reviews were done on the majority of foster family homes reviewed; however, there were several sample cases where the renewals were not done in a timely manner. In one sample case, a license was allowed to lapse in January 2004. The annual review of the home had not been conducted as of November 5, 2004, nearly eleven months later. The extended periods of lapsed licenses raises concerns about the the safety of kids living in those homes and the appropriateness of the placements in meeting the child's needs. Even though the caseworkers frequently are in and out of the homes, safety related issues may not be addressed specifically by the case workers.

It is noted that the State is already working to address the issue of lapsed licenses by utilizing the State's TWIST system. A component will be added to track the annual reviews for licensing of homes to ensure a timely licensing process.

Strengths:

The following areas were noted to be strengths for your Title IV-E Eligibility Foster Care system:

- Although this was not an assessment of the State's child welfare program, in the sample cases examined during this eligibility review, it

appears that the State's "current" practice is to move children through the system more timely; placement changes were few or infrequent; and termination of parental rights were happening quicker.

- The agency has assigned IV-E staff statewide whose primary function is to determine financial eligibility. The staff is very knowledgeable about Federal and State eligibility requirements and state implementation of the program. The state team members actively participated in the review process and were instrumental in accomplishing a successful review.

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- Licensing, safety, and criminal records check processes are consistently completed regardless of the child's foster care placement.
- Judicial determinations of "contrary to the welfare" and "reasonable efforts" generally were timely and child-specific, and court orders were intact. In the majority of the cases, the "contrary to the welfare" and "reasonable efforts to prevent removal" were ruled on during the initial court hearing.
- Court orders demonstrated progressive improvement in judicial findings of "reasonable efforts to finalize a permanency plan" and timeliness of the findings involving post-ASFA court cases. The newer orders identified the permanency plan that was in effect and the permanency hearings were held timely, often more frequently than twelve months.
- The eligibility determination process is automated statewide through TWIST. Verifications for initial determination of AFDC eligibility and provider licensure may be obtained from TWIST. It appears that the TWIST system effectively tracks the State's eligibility decisions and payment reimbursement. The State also is in the process of adding a new component and system enhancements to TWIST. These modifications will be new programming which will track the annual reviews for licensing of foster family homes and conduct eligibility redeterminations.
- Eligibility determinations and redeterminations are completed timely and accurately. The forms produced by TWIST that were used to document the eligibility decision were depicted in a logical, and clear

format. Recertifications were completed annually but the State has a mechanism in place to process interim changes.

- The State did an excellent job in preparing for and conducting the review. Case records were well organized and supporting documentation was contained in the case records or was promptly provided to the reviewer.

Disallowances:

Two (2) cases were determined to be in error, thus not eligible for title IV-E Foster Care maintenance payments, and the State is ineligible to receive Federal Financial Participation (FFP) for them under title IV-E foster care maintenance assistance program. A total of \$5,771 in FFP must be disallowed based on these two (2) cases.

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The State is also ineligible for Title IV-E Foster Care administrative costs relating to the error cases. We have calculated the amount of unallowable administrative costs to be \$2,546. Contact the State for additional information on each of these cases.

In addition to the above cases found with errors during the period under review, the review team identified two (2) cases with ineligible payments occurring outside of the review period (#14 and #41). The reasons for these errors were related to Item #16 - Reasonable efforts to finalize permanency plans. These additional findings were not considered in the determination of Kentucky's substantial compliance of Federal requirements. The State is, nevertheless, ineligible to receive FFP for these cases under the Title IV-E program.

The amount of ineligible maintenance assistance payments for these four (4) cases is \$16,665 in FFP. The respective unallowable administrative costs for these cases are \$4,103 in FFP. Contact the State for additional information on each of these cases.

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