

**MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES
TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW
NOVEMBER 3, 2003 TO NOVEMBER 7, 2003**

I. INTRODUCTION

During the week of November 3rd, 2003, staff from the Regional and Central Offices of the Administration for Children and Families (ACF) and Massachusetts' Department of Social Services (DSS) conducted an eligibility review of the State of Massachusetts' (MA) Title IV-E Federal Foster Care program. The Massachusetts on-site case review was conducted in Boston at the administrative office of the Department of Social Services.

The purpose of the Title IV-E eligibility review was to validate the accuracy of the State's federal claims, to ensure that appropriate payments were made on behalf of eligible children, to eligible homes and institutions and at the allowable rates.

II. SCOPE OF THE REVIEW

The Massachusetts Title IV-E Foster Care review encompassed a sample of all Title IV-E foster care cases open during the period October 1, 2002 through March 31, 2003. A computerized statistical random sample of 80 cases (plus an over-sample) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data that were transmitted by the State Agency to ACF. The sampling frame consisted of cases of individual children who received at least one Title IV-E foster care payment during the six-month period noted above. For each case, the child's case file was reviewed for a determination of Title IV-E eligibility and to ensure that the foster care setting in which the child was placed was fully licensed for the entire period under the review, as applicable.

During this first *primary* review, 80 cases were reviewed. Of those, 71 cases were determined to be eligible. Nine cases were found to be in error for either part or all of the review period for reasons identified in the Case Record Summary of this report.

III. RESULTS

Since the number of ineligible cases was more than the allowable threshold of eight cases, Massachusetts is considered to be not in substantial compliance with Title IV-E eligibility requirements.

Pursuant to Federal Regulations at 45 CFR Section 1356.71(I), Massachusetts is required to develop a Program Improvement Plan (PIP) designed to correct those areas needing improvement as identified in the enclosed report. The PIP should be developed jointly by State and Federal staff and must be submitted to my office no later than 90 days from the date of this report. Following ACF's acceptance of the PIP, the State will have one year to implement the PIP before a *secondary* review is conducted.

The detailed findings of this review follow.

IV. DETAILED FINDINGS

A. STRENGTHS

- All of the cases reviewed were found to have criminal records checks on foster/adoptive parents and documentation that safety checks were being performed for child care institution staff/caretakers.
- Only one of the cases reviewed was found in error due to failure of the State to obtain the required judicial determination of "Contrary to the Welfare of the Child" to remain at home.
- All of the cases reviewed were found to have either timely Reasonable Efforts to prevent removal or as appropriate for children removed before March of 2000, Reasonable Efforts to reunify the child his/her parents.
- The State has worked to improve its system for determining if a child was removed from a home that qualified or would have qualified for Aid to Dependent Children (AFDC) according to State's July 16, 1996 AFDC guidelines. In all but one of the cases reviewed, the State's enhanced procedures for determining financial need and deprivation of parental support for the child functioned well.

B. AREAS IN NEED OF IMPROVEMENT

Based on the findings of this review, we recommend that the State further develop and/or implement procedures to improve the following areas.

• Finding

Five cases were found in error because Court Orders did not have either timely or appropriately documented judicial determinations regarding Reasonable Efforts to finalize the permanency plan.

IV-E Requirement

The Adoption and Safe Families Act of 1997 created a new Reasonable Efforts requirement to ensure that the State (Court and Child Welfare Agency) is giving close attention to the permanency needs of children who remain in care for 12 months or more. Thus, a judicial determination regarding Reasonable Efforts to finalize the permanency plan for the child must be made within 12 months of a child entering care and every 12 months thereafter.

Discussion

Several issues contributed to cases being found in error under this requirement:

- The required judicial determination was not made.
- The required judicial determination was not made in accordance with the federal timeframes. MA (not unlike most other states) incorporated the Federal requirement for a judicial determination of Reasonable Efforts to finalize the permanency plan into the permanency hearing. However, there is the likelihood that such hearings may be delayed or continued. Such delays result in the State obtaining a judicial determination of Reasonable Efforts to finalize the permanency plan beyond the 12-month period required by Federal regulation.
- Currently, the State is relying on a system to adjust or “back-out” any IV-E payments made on behalf of an otherwise eligible child that loses IV-E eligibility because the required judicial determination of Reasonable Efforts to finalize the permanency plan was not made or was not made in a timely manner. However, this is not an acceptable (long-term) eligibility or accounting procedure.

Corrective Action Recommended

The State should reinforce the purpose and need for the judicial determination of Reasonable Efforts to finalize the permanency plan with DSS staff. Also, the Courts need to give more attention to this Federal requirement to ensure an adequate and well-documented judicial determination of Reasonable Efforts to finalize the permanency plan within 12 months of a child entering care and every 12 months thereafter. In addition, the State should implement tickler, tracking and other such procedures to ensure that this judicial determination is completed in a timely manner. Finally, if the required judicial determination of Reasonable Efforts to finalize the permanency plan is not made in a timely manner, the State system should include an edit to suspend Federal claiming until/unless the child regains IV-E eligibility. It is our understanding that as part of its efforts to automate the IV-E eligibility determination and re-determination processes, the State intends to build early warning and tracking mechanisms for this requirement into FamilyNet.

• Finding

While only one case was found to be in error because of not being fully licensed during the period under review, a number of cases raised concerns with: 1) the sufficiency of State's regulations concerning duration of licenses/approvals for family foster homes and child placing agencies (CPAs), and 2) the timeliness and adequacy of the re-approval/re-licensing study and signature processes.

IV-E Requirement

For the purpose of title IV-E eligibility, individual or family homes, group homes, and child care institutions that provide 24-hour out-of-home care for children as well as the CPAs that recruit, approve, and/or place children in these homes must be fully licensed or approved as meeting the standards established by the State licensing or approval authority(ies).

Discussion

- 1) Sufficiency of State's regulations concerning duration of licenses/approvals:

DSS and Office for Child Care Services (OCCS) regulations for re-licensing/re-approval of foster homes as well as the OCCS regulations for re-licensing of CPAs allow that the current license/approval shall not expire until the renewal process is completed and a determination has been made. During this period, a CPA can continue to approve foster homes and homes may continue to care for foster children. While it is in the best interest of children to maintain them in stable foster placements, it is a questionable practice if the time to completion of re-licensing/re-approval process is very lengthy and/or issues surfaced during the renewal process are not dealt with in a timely manner.

In addition, for this provision to be in effect, OCCS regulations require that the licensee make a sufficient application for renewal prior to the expiration of the current license. In a few cases, it was not clear that the CPA had complied with this renewal application requirement.

- 2) Timeliness and adequacy of the re-licensing/ re-approval study and signature processes:

Reviewers found that OCCS had not completed the required license renewal process in a timely manner for a number of CPAs. The length of time for which the re-licensing was overdue ranged from one month to one year. In addition, while it appeared that DSS staff were generally completing the required annual evaluations and bi-annual licensing studies in a timely manner, the approval and signature process in a number of cases was found to be delayed by weeks and sometimes, months.

Corrective Action Recommended

The State may want to review - and as appropriate, strengthen - both the DSS and OCCS requirements for duration and expiration of licenses for CPAs. It may also be advantageous to review and/or revise the procedures used for re-licensing/re-approval to determine the efficiency and efficacy of these processes in the on-going evaluation of foster homes.

- Finding

One case was found in error because of the lack of a timely judicial determination (within 180 days of a child's placement) that remaining in care was in the best interest of a child who had entered care on a voluntary basis.

Discussion

While this issue was found in only one case, the State's contention that an extension could be granted if the 180th day occurred on a weekend is not correct. Since Federal statute requires this judicial determination within 180 days, the State has the flexibility to obtain the "best interest" determination at any time prior to but not later than 180 days.

Corrective Action Recommended

The State should clarify the required timeframe for obtaining the required judicial determination of "best interest" for children who entered care on a voluntary basis. This will ensure that children who are otherwise eligible for IV-E continue in this status after 180 days in out-of-home care.

- Finding

The number of cases determined to be inappropriate for review was much higher than average and may indicate a serious problem in the AFCARS reporting or the day-to-day processing of claims for title IV-E FFP.

Discussion

The review sample of 80 cases was selected from AFCARS data using a probability sampling methodology. The sampling frame consisted of all cases (children) with a "1" coded in AFCARS field #59 - indicating that for the period under review; at least one title IV-E foster care maintenance payment was made on behalf of the child. It is the responsibility of the State to verify, prior to the review being conducted, that each case coded as a "1" in data element #59 did, in fact, receive a IV-E payment during the period under review.

Our past experience indicates that a State may have a few cases that are determined to be inappropriate because of this or other reasons. Ordinarily, we find that the number of cases selected that cannot be included in the review sample is 10 percent (eight cases) or less.

DSS was initially provided a sample of 80 cases (plus an over-sample of 20 cases). However, DSS reported and ACF confirmed that 28 cases which were coded as a "1" in AFCARS did not receive or had adjustments rescinding IV-E payments prior to the sample being drawn. This resulted in the need to generate an additional sample of 40 cases so that DSS would have the required sample of 80 cases available for review.

Corrective Action Recommended

Reviewers were not sure of the factors contributing to the improper coding of cases in AFCARS. Therefore, the State should determine (and as necessary take action to correct) any problems in data input or in reporting data for AFCARS element #59. In addition, it is recommended that the State review its accounting and eligibility procedures to ensure that claims for FFP are submitted only on children for whom all title IV-E eligibility requirements are met.

V. CASE RECORD SUMMARY

The following details the ineligible cases, reasons for ineligibility, and the period and amount for each ineligible claim. The disallowance for each failed case encompasses the entire period of ineligibility for which IV-E FFP was claimed.

Sample No. 4 Case ID: 13184

The child was determined to be ineligible from 03/16/02 – 03/31/03 because the State failed to obtain within 180 days of the child entering care on a voluntary basis, the judicial determination that it was in the best interests of the child to remain in care.

Total IV-E Maintenance	\$ 3,315 (FFP)
Total IV-E Administration	\$ 4,614 (FFP)

Sample No. 24 Case ID: 7378

The child was determined to be ineligible from 10/24/02 – 03/31/03 because the State did not establish that the child was removed from a household of a specified relative that would have met the 1996 AFDC eligibility criteria for financial need and deprivation of parental support at the time of removal.

Total IV-E Maintenance \$1,576 (FFP)
Total IV-E Administration \$1,942 (FFP)

Sample No. 25 Case ID: 3939

The child was determined to be ineligible from 05/01/02 – 03/31/03 because the State failed to obtain a timely judicial determination of reasonable efforts to finalize the permanency plan required within 12 months of entry and every 12 months thereafter.

Total IV-E Maintenance \$ 5,069 (FFP)
Total IV-E Administration \$ 4,066 (FFP)

Sample No. 32 Case ID: 5002

The child was determined to be ineligible from 07/01/02 – 10/09/02 because the State failed to obtain a timely judicial determination of reasonable efforts to finalize the permanency plan required within 12 months of entry and every 12 months thereafter.

Total IV-E Maintenance \$ 1,486 (FFP)
Total IV-E Administration \$ 1,207 (FFP)

Sample No. 61 Case ID: 6366

The child was determined to be ineligible from 03/01/02 – 03/31/03 because the State failed to obtain a timely judicial determination of reasonable efforts to finalize the permanency plan required within 12 months of entry and every 12 months thereafter.

Total IV-E Maintenance \$ 2,846 (FFP)
Total IV-E Administration \$ 4,796 (FFP)

Sample No. 69 Case ID: 4112

The child was determined to be ineligible from 02/16/95 - 03/31/03 because within six months of the child removal from home, the State failed to obtain the initial judicial determination of contrary to the welfare of the child to remain at home.

Total IV-E Maintenance \$ 97,170 (FFP)
Total IV-E Administration \$ 33,177 (FFP)

Sample No. 95 Case ID: 3873

The child was determined to be ineligible from 07/01/02 – 03/31/03 because the State failed to obtain a timely judicial determination of reasonable efforts to finalize the permanency plan required within 12 months of entry and every 12 months thereafter.

Total IV-E Maintenance \$ 2,466 (FFP)
Total IV-E Administration \$ 3,336 (FFP)

Sample No. 107 Case ID: 1457

The child was determined to be ineligible from 03/28/01 – 12/19/02 because the State failed to obtain a timely judicial determination of reasonable efforts to finalize the permanency plan required within 12 months of entry and every 12 months thereafter.

Total IV-E Maintenance \$ 6,613 (FFP)
Total IV-E Administration \$ 3,155 (FFP)

Sample No. 109 Case ID: 15879

The provider was determined to be ineligible from 03/27/03 – 03/31/03 because during this time period, the provider's home was not fully licensed according to the State's licensing standards. During the period under review, the foster home was operating under a conditional license.

Total IV-E Maintenance \$ 39 (FFP)
Total IV-E Administration \$ 49 (FFP)

VI. DISALLOWANCE

The dollar amount to be refunded to the Administration for Children and Families is \$120,580 (FFP) for ineligible foster care payments and \$ 56,342(FFP) in related administrative costs.