

State of Maryland
Title IV-E Foster Care
Secondary Eligibility Review
October 1, 2010 – March 31, 2011

Introduction

During the week of September 19, 2011, the Children's Bureau (CB), Administration for Children and Families (ACF), conducted a secondary review of Maryland's title IV-E foster care program. The review was conducted in Baltimore, MD in collaboration with the State of Maryland Department of Human Resources (DHR) and was completed by a review team comprised of representatives from DHR, Maryland Department of Juvenile Services (DJS), CB Central and Regional Office (RO) staff, ACF Regional Grants Management Office and peer reviewers.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether Maryland's 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.

This secondary review was conducted as a result of the findings of the primary review completed during the week of June 16, 2008. At that time, Maryland DHR was determined not to be in substantial compliance with the title IV-E eligibility requirements for the period under review (PUR) of April 1, 2007 through September 31, 2007. As required, Maryland DHR submitted a Program Improvement Plan (PIP) to correct the areas found deficient in its title IV-E foster care program. The PIP, approved in CB correspondence to DHR dated May 29, 2009, was jointly developed by the State and CB's RO staff. The State provided periodic reports of progress and final implementation of the planned improvements. The PIP goals and activities included, but were not limited, to the following:

- Revising the title IV-E Policy and Procedure Manual and title IV-E eligibility determination forms to align with Federal requirements.
- Updating the title IV-E State Plan and amendments and revising the Code of Maryland Regulations (COMAR) to be in compliance with Federal requirements.
- Revising regulation, administering a new policy directive, and providing training to staff regarding Voluntary Placement Agreement (VPA) judicial determination of best interest occurring within 180 calendar days of the child placement in foster care.
- Improving accuracy of information as related to 45 CFR 1356.21 regarding children living with and removed from a specified relative.
- Improving the understanding of Aid to Families with Dependent Children (AFDC) policy, payments for eligible children, reimbursable providers and allowable services.

- Ensuring that approved foster family homes and licensed facilities are in compliance with COMAR provisions regarding safety checks for employees and foster parents.
- Implementing a quality assurance system to monitor compliance and payments at regular intervals to ensure that title IV-E funds were not claimed for ineligible children, non-reimbursable providers or unallowable services, and to monitor the timeliness of the findings of best interest in VPA cases.

Scope of the Review

The Maryland title IV-E foster care program secondary eligibility review encompassed a sample of the State's foster care cases that received a title IV-E maintenance payment during the six-month PUR of October 1, 2010 through March 31, 2011. This is the six-month period that follows the State's approved PIP completion date. A computerized statistical sample of 180 cases (150 cases plus 30 oversample cases) was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Maryland DHR and DJS have a Memorandum of Agreement providing for title IV-E claiming of allowable costs for eligible children served through DHR. One hundred fifty (150) cases were reviewed consisting of 131 cases from the original sample plus 19 oversample cases. The oversample cases were selected for review to replace cases for which no title IV-E maintenance payment was made for an activity during the PUR. The State provided documentation to support excluding these cases from the review sample and replacing them with the 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 of 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 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 plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v).
- Placement in a licensed foster family home or childcare 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 §1356.30.

The case file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider information was examined to ensure the foster family home or childcare institution in which the child was placed during the PUR was licensed or approved and safety considerations were met. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify any underpayments that were eligible for title IV-E claiming. A sample case was determined to be in error when a title IV-E payment for a maintenance claim was made for an activity during the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility during the foster care episode. A sample case was cited as non-error with ineligible payment when a title IV-E payment for a

maintenance claim cost was made for an activity solely outside the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility. A case also may have been cited as non-error with ineligible payment when the title IV-E eligibility criteria was fully met but an unallowable title IV-E maintenance payment (e.g. for a duplicate payment; for an overpayment; or for any other unallowable program cost) was paid for an activity during or outside of the PUR. Any ineligible payments claimed for activities during the PUR are considered in the calculation of the dollar error rate for a secondary review. In addition, underpayments were identified for a sample case when an allowable title IV-E maintenance payment was not claimed by the State. The underpayments may still be claimed for an allowable title IV-E activity or a period of eligibility during the two-year filing period specified in 45 CFR §95.7.

CB and the State agreed that, subsequent to the onsite review, the State would have two weeks to submit additional documentation for a case that during the onsite review was identified as being in error, in undetermined status, or to have an ineligible payment. Maryland's request for additional time was granted and, thus, the State submitted supplemental materials for a number of sample cases. The outcome of our review of those materials is reflected in the Case Record Summary provided below.

Compliance Finding

The review team determined that 127 of the 150 reviewed cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Twenty-three (23) cases were determined to be in error for either part or all of the PUR, resulting in a case error rate of 15 percent. The total dollar value of the maintenance payments in the review sample was \$1,297,769 in Federal Financial Participation (FFP) for the PUR of which \$116,258 FFP represents maintenance payments for the thirty (30) error and non-error cases with ineligible payments during the PUR. These thirty (30) cases are comprised of twenty-three (23) error cases and seven (7) non-error cases with ineligible payments. Of these seven (7) non-error cases with ineligible payments, three (3) had payments made during the PUR for a period of ineligibility outside the PUR. This resulted in a dollar error rate of 8.96 percent. With the inclusion of associated administrative costs (FFP) for error and non-error cases claimed during the PUR, Maryland's total dollar error rate is 8.91 percent.

Based on these review findings, CB has determined that the Maryland DHR title IV-E foster care program is found to be in substantial compliance with Federal eligibility requirements for the PUR. Substantial compliance in a secondary review is achieved when either the case error rate or dollar error rate does not exceed 10 percent. States are found not to be in substantial compliance with Federal title IV-E program requirements when both the case error rate and the dollar error rate exceed 10 percent. The next review of Maryland's title IV-E eligibility program will be a primary review, conducted within three years from the date of the secondary review.

Thirty (30) non-error cases also were determined to be ineligible for title IV-E funding for a period of claiming. Although these cases are not considered "error cases" for determining substantial compliance, the ineligible maintenance payments and associated administrative costs are subject to disallowance. In addition, thirty-two (32) cases were identified as having costs that were eligible for payment under title IV-E which were not claimed and could potentially be

recovered by the State. The State may choose to claim title IV-E funds for such costs in accordance with all applicable requirements including claims filing time limits specified at 45 CFR §95.7.

Case Record 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.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payment FFP	Improper Administrative Payment FFP
MD-4	Judicial determination of reasonable efforts to finalize the permanency plan not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 10/01/2010-02/22/2011	\$9,818	\$4,345
MD-8	Title IV-E funds were claimed when the agency did not have placement and care responsibility -- custody was returned to the parent on 01/25/2011. [§472(a)(2)(B) of the Act; 45 CFR §1356.71(d)(1)(iii)] Ineligible: 01/26/2011	\$14	\$0
MD-OS3	Judicial determination of contrary to the welfare was not attained. [§472(a)(2)(a)(ii) of the Act; 45 CFR §1356.21(c)] Judicial determination of reasonable efforts to prevent removal was not attained. [§472(a)(2)(a)(ii) of the Act; 45 CFR §1356.21(b)(1)] Child was not living with and removed from a specified relative. [§472(a)(3) of the Act; 45 CFR §§1356.21(k)&(l) and 1356.71(d)(1)(v)] Financial need was not established for AFDC eligibility. [§472(a)(3) of the Act; 45 CFR §§1356.21(l) and 1356.71(d)(1)(v)] Ineligible (All reasons): 06/27/2007-10/14/2010 (Entire Episode)	\$14,360	\$23,448
MD-26	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 03/01/2011-04/30/2011	\$857	\$1,738
MD-43	Child was not living with and removed from a specified relative.	\$44,538	\$12,112

	<p>[§472(a)(3) of the Act; 45 CFR §§1356.21(k)&(l) and 1356.71(d)(1)(v)] Ineligible: 06/01/2010-08/01/2011 (Entire Episode) Financial need was not established for AFDC eligibility. [§472(a)(3) of the Act; 45 CFR §§1356.21(l) and 1356.71(d)(1)(v)] Ineligible: 06/01/2010-08/01/2011 (Entire Episode)</p>		
	<p>Title IV-E funds claimed for the period of placement with an unlicensed provider. [§472 (b) and (c) of the Act; 45 CFR §1355.20(a)] Ineligible: 10/27/2010-07/31/2011</p>		
	<p>Safety considerations with respect to staff of the childcare institution were not met. [§471(a)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 03/29/2011-03/31/2011</p>		
MD-56	<p>Title IV-E funds were claimed when the agency did not have placement and care responsibility. [§472(a)(2)(B); 45 CFR §1356.71(d)(1)(iii)] Ineligible: 12/01/2010-07/31/2011</p>	\$3,461	\$6,951
MD-57	<p>Foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv)and 1355.20] Ineligible: 01/01/2007-10/31/2010</p>	\$115,569	\$43,062
	<p>Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 04/01/2002-12/31/2002</p>		
MD-60	<p>Title IV-E funds were claimed when the agency did not have placement and care responsibility. Foster care maintenance payments were made after adoption finalization. [§472(a)(2)(B); 45 CFR §1356.71(d)(1)(iii)] Ineligible: 01/20/2011-02/14/2011</p>	\$386	\$0
MD-61	<p>Title IV-E funds were claimed when the agency did not have placement and care responsibility. Foster care maintenance payments were made after adoption finalization. [§472(a)(2)(B); 45 CFR §1356.71(d)(1)(iii)] Ineligible: 05/20/2010-08/01/2011</p>	\$16,469	\$27,128
	<p>Judicial determination of reasonable efforts to finalize the permanency plan was not timely [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 07/01/2005-01/31/2006 and 03/01/2007-08/31/2008</p>		
MD-65	<p>Financial need was not established for AFDC eligibility. [§472(a)(3) of the Act; 45 CFR §§1356.21(l) and</p>	\$69,534	\$17,854

	1356.71(d)(1)(v)] Ineligible: 03/14/2009-12/08/2010 (Entire Episode)		
MD-67	Judicial determination of reasonable efforts to finalize the permanency plan was not timely [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 03/01/2011-06/30/2011	\$6,181	\$2,607
MD-83	Title IV-E funds were claimed when the agency did not have placement and care responsibility. Foster care maintenance payments were made after adoption finalization. [§472(a)(2)(B); 45 CFR §1356.71(d)(1)(iii)] Ineligible: 12/15/2010-01/20/2011	\$1,684	\$2,577
	Foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv)and 1355.20] Ineligible: 05/19/2009-08/31/2009		
MD-87	Financial need was not established for AFDC eligibility. [§472(a)(3) of the Act; 45 CFR §§1356.21(l) and 1356.71(d)(1)(v)] Ineligible: 01/01/2009-11/30/2010 (Entire Episode)	\$39,236	\$19,532
	Foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv)and 1355.20] Ineligible: 01/01/2009-12/31/2009		
MD-OS10	Judicial determination of reasonable efforts to finalize the permanency plan was not timely [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 05/01/2008-11/30/2008 and 12/1/2010-12/31/2010	\$19,005	\$7,437
	Foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv)and 1355.20] Ineligible: 06/26/2007-07/31/2007		
MD-100	Child was not living with and removed from a specified relative. [§472(a)(3) of the Act; 45 CFR §§1356.21(k)&(l) and 1356.71(d)(1)(v)] Ineligible: 02/11/2005-06/01/2011 (Entire Episode) Financial need was not established for AFDC eligibility. [§472(a)(3) of the Act; 45 CFR §§1356.21(l) and 1356.71(d)(1)(v)] Ineligible: 02/11/2005-06/01/2011 (Entire Episode)	\$187,347	\$52,737
	Safety considerations with respect to foster family home were not met. [§471(a)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 03/29/2007-10/31/2007		

MD-OS14	Judicial determination of contrary to the welfare was not attained. [§472(a)(2)(a)(ii) of the Act; 45 CFR §1356.21(c)] Judicial determination of reasonable efforts to prevent removal was not attained. [§472(a)(2)(a)(ii) of the Act; 45 CFR §1356.21(b)(1)] Financial need was not established for AFDC eligibility. [§472(a)(3) of the Act; 45 CFR §§1356.21(l) and 1356.71(d)(1)(v)] Ineligible (All reasons): 12/13/2010-07/11/2011 (Entire Episode)	\$3,392	\$6,083
MD-115	Child was not living with and removed from the same specified relative. [§472(a)(3) of the Act; 45 CFR §§1356.21(k)&(l) and 1356.71(d)(1)(v)] Ineligible: 08/12/2010-05/31/2011 (Entire Episode)	\$16,597	\$8,671
	Foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv)and 1355.20] Ineligible: 08/12/2010-11/03/2010		
	Safety considerations with respect to staff of the childcare institution were not met. [§471(a)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 08/12/2010-08/31/2010		
MD-OS16	Child was not living with and removed from a specified relative. [§472(a)(3) of the Act; 45 CFR §§1356.21(k)&(l) and 1356.71(d)(1)(v)] Ineligible: 05/01/2009-08/31/2011 (Entire Episode)	\$31,403	\$8,629
MD-128	Judicial determination of contrary to the welfare was not attained. [§472(a)(2)(a)(ii) of the Act; 45 CFR §1356.21(c)] Ineligible: 10/13/2006-08/16/2011 (Entire Episode) Judicial determination of reasonable efforts to prevent removal was not attained. [§472(a)(2)(a)(ii) of the Act; 45 CFR §1356.21(b)(1)] Ineligible: 10/13/2006-08/16/2011 (Entire Episode)	\$40,661	\$47,672
MD-132	Judicial determination of contrary to the welfare was not attained. [§472(a)(2)(a)(ii) of the Act; 45 CFR §1356.21(c)] Judicial determination of reasonable efforts to prevent removal was not attained. [§472(a)(2)(a)(ii) of the Act; 45 CFR §1356.21(b)(1)] Ineligible: 03/01/2002-06/27/2011 (Entire Episode)	\$37,323	\$48,785
MD-140	Title IV-E funds were claimed when the agency did not have placement and care responsibility. Foster care maintenance payments were made after adoption	\$193	\$0

	finalization. [§472(a)(2)(B); 45 CFR §1356.71(d)(1)(iii)] Ineligible: 11/21/2010-11/30/2010		
MD-141	Child was not living with and removed from a specified relative. [§472(a)(3) of the Act; 45 CFR §§1356.21(k)&(l) and 1356.71(d)(1)(v)] Financial need was not established for AFDC eligibility. [§472(a)(3) of the Act; 45 CFR §§1356.21(l) and 1356.71(d)(1)(v)] Ineligible (All reasons): 06/01/2010-04/30/2011 (Entire Episode)	\$25,870	\$9,504
MD-144	Title IV-E funds were claimed when the agency did not have placement and care responsibility. [§472(a)(2)(B); 45 CFR §1356.71(d)(1)(iii)] Ineligible: 09/24/2010-10/08/2010	\$110	\$0
Subtotal:		\$684,008	\$350,872

Total: \$1,034,880

Non-error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payment FFP	Improper Administrative Payment FFP
MD-1	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs (mental health). [§475(4) of the Act; 45 CFR §92.22] Ineligible: 05/13/09	\$674	\$0
MD-2	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 04/01/2002-04/30/2003	\$1,177	\$1,917
MD-20	Safety considerations with respect to staff of the childcare institution were not met. [§471(a)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 07/30/2009-07/31/2010; 04/01/2011-04/30/2011; 07/25/2011-07/31/11, 08/09/2011-08/31/2011	\$45,615	\$11,940
MD-27	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (refrigerator) 02/03/2011-02/28/2011	\$136	\$0

MD-33	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (transportation for parent) 04/15/2003-01/19/2006; (bonding evaluation) 07/05/2006-07/31/2006; (telecommunication costs) 12/19/2003-01/09/2004	\$3,444	\$0
MD-36	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (transportation for parent) 08/04/2010-08/11/2010	\$44	\$0
MD-40	Duplicate payment made for the same period. [§475(4) of the Act; 45 CFR §1356.60(a)(i)] Ineligible: 08/01/2003-09/30/2003	\$2,495	\$3,288
	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 09/01/2003-12/31/2003		
MD-44	Foster care maintenance payments made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (legal services unrelated to child or foster care proceeding) 04/29/2010	\$18	\$0
MD-45	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (mental health) 04/02/2010-04/30/2010	\$492	\$0
MD-46	Foster care maintenance payment was made for period while child was in a detention facility. [§472 (b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv) and 1355.20. Ineligible: 04/09/2011-05/23/2011	\$3,117	\$1,738
MD-47	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (transportation for parent) 10/05/2010	\$28	\$0
MD-48	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22]	\$94	\$0

	Ineligible: (prescription medication) 11/06/2009		
MD-49	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (psychological evaluation): 03/24/2009-07/08/2009	\$1,186	\$0
MD-54	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (transportation for non-IV-E allowable purpose) 10/05/2010-10/15/2010 and 07/20/2010-09/17/2010	\$37	\$0
MD-59	Title IV-E funds were claimed when the agency did not have placement and care responsibility. Foster care maintenance payments were made after adoption finalization. [§472(a)(2)(B); 45 CFR §1356.71(d)(1)(iii)] Ineligible: 08/03/2011-08/08/2011	\$78	\$0
MD-69	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 04/01/2005-02/28/2006	\$18,671	\$7,969
MD-70	Foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv)and 1355.20] Ineligible: 08/25/2010-09/28/2010 Safety considerations with respect to foster family home were not met. [§471(a)(20) of the Act; 45 CFR §1356.30] Ineligible: 08/25/2010-09/28/2010	\$2,581	\$869
MD-71	Judicial determination of reasonable efforts to finalize the permanency plan was not timely [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 01/01/2007-09/30/2007	\$3,008	\$7,091
MD-72	Safety considerations with respect to staff of the childcare institution were not met. [§471(a)(20) of the Act; 45 CFR §1356.30(f)] Ineligible: 07/30/2010-09/30/2010	\$6,757	\$1,720

MD-OS7	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 06/01/2010-07/31/2010	\$958	\$1,702
MD-88	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (car repair) 02/01/2004-02/28/2004	\$16,966	\$9,922
	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 05/01/2004-08/31/2004		
	Foster care maintenance payment for non-reimbursable facility. [§472 (b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv) and 1355.20. Ineligible: 09/01/2007-04/30/2008		
MD-92	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 04/01/2001-11/30/2002	\$31,697	\$9,882
MD-97	Foster care maintenance payments made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (transportation for medical) 02/03/2011-02/26/2011; (mental health/therapy) 03/02/2011-03/12/2011	\$229	\$0
	Foster care maintenance payment was made for the month prior to judicial finding of contrary to the welfare of the child [45 CFR §1356.21] Ineligible: 07/30/2009-07/31/2009		
MD-OS13	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 12/01/2009-01/31/2010	\$11,035	\$1,702
	Title IV-E funds claimed when the foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv)and 1355.20] Ineligible: 09/01/2010		
MD-123	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (medical) 07/02/2009; (mental health) 11/04/2009 and 02/08/2010	\$2,364	\$0

MD-OS18	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 02/01/2010-02/28/2010	\$432	\$851
MD-137	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (transportation for parent) 11/03/2009; 06/25/2010 and 09/27/2010	\$2,529	\$0
	Foster care maintenance payment was made for the month prior to judicial findings of contrary to the welfare of the child and reasonable efforts to prevent removal. [45 CFR §1356.21] Ineligible: 08/30/2008-08/31/2008		
	Duplicate payment made for the same period. [§475(4) of the Act; 45 CFR §1356.60(a)(i)] Ineligible: 07/01/2010-07/31/2010		
MD-138	Judicial determination of reasonable efforts to finalize the permanency plan was not timely. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 06/01/2008-11/30/2008 and 01/01/2010-08/31/2010	\$54,253	\$11,805
MD-142	Foster care maintenance payments were made for services that are outside the definition of allowable title IV-E program costs. [§475(4) of the Act; 45 CFR §92.22] Ineligible: (recreational services not substituting for daily supervision) 05/21/2009 and 06/22/2009-07/17/2009; (education) 08/01/2008-08/15/2008; 09/01/2008-09/30/2008 and 10/31/2008; (respite and foster care provider paid/duplicate payment) 12/12/2007; 10/26/2007-10/27/2007; 03/06/2007-03/07/2007; 10/27/2006-10/28/2006 and 10/21/2005-10/23/2005; (transportation to summer camp) 09/01/2006-09/30/2006; (copying fees) 05/21/2009	\$3,659	\$0
	Foster care provider was not fully licensed. [§472 (b) and (c) of the Act; 45 CFR §§1356.71(d)(iv) and 1355.20] Ineligible: 06/01/2011-06/10/2011		
MD-OS19	Foster care provider was not fully licensed. [§472 (b) and (c) of the Act; 45 CFR §§1356.71(d)(1)(iv)and 1355.20] Ineligible: 02/01/2007-02/28/2007	\$478	\$783
Subtotal:		\$214,247	\$73,179

Total: \$287,426

Underpayment Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payments (FFP)
MD-8	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 04/21/2010-04/30/2010	\$169
MD-17	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 03/01/2010-06/30/2010	\$10,251
MD-25	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/01/2009-07/31/2010	\$4,690
MD-28	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/28/2009-10/31/2009	\$521
MD-29	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 11/01/2010-11/30/2010	\$463
MD-OS4	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 06/01/2011-08/31/2011	\$6,115
MD-36	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 07/15/2010-07/31/2010	\$400
	Title IV-E was not claimed for clothing reimbursement during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 12/16/2010, 07/14/2010 & 08/16/2011	
MD-37	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 01/01/2010-02/28/2010	\$4,351
MD-40	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/01/2009-05/31/2010	\$3,816

MD-44	Title IV-E was not claimed for clothing expense during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 04/08/2011	\$5
MD-49	Title IV-E was not claimed for daycare during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/01/2009-10/02/2009;10/05/2009-10/30/2009; 04/30/2010; 05/03/2010-05/31/2010;06/01/2010- 06/30/2010;12/06/2010-12/31/2010;01/13/2011- 01/28/2011;02/01/2011-02/28/2011;04/01/2011- 04/30/2011;05/02/2011-06/03/2011;06/06/2011-07/01/2011 & 07/04/2011-07/29/2011	\$3,844
MD-51	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 09/09/2010-10/31/2010	\$818
MD-54	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 07/20/2010-08/31/2010	\$679
MD-58	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/01/2009-11/30/2009	\$958
MD-60	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/01/2009-02/28/2010	\$2,371
MD-62	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 09/28/2010-09/30/2010	\$214
MD-71	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 01/31/2010-09/30/2010	\$3,767
MD-77	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 11/16/2009-12/31/2009	\$3,243
	Title IV-E was not claimed for daycare during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 12/01/2009-04/30/2010 and 11/01/2010-11/19/2010	

	Title IV-E was not claimed for clothing expenses during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 11/04/2009-11/07/2009	
MD-78	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/01/2009-10/31/2009 and 01/01/2010-01/31/2010	\$956
MD-80	Title IV-E was not claimed for clothing expenses during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/07/2010-10/11/2010	\$119
MD-86	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 01/26/2010-02/28/2010	\$597
MD-98	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 03/23/2010-09/30/2010	\$15,123
MD-107	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/01/2009-09/30/2010	\$5,631
MD-111	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 05/01/2010-06/30/2010	\$941
MD-116	Title IV-E was not claimed for clothing expenses during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 12/04/2010-12/16/2010 and 01/07/2011	\$145
MD-118	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/13/2009-02/04/2010	\$2,080
MD-OS17	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/01/2009-12/31/2010	\$31,594
MD-122	Title IV-E was not claimed for a licensed foster care provider during the first month in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 09/14/2010-09/30/2010	\$262
MD-127	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible.	\$8,384

	[§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/07/2010-01/31/2011	
MD-130	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 10/12/2009-01/31/2010	\$13,323
	Title IV-E was not claimed for a licensed foster care provider for a youth over age 18 but prior to age 19 who was obtaining a General Education Diploma. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 03/01/2011-03/30/2011	
MD-140	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 05/01/2010-08/30/2010	\$5,905
MD-OS20	Title IV-E was not claimed for a licensed foster care provider during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 12/01/2009-02/28/2010	\$5,527
	Title IV-E was not claimed for daycare during a period in which the child was otherwise eligible. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 12/01/2009-07/22/2011	

Total: \$137,262

Areas in Need of Improvement

The findings of this review indicate the State needs to further develop and implement procedures to improve program performance in making eligibility and claiming decisions that are consistent with the Federal title IV-E foster care program requirements. 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 suggested corrective action the State should undertake.

Issue #1: Title IV-E Requirements Related to AFDC

In nine (9) error cases, title IV-E payments were made improperly because AFDC was not correctly determined.

- Living With/Removal From Specified Relative:** In six (6) of the error cases, the child was not living with and removed from a specified relative. In some instances, the child had been living with an interim relative caretaker for more than six months prior to the court-ordered removal of the child from the parents. In two (2) cases, children were removed from non-relatives. Court orders did not consistently identify the relative from whom the child was being removed which made the process for determining AFDC more challenging which possibly led to cases in which the agency did not consistently use the correct removal home for determining AFDC. Including this information in the text of the removal order would facilitate more accurate AFDC eligibility determinations.

Nevertheless, the agency should have taken extra steps, such as checking the court and agency's records, to verify the removal home before making its decision about eligibility. Compliance with the requirement for having lived with and removed from the same specified relative within six months of the removal order was an issue during the primary review as well. Although the State modified the eligibility worksheets as part of the 2008 PIP to provide guidance for properly applying the eligibility requirement of living with and removal from a specified relative, it did not appear that these forms were being utilized and that the State was continuing to use the older forms.

- **Financial need:** In seven (7) of the error cases, AFDC financial need was not established. In one case, the State eligibility specialist's determination noted that the case was ineligible due to the father's income; however, foster care maintenance payments were still claimed despite the State's finding of "non-IV-E status." In another case, financial need and deprivation could not be established because the parent's identity was unknown. The State must document that a child meets all AFDC eligibility requirements. It cannot presume that a child would meet the eligibility requirements simply because the child has been abandoned. In the remaining cases, there was no determination of financial need for the most recent removal episode.

Title IV-E Requirement: Consistent with §472(a)(2)(A) & (a)(3) of the Act, the child must have been physically or constructively removed from the home of a specified relative according to a court order or VPA and must have lived with that same specified relative within six months of removal according to the VPA or a judicial finding of contrary to the welfare. Further, the State agency must establish that the child is financially needy using criteria in effect as of July 16, 1996 in the State's title IV-A plan. The AFDC determination must be based upon the circumstances of the home of the specified relative from whom the child was removed.

Recommended Corrective Action: Additional training for eligibility staff related to making AFDC determinations in accordance with the State's 1996 AFDC plan is highly recommended. Particular attention should be focused on ensuring that staff understand the "living with and removal from" requirements and the linkage to determining the AFDC removal home for title IV-E eligibility and ensuring that the updated eligibility forms are utilized instead of the older forms that do not adequately assess this requirement. The State should also enhance training around determination of financial need. Emphasis should be placed on ensuring that the income of both parents is included, when applicable, and that appropriate documentation is used as a reference for verifying eligibility (e.g., case notes, court orders, investigation reports, court petitions, income verification systems, etc.). The State should continue to work closely with the Administrative Office of the Courts (AOC) to ensure the court's findings regarding the removal home are clearly stated in the court orders and that the model court orders developed following the 2008 primary review are used as an instructional tool consistently across all jurisdictions.

Issue #2: Foster Care Provider License

There were six (6) error cases and four (4) non-error cases with ineligible payments where children were placed with foster care providers that were not fully licensed. Cases where children were in placements with "provisional" licenses were found to be ineligible as State policy and regulations require these homes to meet annual renewal requirements for full licensure. There were several cases reviewed where the licenses for child-placing agency foster

family homes were backdated and “corrective action plans” were noted for renewal. These cases were not considered to be ineligible; however, there is potential for non-compliance during the periods when corrective actions are in place prior to the renewal of the license.

Two (2) childcare institutions were found to be in error for a lapse in licensing. This is because under State licensing policy a lapsed license means the childcare institution is no longer considered fully licensed. Both onsite and following the onsite review, the State provided evidence to demonstrate that an application for renewal was filed at least two weeks prior to the license expiration for several childcare institutions. However, in some instances the renewal process spanned several years. These cases were not found to be in error, but present potential safety issues.

Title IV-E Requirement: Consistent with Federal provisions at 45 CFR §1355.20 and §472(b) and (c) of the Act, to be eligible for title IV-E payments a child must be placed in a title IV-E foster care facility that meets the standards for full licensure or approval established by the State where it is located.

Recommended Corrective Action: It is recommended that DHR maintain copies of licenses for each of the facilities, not only the license for the “umbrella” agency. It is also recommended that the Office of Licensing and Monitoring enhance its monitoring tool to ensure that child-placing agency foster family homes are meeting the annual renewal requirements in a timely manner. Though consistent with existing State law and regulation, it is also recommended that the current policy permitting an open-ended license renewal processes for childcare institutions be reassessed to ensure the safety of children. The State’s current licensing process lacks clear written procedures for documenting childcare institution application renewal and reevaluation. This may place children at risk and result in a license lapsing. The application for renewal determines the timeframes for extending a license. Without clear procedures it can be difficult to determine the date of the application for renewal, and thereby challenging to determine whether or not a license was properly extended.

Issue #3: Placement and Care Responsibility

Placement and care responsibility may be granted in the removal court order or in a subsequent court ruling for a judicial removal. The review found seven (7) cases with errors in which foster care maintenance payments were made when the State did not maintain responsibility for the placement and care of the child. Title IV-E funds were claimed for the period after the child had been adopted in four (4) cases. In three (3) additional cases, the court terminated the agency’s responsibility for care and custody of the child, yet DHR continued to keep the child’s placement case open and claimed title IV-E reimbursement.

Title IV-E Requirement: Federal provisions at §472(a)(2)(B) of the Act and 45 CFR 1356.71(d)(1)(iii) require that the responsibility for placement and care of a child be with the State agency administering the title IV-E plan approved under §471 of the Act, or any other public agency with whom the State agency has a written agreement in effect. The State agency must present documentation that it has responsibility for placement and care of the child for the entire period under review. This responsibility must be for the entire period for which a title IV-E maintenance payment is claimed and must be clearly indicated in a court order or VPA.

The term placement and care means that the State agency is legally accountable for the day-to-day care and protection of the child who has come into foster care through either a court order or a voluntary placement agreement. Placement and care responsibility allows the State agency to make placement decisions about the child, such as where the child is placed and the type of placement most appropriate for the child. It also ensures that the State provides the child with the mandated statutory and regulatory protections, including case plans, administrative reviews, permanency hearings, and updated health and education records.

Recommended Corrective Action: Maryland must ensure that appropriate fiscal controls are in place at the local level to ensure that title IV-E foster care maintenance payments are no longer claimed for children who have achieved permanency. The State should pay particular attention to finalized adoptions. The State is encouraged to conduct systematic monitoring of its programmatic and financial operations to determine that required actions and supporting documentation are completed timely and that title IV-E claims are submitted only for those cases meeting all applicable requirements. The State should consider additional training for staff on how to determine when a foster care episode ends, particularly in cases where the child returns home under an order of protective supervision of the court and the agency no longer has placement and care responsibility. DHR should collaborate with the AOC to improve the consistency of language used by the courts and DHR surrounding custody, placement and care.

Issue #4: Judicial Determinations Regarding Contrary to the Welfare

Four (4) cases were found to be in error because the judicial requirement of contrary to the welfare was not met. In the cases noted, the court orders did not indicate that continuing in the home would be contrary to the child's welfare, or that placement was in the child's best interest.

The review also noted cases where significant periods of time had lapsed between the court ruling and the order being signed by a judge. For example, in one case the order was signed approximately seven years after the hearing occurred. The State provided policy and legal references prior to the review indicating that for an order to be valid, it must be signed by a judge. Although not a basis for any error or ineligible payment findings, if at a later date, the judge declined to sign these orders, these removals would not have been pursuant to a valid court order. It is prudent to recognize the rights of parents and legal guardians in judicial proceedings and good judicial practice to provide timely written orders pertaining to the welfare of their children.

In cases where there were multiple dates of foster care entry, judicial determinations of contrary to the welfare and reasonable efforts to prevent removal were not always made in the subsequent order that began a new removal episode for a child.

Title IV-E Requirement: For a child who is judicially-removed and placed in foster care, Federal provisions at §471(a)(15)(B)(i); §472(a)(1) and 45 CFR §1356.21(c) require the State to obtain a judicial determination that it is contrary to the welfare of the child to remain in the removal home.

For a child judicially-removed on or after March 27, 2000, the contrary to the welfare determination must be made in the first court ruling that sanctions (even temporarily) the

removal of a child from home. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child is not eligible for title IV-E foster care maintenance payments for the duration of the foster care episode.

Recommended Corrective Action: The State should work collaboratively with the AOC to develop and implement procedures to ensure timely judicial determinations of contrary to the welfare. The accuracy and reliability of eligibility determinations generally are increased through training of the judiciary and other court officials to correct delays in judicial findings, as well as to secure court orders that reflect title IV-E criteria on legal authority, best interests and reasonable efforts. Staff training will help to ensure that workers make eligibility decisions based on the elements needed for compliance and to eliminate the authorization of claims prior to establishing compliance with the requirements. It is also recommended that the State collaborate with the courts to develop a quality assurance review to ensure that there are not significant delays between the date of the master's recommendation and the date that the order becomes valid with the judge's signature.

Issue #5: Judicial Determination of Reasonable Efforts to Finalize a Permanency Plan

Four (4) cases were found to be in error because the judicial finding of reasonable efforts to finalize the permanency plan was not met – two (2) additional error cases and ten (10) non-error cases also had ineligible periods outside the PUR. In most cases in which the finding was not made, there were continuances in the court hearings. Most of the court orders from the permanency review hearing included an explicit reasonable efforts finding and a detailed description of the efforts that were made. Some court orders, however, did not include any information on the efforts made by the agency to finalize a child's permanency plan.

Title IV-E Requirement: Federal provisions at §472(a)(2)(A) of the Act and 45 CFR §1356.21(b)(2) require the State to obtain a judicial determination of whether the State made reasonable efforts to finalize a permanency plan for the child. The judicial finding must occur at regular 12-month intervals for the duration of the foster care episode and no later than 12 months from the month in which the prior determination is obtained. If the judicial determination of reasonable efforts to finalize the permanency plan is not made or is not timely, the child becomes ineligible from the beginning of the first day of the month after it is due and remains ineligible until the first day of the month in which the judicial determination is made.

Recommended Corrective Action: To address the identified delays in permanency hearings in which the judicial findings are made and the lack of determinations required under title IV-E in court orders, it is recommended that DHR and the AOC work collaboratively to further improve operational results. These efforts could consist of quarterly reports, by county, that provide information such as: court orders that do not contain the required findings; delays in permanency hearings that create untimely judicial findings; and court continuances that significantly delay decisions about achieving placement stability and permanency for a child.

The requisite judicial determination need not be tied to a permanency or other court hearing. The judicial determination may be rendered by the court at any point during the 12-month period. The State should continue to develop and implement procedures to ensure timely judicial

determinations of reasonable efforts to finalize the permanency plan regardless of the timing of the permanency hearing.

The State should also review the process for fiscal tracking in correlation with timely documentation in CHESSIE, the Statewide Automated Child Welfare Information System. This should include development of a process to assure that title IV-E claiming is ceased when the reasonable efforts to finalize the permanency plan requirement is not met.

Issue #6: Safety Considerations for Staff of Child Care Institutions

The case record review demonstrated that the safety requirements for the staff of facilities are not consistently being met in accordance with State and Federal regulations. There were two (2) cases where safety considerations were not met for staff of the facility where the child was placed during the PUR and three (3) cases outside the PUR. The Code of Maryland Regulations (COMAR) at 14.31.06.05 D(7) indicates that requests for criminal background checks and Child Protective Services clearance must be submitted before the employee begins working in the program. These cases were ineligible because it was found facility staff were hired prior to meeting the requisite safety requirements. Periods of ineligibility were not assessed when the safety requirements were met within the month the requirement should have been met. Periods of ineligibility were not assessed when the State demonstrated that the employee may have been hired to complete training but did not begin working in the facility's program prior to the requisite clearances having been requested.

Title IV-E Requirement: As specified in 45 CFR §1356.30(f) and §1356.71(g), the licensing file for a child care institution must contain documentation which verifies that safety considerations with respect to the caregiver staff of the facility have been addressed in order for a child placed in the institution to be eligible for title IV-E funding. The State must provide documentation validating that all of the safety considerations established by the State are satisfied for the duration of the child's placement during the PUR.

Recommended Corrective Action: The State is encouraged to design a system to ensure that clearances are requested for all staff at childcare institutions prior to the employee working in the program. It is also recommended that the State develop policy to define the differences between the date the individual is hired and date the employee begins working in the program. The current clearance tracking spreadsheets note the date of hire only. It is recommended that the date an employee begins work in the program be added to these tracking documents to help ensure compliance with the State's safety requirements. A quality assurance process that periodically reviews the criminal and safety check requirements for all foster homes and childcare facilities also should be instituted.

Though State regulations only require that clearances be requested prior to an employee beginning work in a program, not requiring results prior to employment does not assure the safety of the children in the facility. Therefore, it is also recommended that the State develop policy or regulation to ensure that staff without appropriate clearances are not permitted to provide unsupervised care for children and youth prior to the receipt of acceptable background clearances.

Issue #7 : Unallowable Program Costs

In sixteen (16) non-error cases, it was determined that title IV-E payments were made for items outside the definition of foster care maintenance payments at §475(4) of the Act. Documentation provided by the State demonstrated that costs were claimed for ineligible expenses including mental health services, legal services, car repairs, appliance purchases, telecommunication costs, educational services, and transportation services for various purposes.

Title IV-E foster care policy permits reimbursement for costs of transporting a child for visits with parents and siblings or to the child's school of origin as maintenance payments. Other transportation costs associated with providing daily supervision such as day care and summer camp should be included as part of the foster care board rate and are unallowable as a separate item of expense. Transportation costs for parents, or for the child to be transported for any other reasons not specified in Federal provisions, including therapy and medical appointments, may not be claimed for FFP. Title IV-E foster care policy does not permit reimbursement for mental health services such as bonding or psychological evaluations and therapy, nor does it permit for reimbursement of educational costs. Although title IV-E foster care maintenance payments may include an amount for personal incidentals such as over-the-counter medication costs, it does not allow for prescription medication costs. You can refer to the CB Child Welfare Policy Manual, Section 8.3B.1 for additional information regarding allowable costs in the title IV-E Foster Care Maintenance Payments Program. Additionally, there were instances where multiple services were identified under one payment. Not all of the identified services were eligible for reimbursement, but there was no way to separate the costs.

Title IV-E Requirement: Consistent with the Federal provision at 45 CFR 1356.60(a)(1)(i), title IV-E foster care maintenance payments may only be claimed for the costs of certain expenditures meeting the definition of foster care maintenance at §475(4) of the Act. The State must document that the foster care maintenance payments claimed for title IV-E reimbursement are for allowable expenditures in accordance with the statutory definition, are in amounts conforming to the State established rates of payment for the type and level-of-care provided, and reflect non-duplicative amounts of the costs of daily maintenance.

Recommended Corrective Action: The State should clearly define the services that may be appropriately claimed under title IV-E as foster care maintenance assistance and provide training to workers who are entering the service requests and approvals. It is also recommended that only one service be entered per transaction, as there were cases where both allowable and unallowable costs were claimed under the same request. The State should work with the title IV-E eligibility, fiscal and CHESSIE staff to develop financial edits that will prevent payments for unallowable program costs. Maryland may use title XX, title IV-B, or other appropriate funds to cover the costs of items and services not allowable under title IV-E.

Issue #8: Coding of AFCARS data element 59

Nineteen (19) cases were excluded from the original sample (and one from the oversample) and were replaced with cases from the oversample because a title IV-E foster care maintenance payment was not made for a period during the PUR, as documented by the State.

Title IV-E Requirement: The case sample and oversample drawn for 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: The validity of the sample and oversample depends upon the accuracy with which the State agency completes the AFCARS data element 59. It is critical that State agencies report data element 59 accurately. It is recommended that the State assure a common understanding among staff that the State should only indicate whether a child received a title IV-E foster care maintenance payment during the reporting period in answering foster care element 59. In addition, the DHR should work closely with the DJS to ensure that the DJS cases are being transmitted accurately.

Underpayments

The review determined that 32 cases contained underpayments. An underpayment is considered to have occurred when a title IV-E payment is not claimed, but could have been claimed for an allowable title IV-E activity or period of eligibility. The total amount of identified underpayments was \$137,262 for maintenance payments. The portion of underpayments during the PUR was \$23,751.

Gaps in claims related to the judicial finding of reasonable efforts to finalize the permanency plan were identified. If the court order information had not been entered into CHESSIE in a timely manner, the months for which the reasonable efforts findings which were made by the court but missing from the system were not claimed. Additionally, it was found the SACWIS system does not allot for the full month in which the reasonable efforts finding was obtained. For example, if the previous finding was on September 6, 2009 and the finding was not made until October 19, 2010, the State did not claim for September and October 2010 when the child would have remained eligible for both months.

Further, it was found the State did not begin to claim title IV-E maintenance payments until the date the title IV-E determination was completed, not back to the date on which all eligibility requirements had been met. For several cases, this was noted to have resulted in underpayments for greater than a month. Consistent with 8.3A.15, Q/A, #1 of the CB Child Welfare Policy Manual, title IV-E foster care maintenance payment can be claimed for an eligible child from the first day of foster care placement in the month in which all eligibility criteria are satisfied and such payment can continue until an eligibility criterion is no longer met. The financial claims, therefore, should be filed for the entire period of the child’s eligibility.

Recommendation for Improvement: The State should make efforts to encourage workers to provide timely data entry of “reasonable efforts to finalize the permanency plan” in CHESSIE. The title IV-E eligibility, fiscal and CHESSIE staff should collaborate to develop changes in the CHESSIE logic or code that will prevent gaps in eligibility and payments when reasonable efforts are met in the month following the month in which they are due. The State is reminded that appropriate maximization of Federal funding frees-up scarce, limited State funds that can be

used to help support children whose care cannot be provided for under title IV-E and can help provide funding for needed resources for foster care providers and agency staff.

Program Strengths & Promising Practices

Improvements in the State's title IV-E foster care eligibility program were noted during this review. The following positive practices and processes have led to improved program performance and successful program operations:

- Title IV-E maintenance payments were not found to have been made on behalf of ineligible youth over the age of 18, which was an area needing improvement identified during the primary review. The State addressed this issue through implementation of a quality assurance system to monitor compliance and payments at regular intervals to ensure that title IV-E funds were not claimed for ineligible children in this category.
- Frequent permanency hearings were found to be held outside the metropolitan area, often more frequently than every six months. Frequent hearings can assist the State in assuring the requirement for a judicial finding of reasonable efforts to finalize a child's permanency plan is met. The State has worked closely with the Court Improvement Program and the Permanency Planning Liaisons to monitor timeliness of these hearings and is encouraged to continue its work with its court partners.
- Court orders were generally well written and child-specific. Most orders provided detailed descriptions of services and efforts made to prevent removal or to finalize permanency. In addition, the specificity regarding placement and care in certain jurisdictions was highly detailed. Not only was the responsible Local Department of Social Services (LDSS) identified, but the Director of the LDSS was named in the order. These details not only help maintain a level of accountability, but also provide clarity for establishing eligibility. The State performed well in this area during the primary review and has maintained a standard of quality court orders.
- Criminal background checks for foster parents were found to have been completed prior to the child's placement in all but one case; in that instance, the period fell outside of the PUR. This serves to protect the safety of children while in foster care while complying with the Federal requirements. As part of the State's PIP from the 2008 primary review, Maryland developed quality assurance measures and tracking procedures to ensure that approved foster family homes and licensed facilities are in compliance with COMAR provision regarding safety checks for employees and foster parents. In addition, the DHR foster homes were found to have very few licensing issues; most of licensing concerns identified were with the private Child Placement Agency homes.
- No improper VPA payment cases were identified during this review. The State addressed this issue in the PIP from the 2008 review by revising regulation, administering a new policy directive and providing training to staff regarding Voluntary Placement Agreement (VPA) judicial determination of best interest occurring within 180 calendar days of the child placement in foster care. The State also implemented a quality assurance system to monitor the timeliness of the findings of best interest in VPA cases.
- Although there were six cases where the child was not living with and removed from the specified relative, only one of these cases was for a period following the completion of the PIP. The State made great efforts as part of the PIP to improve accuracy of

information as related to 45 CFR 1356.21 regarding living with and removed from a specified relative. Revisions were made to the title IV-E Policy and Procedure Manual and title IV-E eligibility determination forms to align with Federal requirements; however, implementation of these changes may not have been accurately reflected as part of this review.

Disallowance

A disallowance in the amount of \$898,255 in maintenance payments and \$424,051 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error cases and non-error cases with ineligible payments. The total disallowance as a result of this review is \$1,322,306 in FFP. The State also must identify and repay any ineligible payments that occurred for the error cases and other ineligible cases subsequent to the payments provided in the payment histories. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

Next Steps

As part of the State's ongoing efforts to improve its title IV-E foster care eligibility determination process, CB recommends that DHR examine identified program deficiencies and develop measurable, sustainable strategies that target the root cause of problems hindering the State from operating a fully accurate foster care eligibility program. In general, it is noted that many of the cases reviewed were older cases that did not have the benefit of the program improvements applied as a result of the PIP. Consequently, some of these cases were found to have improper payments. CB emphasizes the importance of the PIP as a tool to improve Maryland's systemic issues and strongly urges the State to continue the work that it has begun through its PIP implementation, particularly the internal quality assurance system.

Furthermore, during this review there were numerous additional cases that were found to be in error or as having an ineligible payment during the onsite review due to lack of documentation in the case records. This required extensive efforts on the part of the State to identify and provide the necessary documentation. Thirty (30) of the original fifty-three (53) error cases were reversed after the appropriate documentation was provided following the onsite review. Adequate case documentation and routine case maintenance is necessary for the State to ensure compliance with title IV-E eligibility requirements. Appropriate corrective action should be taken in instances of noncompliance with Federal laws and regulations and to address general case management and documentation issues.