Michigan Program Improvement Plan (PIP) for Title IV-E Review

Family Independence Agency

Children's Services

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Contents of the Title IV-E Program Improvement Page | Page

I. Introduction 3

II. Summary of Michigan's Title IV-E Review 3

III. Program Improvement Plan 4

IV. Implementation of the Program Improvement Plan 5
- A. Licensing 5
- B. AFDC Eligibility Requirements 5
- C. Payments 6
- D. AFCARS 7
- E. Court Orders 7
- F. Training 10

V. Reporting of Progress 11

I. INTRODUCTION

During the week of March 22-26, 2004, staff from Region V and the Children's Bureau of the Administration for Children and Families (ACF) in collaboration with staff from the Michigan Family Independence Agency (FIA) conducted an eligibility review of Michigan's Title IV-E foster care program. The purpose of the review was to assess the State's adherence to eligibility criteria for child and provider and to validate the State's financial claims to ensure that appropriate payments were made on behalf of eligible children and to eligible providers. In preparation for the review, all Title IV-E cases were read by local office supervisory staff. Cases found to be in error were corrected.

The review encompassed a random sample of Title IV-E foster care cases that received foster care maintenance payments during the period of April 1, 2003 through September 30, 2003. One hundred cases were randomly selected from the Adoptions and Foster Care Analysis and Reporting System (AFCARS) of which eighty cases were reviewed. Initially, 16 cases were determined to be in error. FIA submitted additional documentation after the review reducing the total errors to twelve (12). Since the number of error cases exceeded eight (8), Michigan was not in substantial compliance. Michigan has appealed these determinations to the Board of Appeals.

The total disallowance for the 12 error cases and the two non-error overpayments was $283,223.89 in Federal Financial Participation (FFP): $108,494.46 in federal maintenance payments and $174,729.43 in federal administrative costs. This payment was submitted to the federal government in late June 2004 by reducing Michigan's Title IV-E claim.

Since ACF found that Michigan's Title IV-E foster care maintenance program is not in substantial compliance with Federal child and provider eligibility requirements for the period of April 1, 2003 through September 30, 2003, Michigan is required to develop a Program Improvement Plan (PIP) to correct the areas found to be in non-compliance. Although Michigan is challenging whether it is in substantial compliance, it will proceed to develop the PIP. The PIP must be implemented within one-year of the date of acceptance of an approved plan. A draft plan was submitted to ACF on July 26, 2004.

II. SUMMARY OF MICHIGAN'S TITLE IV-E REVIEW

Of the 80 cases reviewed, 12 cases were determined to be in error for either part or all of the review period[*]. While two of the cases had two errors, each case was counted only once when determining the number of error cases. The remaining 10 cases contained single errors. Since the total number of error cases exceeded eight, Michigan was not in

[*] The following statements are made for purposes of implementing the PIP only and in no way should be construed as an admission of error for purposes of the pending appeal.

substantial compliance with federal child and provider eligibility requirements. The identified areas ACF found in non-compliance were as follows:

- Three cases had licensing errors with payments made during the period the license had expired.
- Two cases had errors relating to incorrect eligibility determination of AFDC requirements.
- Nine cases were found to have errors in court orders. Specifically, three cases were determined ineligible for FFP, as the contrary to the welfare requirement was not addressed in the first court order. Three errors were found in cases because either the court order did not contain the judicial determination that reasonable efforts to prevent removal had been made or the judicial determination was not made in a timely manner. Two cases were determined ineligible because either the court order did not contain the reasonable efforts determination regarding the State's efforts to finalize the child's permanency plan or the judicial determination was not made in a timely manner. One case was ineligible because the court order did not identify the State agency as having care and placement responsibility for the child.

III. PROGRAM IMPROVEMENT PLAN

In accordance with 45 CFR 1356.71(i) Michigan is required to develop and implement a Program Improvement Plan (PIP) to rectify the areas identified by the ACF as not in substantial compliance. Many of the improvement strategies will also address concerns specified by ACF as being the focus of future reviews. In preparation for development of the Program Improvement Plan, a PIP workgroup was established consisting of participants from FIA Wayne County Zone X, Foster Care Program Office, Field Operations Administration, Office of Children and Adult Licensing and the State Court Administrative Office. Secondary meetings were held with staff from FIA Budget and Policy Analysis and the Federal Reporting Division in the Bureau of Accounting. The outcome from these meetings was a united effort to improve overall Title IV-E compliance along with a commitment for continuing collaboration among all participants.

The main goal of the PIP is to focus improvement strategies for identified areas of non-compliance, i.e. licensing, problematic court orders and AFDC eligibility process. In addition, the PIP includes revisions and/or new developments in Title IV-E training (FIA and SCAO/Child Welfare Services Division), the Title IV-E case reading form, the payment system, and edits within the FIA Services Worker Support System Foster Adoption and Juvenile Justice (SWSS-FAJ) computer program.

Given Michigan's commitment to ensure compliance with Title IV-E regulations and to establish a strong foundation in preparation for the secondary review, the recommendations of ACF to address areas for future review have been incorporated into the program improvement plan. The areas identified as ACFs future focus include:

- AFCARS mapping
- Payment history
- AFDC eligibility requirements
- Timely judicial determinations on reasonable efforts to finalize permanency plans
- Documentation of judicial determinations

Collaboration With The State Court Administrative Office (SCAO)

In preparation for the Title IV-E Review, SCAO, through its Child Welfare Services Division (CWS), provided intensive technical assistance to the courts and FIA from November 2003 to March 2004. Considerable time was spent working with the individual courts to revise court forms; training jurists regarding acceptable court orders; and coordinating with FIA to improve court and agency procedures. This collaboration will continue as noted below.

IV. IMPLEMENTATION OF THE PROGRAM IMPROVEMENT PLAN

The following statements are made for purposes of implementing the PIP only and in no way should be construed as an admission of error for purposes of the pending appeal.

A. Licensing

1. GOAL: Assure payment authorizations are terminated on or before license expiration date.

Action Steps:

a. An edit was added to Michigan's SACWIS system (Michigan Statewide Automated Child Welfare Information System), to terminate payments within the system upon the license expiration date. (Completed August 2004)
b. The Foster Care Program Office will ensure ongoing communication with the Office of Children and Adult Licensing (OCAL). OCAL will notify the Foster Care Program Office, via email, in advance of a provisional license. OCAL will submit a confirmation email once the provisional license is given. This will allow the Program Office to provide advance notice to field staff for the need to take action to change the funding for children in an affected placement. (Completed October 2004)

B. AFDC Eligibility Requirements

1. GOAL: Enhance accuracy and timeliness of AFDC eligibility determination process.

Action Steps:

a. The current Title IV-E Targeted Case Reading Form will be revised to emphasize key AFDC eligibility requirements. Data from the revised form will be automated for data collection. Reports produced from collected data will reflect statistical outcomes. (March 2005)

   i. A predetermined sample of Title IV-E funded cases will be provided for targeted case reads by each local office. (January 2005)
   ii. Local office administrators will be required to maintain a regular schedule for the review of the Title IV-E case records. (January 2005)
   iii. Prior to automation, case read results will be forwarded to FC Program Office on a quarterly basis. (January 2005)

b. FIA local office supervisors and/or designee will be required to approve every Title IV-E determination upon completion. (January 2005)
c. Field Operations Administration will monitor for local office supervisors adherence to the SWSS-FAJ Supervisory Overdue Notices for Initial Funding Determinations and Redeterminations to ensure these records are completed and documented in a timely manner. (January 2005)
d. Local office staff will be provided training and/or job aids to clarify AFDC eligibility requirements. (January 2005)

C. Payments

1. <u>GOAL: Payments made to Foster Care providers will identify child maintenance (board and care) and administrative rates separately.</u>

Action Steps:

a. Monthly reports (NA-260) will continue to indicate a breakout of the administrative rate vs. Board and Care by county. (completed)
b. The on-line Model Payment system (STSM) will continue to identify the amount of Board and Care and the amount of the administrative rate in payment information. (completed)

2. <u>GOAL: FIA will ensure the complete payment history is maintained on Model Payment System (MPS).</u>

Action Steps:

a. The current process of transferring payment information to microfiche after three years is being revised.
b. A revision will be made to the MPS to allow all payment history information to be available on the system. (June 2005)
c. The revised payment history will clearly identify those funds that can be cost allocated for Title IV-E reimbursement. (June 2005)

D. AFCARS

1. GOAL: FIA will ensure any child receiving Title IV-E payments (even for one day) will be included in the report period under element #59.

Action Step:

a. A Maintenance Request for SWSS-FAJ Child Foster Care AFCARS Reporting was submitted to modify the report. (completed for the AFCARS report period ending March 31, 2004)

E. Court Orders

1. GOAL: FIA will review each court order to ensure orders are compliant with Title IV-E regulations.

Action Steps:

a. Local FIA office supervisor or designee will be required to review every court order to ensure Title IV-E eligibility requirement compliance on the date the order is received at the local office. (January 2005)
   Specifically:
   1. FIA has been given responsibility for placement and care.
   2. Removal order contains *contrary to welfare* finding by the jurists.
   3. *Reasonable efforts to prevent* removal judicial finding occurred within 60 days of removal.
   4. If applicable, a finding for *reasonable effort to finalize the permanency plan* occurs within one year of removal and every year thereafter.
b. The FIA automated Child Welfare Case Management System (SWSS-FAJ) will notify workers when a redetermination must be completed which includes the need for additional judicial findings. (Currently available)
c. FIA Field Operations Administration, in conjunction with the Foster Care Program Office, will develop a tool to use as an aid for supervisory review of court orders to ensure compliance with Title IV-E regulations. (January 2005)
d. Field Operations Administration will encourage local FIA directors to promote ongoing communication with their local county court regarding sufficiency of court orders. (December 2004)
e. The current Title IV-E Targeted Case Reading Form will be revised. Court order accuracy will be targeted, data will be automated for collection and a report produced to show outcomes. (March 2005)
   i. A predetermined sample of Title IV-E cases will be required for targeted case reads by each local office. (January 2005)
   ii. Local office administrators will maintain a quarterly schedule for the review of Title IV-E case records. (January 2005)

iii. Prior to automation, case read results will be forwarded to FC Program Office on a quarterly basis. (January 2005)

f. The Central Office Title IV-E review team (established in October 2003 that includes representatives from Field Operations Administration and the Foster Care Program Office) will meet weekly to review problematic court orders submitted by local counties to ascertain their compliance with Title IV-E requirements. As trends of problem court orders are identified, the team will address these issues with each local office through training, policy clarification and technical assistance. (Starting October 2004)

g. A system edit to the Legal Section module of SWSS-FAJ will terminate access into the SWSS-FAJ Funding Section if FIA placement and care responsibility is answered with "NO". (October 2004) SWSS-FAJ legal screens will not be accessible if FIA does not have an order for placement and care responsibility. As a result, Title IV-E payments cannot be issued through the model payment system (MPS).

2. <u>GOAL: FIA in collaboration with Child Welfare Services will ensure that all required judicial findings are compliant with Title IV-E regulations.</u>

Action Steps:

a. CWS along with FIA will advise jurists about federal requirements for judicial findings that are necessary before Title IV-E can be authorized where appropriate.

b. CWS along with FIA will review all Wayne County court order forms. (August 2004)

   i. Any forms not addressing the federal requirements will be revised to ensure the federal requirements are addressed. (October 2004)

   ii. The revised Wayne County court orders will be automated on the Wayne County Court System to ensure the jurists address all relevant requirements. (March 2005)

c. Statewide implementation of the revised forms. (June 2005)

d. CWS will work with jurists to review case files set on daily dockets to determine that the court order accurately reflects determinations made during the court hearing. If the court is not able to make a determination consistent with title IV-E requirements, then the court will notify FIA regarding the barriers to appropriate decisions for children and families. (Starting November 2004)

3. <u>GOAL: FIA in collaboration with CWS will advise the courts of the need for orders to reflect that FIA has placement and care responsibility for each child named on the court order.</u>

Action Steps:

a. The courts and FIA staff will be trained to ensure that all orders contain clear language that FIA is the child placing agency that has the continuing responsibility for supervision of the child. (Starting October 2004)

   i. Individual Wayne County jurists will be informed of the requirement to document FIA has placement and care responsibility. (completed)

ii. CWS will recommend that all counties use the intake order developed by CWS for Wayne County, which includes clear language that the placement and care of the child is with FIA. (September 2004)

4. GOAL: FIA in collaboration with CWS will advise the courts that the 1st court order removing the child from the home must include a judicial determination whether it is contrary to the welfare of the child to remain in the home and include the basis upon which the findings were made.

Action Steps:

a. CWS will collaborate with FIA in developing training and technical assistance for attorneys, courts, and FIA staff in all 83 counties to address this federal requirement for findings at the removal or initial court hearing. (November 2004)
b. CWS will recommend that all county courts use the intake/removal order developed by CWS for Wayne County, which includes clear language for the *contrary to the welfare* requirement. (December 2004)
c. CWS will provide statewide training as described in Section F Training.
d. FIA supervisors will be trained on the federal requirement that court orders contain a finding regarding *contrary to the child's welfare* to remain in the home. (October 2004) This will be incorporated in the CWI training under F. Training, Goal 1, Action Step b.

GOAL 5 FIA in collaboration with CWS will ensure that a judicial determination is made, within 12 months from the child entered foster care regarding reasonable efforts to finalize the permanency plan including the basis upon which the findings were made.

Action Steps:

a. Training is being developed that will help the court and FIA understand the concept of "finalizing the permanency plan" and the correct calculation of the time frames. (Starting October 2004)
b. Training for FIA will stress that the report provided to the court must be complete and include those efforts made to finalize the permanency plan, as well as the status of those efforts. (Starting October 2004)
c. Special emphasis will be given to the court that the first hearing must be conducted within 12 months from the date of the removal and at least every 12 months thereafter (from the preceding hearing), unless a hearing is required within thirty days per 45 CFR 1355.20. (Starting October 2004)

F. Training

1. GOAL: FIA in collaboration with CWS, will ensure that updated Title IV-E training is provided to Child Welfare staff and supervisors who are responsible for determining Title IV-E eligibility and that training is offered to county court personnel and jurists who conduct hearings and issue orders.

Action Steps:

a. Foster Care Program Office will review the current Title IV-E training materials provided by FIA Child Welfare Institute (CWI). (Completed August 2004)

   i. CWI will provide FC Program Office a copy of all existing lesson plans, exercises, etc. currently being used in FC 8-week new hire training and FC Program Specific Transfer Training (PSTT). (Completed August 20, 2004)
   ii. All CWI FC trainers will attend a half-day training module reflective of current Title IV-E requirements provided by the Foster Care Program Office. (Completed September 1, 2004)

b. CWI will work in conjunction with FC Program Office to assure that all FC training curriculum sufficiently addresses all Title IV-E concerns.

   i. Curriculum will be rewritten and submitted to FC Program Office for approval. (December 1, 2004)
   ii. FC Program Office will review the revised curriculum and return to CWI with any suggested corrections. FC Program Office will stress the need for a curriculum addressing AFDC initial eligibility requirements. (December 2004).
   iii. Materials will be incorporated into FC 8-week new hire training and FC Program Specific Transfer Training. (February 2005)
   iv. Job aids will be developed and dispersed to the field. (January 2005)
   v. Additional trainings for county court personnel or other groups will be available upon request of CWI and FC Program Office. (Starting October 2004)

2. GOAL: CWS will provide technical assistance and training to FIA, its contract agencies, attorneys and courts in all 83 counties.

Action Steps:

a. CWS will provide a presentation, "Ensuring Title IV-E Eligibility" (with webcast) for court administrators and jurists. The webcast will remain available via the Internet. http://www.courts.michigan.gov/mji (Completed August 30, 2004)
b. "Ensuring Title IV-E Eligibility" materials will be available for FIA, contract agencies and attorneys involved in child welfare. (Completed)

c. The Michigan Judicial Institute through a joint training project with CWS has developed a core training curriculum for attorneys, which is being funded through the Governor's Task Force on Children's Justice (GTFCJ). Part of this core training will focus on the Lawyer-Guardian Ad Litem's (L-GAL) best practice protocol and the L-GAL role in ensuring Title IV-E regulations are followed. FIA will be included in this training. (December 2004)
d. CWS will develop a training module which will include Title IV-E compliance issues and Absent Parent Protocol. This training will be available to the court and FIA. This strategy is also part of the Child and Family Services Review PIP. (November 2004)
e. Training materials to accompany training sessions will be prepared. These will include sample court orders, an overview of Title IV-E regulations and fact sheets of frequently asked questions. (Starting October 2004)
f. FIA direct services staff training on court related issues will take place through FIA. CWS will be available for local office training. Initial curriculum is in development. Wayne County training will be completed by November 19, 2004. (November 2004)

V. REPORTING OF PROGRESS

Quarterly reports will be forwarded to ACF to report progress on action steps identified for each goal. Any proposed changes to the PIP will be negotiated between FIA and ACF. At this point, technical assistance will be requested as needed and the need reviewed quarterly. FIA will continue collaboration with CWS throughout the PIP period. A Title IV-E PIP committee has been established between FIA and CWS to review progress towards these goals and to recommend additional actions as needed. SCAO through CWS will provide information and documentation of their progress towards completion, their collaborative action steps and training components to FIA, to incorporate with the quarterly progress reports.