

MISSISSIPPI TITLE IV-E FOSTER CARE

ELIGIBILITY REVIEW FINAL REPORT

OCTOBER 1, 2007 - MARCH 31, 2008

INTRODUCTION

During the week of July 14 - July 18, 2008 in Jackson, Mississippi, the Children's Bureau (CB), within the Administration for Children and Families (ACF), in collaboration with representatives of Mississippi's Department of Human Services (MDHS), conducted a primary eligibility review of Mississippi's title IV-E foster care program. The review team also included cross-State reviewers and staff from ACF's Region IV Office of Grants Management. The purposes of the title IV-E foster care eligibility review were: (1) to determine if Mississippi was in compliance with the eligibility requirements as outlined in 45 CFR 1356.71 and Section 472 of the Social Security Act (the Act); and (2) to validate the basis of Mississippi's financial claims to ensure that appropriate payments were made on behalf of eligible children residing in licensed or approved foster family homes and child caring institutions.

SCOPE OF THE REVIEW

The Mississippi title IV-E foster care review encompassed a sample of all the title IV-E foster care cases that received a foster care maintenance payment from October 1, 2007 to March 31, 2008, the period under review. A computerized statistical sample of 88 cases (eighty (80) cases plus eight (8) over-sample cases) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data for the period under review which was transmitted by the State agency to ACF.

During the on-site review, each child's case file in the selected sample was reviewed to determine title IV-E eligibility. The provider's file was examined to ensure that the foster home or child care institution in which the child was placed during the period under review was licensed or approved and that safety considerations were appropriately addressed. Payments made on behalf of each child were also reviewed to verify that the expenses were allowable under title IV-E. Efforts were made to identify any underpayments that may have existed in the reviewed sample cases. In addition, CB and MDHS agreed that subsequent to the on-site review Mississippi could submit additional child and provider documentation for any case that was found to be in error, in pending status, or to have an ineligible payment. As a result of the provision of additional documentation, a number of case and payment determinations were modified.

For a primary review, substantial compliance means that the case error rate does not exceed four. As a result of the primary title IV-E foster care eligibility review conducted in Mississippi, sixteen (16) cases were found to be in error for either part or all of the period under review for reasons that are identified in the Case Record Summary section of this report. Since the number

of error cases was more than four, Mississippi is considered not to be in substantial compliance with title IV-E child eligibility requirements as outlined in 45 CFR 1356.71 and Section 472 of the Act.

Pursuant to 45 CFR 1356.71(i), Mississippi is required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed by the State in consultation with CB’s Regional Office staff, and must be submitted to CB’s Regional Office within 90 days of the date of the correspondence transmitting this report.

In addition to the 16 cases with errors, 3 non-error cases were identified that contained an ineligible payment. Although these cases are not considered as part of the case count in determining substantial compliance, the ineligible maintenance payments and associated administrative costs are subject to disallowance. A disallowance in the amount of \$50,721 in Federal Financial Participation (FFP) for maintenance payments and \$30,918 for administrative costs is assessed for the error cases identified during our review. An additional disallowance in the amount of \$2,009 in FFP for maintenance payments and \$1,938 for administrative costs is assessed for the non-error cases identified during our review. The total disallowance as a result of this review is \$85,586 in FFP. Please refer to the letter transmitted with this report for further information on the disallowance and to the Disallowance section of this report.

CASE RECORD SUMMARY

Error Cases

The following chart provides details for the sixteen (16) cases containing errors, the reasons for the ineligibility, the appropriate Federal citations, and the total disallowance amount.

Case Number	Reason Case Was Not Eligible	Federal Citation	Maintenance Payment FFP	Administrative Cost FFP
MS-2	No judicial determination of reasonable efforts to finalize permanency plan	Section 472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2)	\$3,296.00	\$580.00
MS-5	Criminal record checks requirements not met	45 CFR 1356.30 & 1356.71	\$7,474.00	\$6,811.00

MS-11	No judicial determination of reasonable efforts to finalize permanency plan	Section 472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2)	\$5,053.00	\$871.00
MS-16	Invalid removal	Section 475(5)(F); 45 CFR 1356.21	\$1,293.00	\$871.00
MS-18	Provider not licensed	45 CFR 1355.20(a) & 1356.71	\$245.00	\$290.00
MS-19	Licensure and criminal records check requirements not met	45 CFR 1355.20(a), 1356.30 & 1356.71	\$1,015.00	\$1,054.00
MS-20	No judicial determination of reasonable efforts to finalize permanency plan	Section 472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2)	\$3,744.00	\$4,261.00
MS-27	Safety requirements not met	45 CFR 1356.30 & 1356.71	\$1,489.00	\$1,161.00
MS-28	Provider not licensed	45 CFR 1355.20(a) & 1356.71	\$938.00	\$290.00
MS-30	Safety requirements not met	45 CFR 1356.30 & 1356.71	\$15,188.00	\$2,633.00
MS-36	No judicial determination of reasonable efforts to prevent removal	Section 472(a)(1); 45 CFR 1356.21 (b)(1)	\$4,852.00	\$7,453.00
MS-38	Safety requirements not met	45 CFR 1356.30 & 1356.71	\$1,884.00	\$1,741.00

MS-39	Licensure and criminal records check requirements not met	45 CFR 1355.20(a), 1356.30 & 1356.71	\$1,227.00	\$871.00
MS-72	Provider not licensed	45 CFR 1356.71	\$1,202.00	\$290.00
MS-74	Licensure and criminal records check requirements not met	45 CFR 1355.20(a), 1356.30 & 1356.71	\$732.00	\$580.00
MS-77	Safety requirements not met for foster care provider	45 CFR 1356.30 & 1356.71	\$1,089.00	\$1,161.00
		Total	\$50,721.00	\$30,918.00

Ineligible Payment Cases

The following chart provides details for the cases containing ineligible payments, the reasons for ineligibility, the appropriate Federal citations, and the total disallowance amount.

Case Number	Reason Case Was Not Eligible	Federal Citation	Maintenance Payment FFP	Administrative Cost FFP
MS-14	No judicial determination of reasonable efforts to finalize permanency plan	Section 472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2)	\$380.00	\$266.00
MS-34	No judicial determination of reasonable efforts to finalize permanency plan	Section 472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2)	\$1,374.00	\$1,393.00

MS-35	No judicial determination of reasonable efforts to finalize permanency plan	Section 472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2)	\$255.00	\$279.00
		Total	\$2,009.00	\$1,938.00

STRENGTHS

Strengths identified during the title IV-E review include the following examples:

- Judicial findings of Contrary to the Welfare and Reasonable Efforts to Prevent Removal were found in all but one of the removal court orders reviewed.
- Initial eligibility determinations were completed in a timely manner.
- In 74 of the 80 cases reviewed, court orders contained a definitive finding regarding reasonable efforts to finalize the permanency plan and the permanency findings were timely in most cases.

AREAS OF CONCERN

- Court petitions were not found in the files reviewed, which made it difficult to determine the removal home and the circumstances of removal. When a removal petition is filed for a case, including the petition in the eligibility record provides a more comprehensive account of the removal episode and helps to document information pertinent to determining compliance with certain requirements related to Aid to Families with Dependent Children (AFDC) and judicial determinations.
- Federal regulations at 45 CFR 1356.21(k)(2) require the physical removal of a child to coincide with the judicial ruling that authorizes the child’s removal from the home and placement in foster care. In error case #16, the child was left in the home for a period after the judicial ruling granting MDHS placement and care responsibility and finding it was contrary to the child’s welfare to remain in the home. The removal court order did not sanction an alternative timeframe for the child’s physical removal from the home. If the State provides a court transcript from the proceedings to verify that the court sanctioned the delay in the physical removal and placement of the child, we will reconsider the error finding.

- Documentation of redeterminations of children’s eligibility for AFDC was not found in many cases but was completed on-site by the State reviewers. While the timeliness of the redetermination is not an eligibility issue, the State agency must be able to show that the child meets the mandatory eligibility requirements before title IV-E maintenance payments are claimed for the child. Redeterminations should be completed timely because failure to do so may result in the State being out of compliance with its State plan in accordance with §472(a) of the Act.
- It was difficult to determine whether the State agency had responsibility for placement and care during the period under review. State staff had to provide additional court orders on-site to document this eligibility factor. Eligibility files should include all necessary information to establish and document compliance with the eligibility requirements.
- State reviewers noted that often it is difficult for the agency to obtain copies of court orders in a timely manner---- taking up to six months in some cases. The delay in receiving court orders delays the eligibility determination process and claiming of Federal funds for children.
- The date of court hearings was not included in many of the written court orders. Also, several court orders were amended. Amended orders may raise questions about the timeliness of a judicial determination if it is not clear what the order amended. To avoid the need to amend orders, either to add or correct information, care must be taken to ensure that court orders include all necessary and accurate information at the time they are issued.
- Ten of the error cases were due to the lack of required licensure and/or criminal records check documentation. In addition to the State’s practice of claiming title IV-E payments before eligibility is substantiated, there are concerns that the State made claims for placements other than the child’s placement of record. In 3 of the 10 cases, title IV-E foster care maintenance payments were claimed for 3 or more months for a child residing in another foster family home during the same period of the claim for the previous foster family home. The licensing and criminal records check requirements were not met for the child in the foster care placement of record.
- State reviewers noted that agencies that license family foster homes are often not providing MDHS the necessary documentation of criminal records checks and licensure for foster parents. Child-placing agencies also are not providing MDHS copies of foster home licenses and safety checks for staff as necessary for title IV-E eligibility. Group homes do not provide MDHS copies of safety checks for staff as well. The MDHS should implement measures to ensure licensure and safety information is routinely provided to establish a child’s title IV-E eligibility and to claim allowable Federal funding. Title IV-E foster care maintenance payments should be claimed only for eligible children. A child is considered eligible at the point the child meets all title IV-E eligibility criteria, which includes satisfying the licensure and safety requirements for the child’s placement.

DISALLOWANCES

The review included a sample of eighty (80) cases. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the six-month AFCARS period of October 1, 2007 to March 31, 2008. Based upon the results of the review, the State of Mississippi is determined not to be in substantial compliance for the period under review. Sixteen (16) cases were in error and three (3) non-error cases were identified as having periods of ineligibility for funding under title IV-E foster care. Therefore, there is a disallowance of \$85,586 in FFP for title IV-E foster care maintenance payments and related administrative costs for the entire period of time that these cases were determined to be in error and improperly paid.