

**State of Montana
Primary Review
Title IV-E Foster Care Eligibility**

**Report of Findings for
April 1, 2008 – September 30, 2008**

Introduction

During the week of June 1, 2009, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the State's title IV-E foster care program. The review was conducted in collaboration with the State of Montana's Department of Public Health and Human Services and was completed by a review team comprised of representatives from the State agency, CB Central and Regional Offices, and peer reviewers.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether Montana's Department of Public Health and Human Services 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.

Scope of the Review

The primary review encompassed a sample of the State's foster care cases that received a title IV-E maintenance payment during the six-month period under review (PUR) of April 1, 2008 through September 30, 2008. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 66 cases from the original sample plus 14 oversample cases. Fourteen (14) cases were excluded from the original sample because no title IV-E foster care maintenance payment was made during the PUR. The State provided documentation to support excluding these cases from the review sample and replacing them with 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 regarding 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’s file also was examined to ensure the foster family home or childcare institution where the child was placed during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating when the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was paid. A sample case was cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity. In addition, underpayments were identified for a sample case when an allowable title IV-E maintenance payment was not claimed by the State for an eligible child during the 2-year filing period specified in 45 CFR §95.7, unless the title IV-E agency elected not to claim the payment or the filing period had expired.

Compliance Finding

The review team determined that all of the 80 cases reviewed met the title IV-E eligibility requirements (i.e., were deemed non-error cases) for the PUR. No cases were determined as in error or determined to have ineligible title IV-E foster care maintenance payments for a period of claiming. In addition, there were no cases identified as having periods of eligibility for which the State did not claim allowable title IV-E maintenance payments. Because the number of cases in error is fewer than four (4), Montana’s Department of Public Health and Human Services is in substantial compliance for the PUR.

Areas in Need of Improvement

Though not constituting issues resulting in improper payments on the review, the following observations are offered for consideration of program improvement.

Issue #1: Court Orders

- The same language and findings regarding reasonable efforts to finalize the permanency plan were seen in some orders even when the findings were no longer relevant to the permanency plan or the State’s efforts toward finalization. For example, a court order referenced reunification as the permanency plan goal when a termination of parental

rights had occurred. This is problematic because the court's ruling on an outdated plan does not reflect an assessment by the courts of the agency's current efforts to finalize the permanency plan in effect for the child. Judicial findings must address reasonable efforts for the permanency plan in effect during the 12 months leading up to the finding.

- Some court orders did not provide the date of the hearing on the order itself or did not identify the permanency goal but included the permanency placement. Court orders should explicitly and accurately convey all pertinent findings of the judge. Including information in the order such as the date of the court proceeding, the permanency plan in effect, and the basis of the judicial findings, improves the quality of the written order.

Issue #2: Payment Issues

- Prior to the on-site review, the State conducted an internal quality assurance process that resulted in the State correctly rescinding, i.e. "backing-out" claims for title IV-E maintenance payments in several cases. The State reported that in these cases pertinent documentation such as criminal background checks was missing or inadequate. Also during its pre-review, several cases were identified in which funding sources other than title IV-E were used because the State had not obtained documentation to establish eligibility. However, the State did not routinely submit claims for a retroactive period of eligibility after the requirement was properly satisfied for that period.
- To maximize the State's use of title IV-E maintenance funds, the State should assess the reasons for oversights that can result in overpayments and underpayments and implement strategies to correct the areas of deficiencies. Such corrective actions may include routine monitoring of the eligibility determination and claiming processes and establishing collaborative agreements with other agencies to facilitate the timely receipt of documentation necessary to establish eligibility. The State should review its payment systems to determine whether adequate financial processes are in place to prevent payments for ineligible children or unallowable program costs and to support timely prior period adjustments.

Strengths and Promising Practices

The following positive practices and processes of the title IV-E foster care eligibility program were observed during the review. These approaches seem to have led to improved program performance and successful program operations.

Automated Data System Interface: Montana has improved its process for determining title IV-E eligibility through the development and implementation of an automated data system which facilitates timely eligibility decisions and tracks eligibility throughout the foster care episode. The system provides for expedient data entry, eligibility searches, record-keeping, and other features. The new software was viewed by ACF staff on site as state-of-the-art and, potentially, as a model program for other States.

Centralized Eligibility Unit: Since Montana's first primary review in 2002, the State has centralized the determination and re-determination of title IV-E eligibility in a specialized unit. These determinations previously were performed by eligibility workers in a separate assistance payments division. The findings of previous reviews demonstrated title IV-E eligibility determinations were not always consistently completed and documentation supporting the determinations often was not readily available. The centralized eligibility unit was put in place to manage the eligibility determination process by overseeing the tracking and monitoring of title IV-E eligibility determination, documenting compliance, and conducting quality assurance activities. The centralization of the eligibility determination function has facilitated training on title IV-E eligibility requirements and developed a tracking system for eligibility events used by the unit. This extends to extensive training and quality assurance activities with the six tribal reservations that have title IV-E contracts with the State. More accurate and consistent application of policy as well as timely issue and emerging trend identification and problem-solving are some of the benefits of the dedicated unit. CB has found that the work of the centralized eligibility unit has been a key component in enhancing the development and availability of documentation supporting title IV-E eligibility. During the on-site review, the following observations were noted:

- The title IV-E case files were a model of organization and case information was easily accessible.
- A significant team approach was seen within the unit and there was evidence of departmental leadership and support for the unit.
- We particularly note the collaborative efforts between the State child welfare agency and the State licensing agency which resulted in timely and complete documentation of licensure for foster parents and childcare institutions. The licensing unit works cooperatively with the eligibility unit and completes annual name-based background checks on all foster homes to assist with documenting the safety requirements.

Next Steps

The next primary review will be held within three years. In the meantime, we encourage the State to address the issues identified in the Areas in Need of Improvement section to further enhance an already efficient and well run title IV-E foster care program.