

State of Montana
Department of Health and Human Services
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
April 1, 2011 – September 30, 2011

Introduction

During the week of June 11, 2011, 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 Montana Department of Public Health and Human Services (DPHHS) and was completed by a review team comprised of representatives from DPHHS, CB Central and Region VIII staff, and Montana tribal title IV-E staff.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether Montana's title IV-E foster care program was in compliance with 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 Montana'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 Montana's foster care cases that received a title IV-E maintenance payment during the six-month period under review (PUR) of April 1, 2011 through September 30, 2011. A computerized statistical sample of one-hundred (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, seventy-eight (78) cases were from the original eighty (80) case sample and two (2) cases from the oversample. Prior to the on-site review, two (2) cases from the original sample were eliminated after it was determined that title IV-E payments were not made for a period during the PUR.

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 §1356.7(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 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 and to ensure that 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 allowable expenditures under title IV-E and to identify underpayments that were eligible for claiming. A sample case is 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 is 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 are 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 two-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 eighty (80) cases met eligibility requirements for the PUR. There were two (2) cases identified as having an underpayment that the State did not claim title IV-E reimbursement of \$1397 for eligible costs during the PUR. It appears that the cost will be claimed through the State's normal reconciliation process. Reimbursement for the underpayment may be claimed by filing an increasing adjustment on Form CB-496 within the two-year limitation described in 45 CFR 95.7.

Because no error cases were identified, Montana DPHHS is found to be in substantial compliance for the PUR.

Strengths and Promising Practices

Judicial Determinations

Ongoing collaboration between DPHHS and the title IV-E Eligibility Unit, the Court Improvement Program, tribal social services and courts, and State court administration and judges has resulted in judicial determination improvements since the last review. The affidavits and petitions prepared by workers and attorneys were comprehensive and well-organized, and resulted in court orders that contained case-specific information and reasonable efforts documentation in court findings. Tribal and State affidavits and petitions were found to be of equally high quality.

Eligibility Processes

The title IV-E Eligibility Unit has continued to develop as a professional team since its inception in 2003, and this has resulted in significant improvements in efficient and accurate eligibility determination and claiming. Each member of the unit is assigned specific regions and tribes within the State, and that has enabled positive relationships with other Child and Family Services Division staff, tribal social services and court personnel, county attorneys, and State court staff. The Unit provides annual training and on-going technical assistance and training to all regions and tribes. The State's automated title IV-E data system (CAPS) has a number of safeguards and cross-checks built in to ensure that all required title IV-E eligibility factors are met and that title IV-E claiming is done accurately and timely. The system allows for accessing Temporary Assistance for Needy Families funding for initial maintenance payments where applicable and provides for the most efficient use of funds for the State.

Licensing

A separate unit within the Quality Assurance Division licenses and monitors all child placement agency group and residential facility providers, while DPHHS and tribes license all foster family homes. The eligibility unit approves all tribal licensing packets prior to final licensure. In the review, the safety documentation process was easy to follow and all licensing records were complete and up-to-date. Concern was expressed regarding lack of a Quality Assurance Division protocol to alert the agency and law enforcement when a staff member was found to have an outstanding arrest warrant or current criminal charges. Also, background checks are not required annually for existing staff, though many providers do annual checks on all staff regardless.

Additional Observations

Some concern regarding due process for parents was raised over the time gap between an emergency removal and receipt of the written removal court order. In three (3) cases, a week or more had transpired between the court granting authority for the child's removal from the home and the court providing the removal order. DPHHS explained this delay was probably related to rural jurisdictions and the availability of circuit judges. The agency should work with those jurisdictions to ensure timely receipt of written court documentation.