

State of North Carolina
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
October 1 2013 through March 31, 2014

Introduction

During the week of July 28, 2014, 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 North Carolina's Department of Social Services and was completed by a review team comprised of representatives from the state agency, CB Central and Regional Offices, ACF Regional Grants Management, and peer reviewers from the states of South Carolina and Alabama.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether the North Carolina Department of Social 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 for the six-month period under review (PUR) of October 1, 2013 through March 31, 2014. 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 76 cases from the original sample and (4) cases from the over-sample.

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 the 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 child care 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.

Compliance Finding

The review team determined that 77 of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. In addition, nine (9) non-error cases were identified to have periods of eligibility for which the state did not claim allowable title IV-E maintenance payments (underpayments). In accordance with federal regulations at 45 CFR §95.7, the state may claim the eligibility payments for the non-error cases underpayment cases by filing an increasing adjustment on its title IV-E Program Quarterly Financial Report (FORM CB-496) in the next quarter, if the claim for the expenditure falls within two years after the end of the calendar quarter within which the state made the expenditure. Because the number of cases in error is less than four (4), North Carolina’s Department of Social Services is in substantial compliance for the PUR.

Case Summary

The following charts record the 3 error cases; reasons for the improper payments; improper payment amounts; and federal provisions for which the state did not meet the compliance mandates. Note that the calculation of erroneous payments is based on the Federal Financial Participation (FFP) rates of the administrative and maintenance costs at the Federal Medical Assistance Percentages (FMAP) for the applicable year(s) for each sample case.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Maintenance Payments (FFP)	Administrative Costs (FFP)
NC #23	Financial need was not established for AFDC eligibility. [§472(a)(3)(A) of the Act and 45 CFR 1356.71(d)(1)(v)] Ineligible entire foster care episode. Disallowance Payment Period: (10/1/13-10/31/13)	\$1,077.00	\$435.00

Sample Number	Improper Payment Reason & Ineligibility Period	Maintenance Payments (FFP)	Administrative Costs (FFP)
NC #44	Title IV-E maintenance payment claimed for period prior to judicial determination of reasonable efforts to prevent removal was made. [§472(a)(1) of the Act; 45 CFR §1356.21(c)]. Disallowance Payment Period: (10/29/13-10/31/13)	\$37.00	\$42.00
NC #57	The judicial determination that continuation in the home would be contrary to the welfare of the child was not made. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(c)]. AFDC assistance unit's income exceed the state's AFDC income standard. [§472(a)(3) of the Act; 45 CFR 1356.71(d)(1)(v)] Ineligible for the entire foster care payment episode. Disallowance Payment Period: (2/1/14-4/30/14)	\$1,196.00	\$1,304.00

Total Maintenance FFP	\$2,310.00
Total Administrative FFP	\$1,781.00
Total FFP	\$4,091.00

Underpayment Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
NC #14	Initial Eligibility-Foster care maintenance payment began the date title IV-E eligibility determination was completed for a child who met all eligibility requirements at an earlier date. The state could have claimed to the beginning of the child's placement in the month in which all IV-E eligibility requirements are met. [§472(a) of the Act; 45 CFR 1356.21] Eligible: 8/1/12-10/31/12	\$700.17

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
NC #16	<p>Licensed Placement-Title IV-E funds were not claimed for a child placed with a licensed foster care provider. There was no specified reason for not claiming. [§472(b) and (c) of the Act; 45 CFR 1355.20 (a)]</p> <p>Eligible: 1/1/14-1/31/14</p>	\$1,028.80
NC #21	<p>Initial Eligibility-Foster care maintenance payment began the date the title IV-E eligibility determination was completed for a child who met all eligibility requirements at an earlier date. The state could have claimed to the beginning of the child's placement in the month in which all IV-E eligibility requirements are met. [§472(a) of the Act; 45 CFR 1356.21]</p> <p>Eligible: 11/26/12-11/30/12</p>	\$51.68
NC #29	<p>Initial Eligibility-Foster care maintenance payment began the date the title IV-E eligibility determination was completed for a child who met all eligibility requirements at an earlier date. The state could have claimed to the beginning of the child's placement in the month in which all IV-E eligibility requirements are met. [§472(a) of the Act; 45 CFR 1356.21]</p> <p>Eligible: 4/22/13-4/30/13</p>	\$281.63
NC #31	<p>Licensed Placement- Title IV-E funds were not claimed for a child placed with a licensed foster care provider. There was no specified reason for not claiming. [§472(b) and (c) of the Act; 45 CFR 1355.20 (a)]</p> <p>Eligible: 12/1/12-5/30/13</p>	\$5,632.55

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
NC #35	<p>Initial Eligibility-Foster care maintenance payment began the date the title IV-E eligibility determination was completed for a child who met all eligibility requirements at an earlier date. The state could have claimed to the beginning of the child's placement in the month in which all IV-E eligibility requirements are met. [§472(a) of the Act; 45 CFR 1356.21]</p> <p>Eligible: 10/22/13-12/31/13</p>	\$722.73
NC #38	<p>Licensed Placement- Title IV-E funds were not claimed for a child placed with a licensed foster care provider. There was no specified reason for not claiming. [§472(b) and (c) of the Act; 45 CFR 1355.20 (a)]</p> <p>Eligible: 8/14/13-8/31/13.</p>	\$594.90
NC #54	<p>Licensed Placement- Title IV-E funds were not claimed for a child placed with a licensed foster care provider. There was no specified reason for not claiming. [§472(b) and (c) of the Act; 45 CFR 1355.20 (a)]</p> <p>Eligible: 10/21/13-11/30/13.</p>	\$515.67
NC #63	<p>Licensed Placement- Title IV-E funds were not claimed for a child placed with a licensed foster care provider. There was no specified reason for not claiming. [§472(b) and (c) of the Act; 45 CFR 1355.20 (a)]</p> <p>Eligible: 12/1/13-12/31/13</p>	\$90.85

Total Maintenance FFP \$9,618.98

Areas in Need of Improvement

The findings of this review indicate that the state needs to further develop and implement procedures to improve program performance in the following areas. 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 corrective action the state should undertake.

Issue #1: Financial need was not established for AFDC eligibility. The AFDC requirement of financial need was not satisfactorily met for initial AFDC eligibility in two cases (NC-23 and 57). The parent's income exceeded the state's income need standard for the family size, according to the agency AFDC eligibility determination Form DSS-5120.

Title IV-E Requirement:

Federal provisions at §472(a)(3)(A) of the Act and 45 CFR 1356.71(d)(1)(v) require the state to determine eligibility for the AFDC program as in effect on July 16, 1996. The state agency must establish that the child is financially needy and deprived of parental support or care using criteria stipulated in the state's title IV-A plan.

The child's financial need must be established based on the circumstances in the specified relative's home from whom the child was removed through a voluntary placement agreement or judicial determination. The child must be financially needy during the month the voluntary placement agreement is signed or during the month the court proceedings leading to the child's judicial removal were initiated. Using the AFDC state plan criteria in effect on July 16, 1996, the determination of the child's financial need is made by considering all income and resources available to the members of the AFDC family unit during the month of the voluntary placement agreement or the initiation of court proceedings to remove the child from his/her home. The child's income and resources in that month must be within the established guidelines for financial need.

Recommended Corrective Action:

As recommended by CB to the state in the findings of the title IV-E Eligibility review report of 2011, the state should continue to routinely review available income and eligibility verification systems when eligibility is determined regardless of whether primary verification sources are provided to the state. This will assist the state in ensuring correct eligibility determinations and improving data quality in information and verification systems.

Additionally, CB is recommending that the state's form DSS-5120 identify the removal month in order to help ensure that workers are making their eligibility determinations for the correct month. The state should consider providing follow-up and recurrent training for eligibility staff related to making AFDC determinations in accordance with the state's 1996 title IV-A (AFDC) plan.

Issue #2: Judicial finding of contrary to the welfare. One case was found to be in error because the required judicial determination of contrary to the welfare was not made in the first court order sanctioning removal.

Title IV-E Requirement: The title IV-E statutes at §472(a)(2)(a) of the Act as a prerequisite for federal reimbursement on behalf of an otherwise eligible child, require that the child's physical or constructive removal be in accordance with either 1) a judicial determination to the effect that continuation in the home from which judicially removed would be contrary to the welfare of the child and that reasonable efforts to prevent the removal were made, or 2) a voluntary placement agreement entered into with the title IV-E agency by a parent or legal guardian of the child. Federal financial participation may not begin until the first day of the month in which initial eligibility requirements are satisfied. If title IV-E funds were claimed before the month in which the requisite judicial determination was made, this results in ineligible title IV-E payments.

Recommended Corrective Action: The state should continue its effort to work closely with the Administrative Office of the Courts to implement procedures that insures all initial court removal orders contain the contrary to the welfare judicial determinations, prior to title IV-E claims being made.

Through collaboration with the state Administrative Office of the Courts, the state can educate the judiciary and other court officials about drafting court orders that adequately reflect state and title IV-E criteria of legal sufficiency and judicial determinations. North Carolina has some exemplary orders on which to model continued statewide improvement efforts.

Furthermore, procedures should be developed to ensure the eligibility workers do not approve eligibility for the title IV-E program until the month in which the judicial requirements of contrary to the welfare and reasonable efforts to prevent removal are met for an otherwise eligible child. One case was in error because title IV-E maintenance payments were claimed for a period in the PUR prior to judicial determination of reasonable efforts to prevent removal was made. Although the state has 60 days of the child's removal in which the judicial requirement can be made, title IV-E payments are not permitted until the requirement is met for the otherwise eligible child.

Underpayments

As is detailed in the above chart, nine cases were found to be underpayments in which the title IV-E agency could have claimed title IV-E funds on behalf of an eligible child, but did not do so. The state practice is to start claiming eligibility on the date that all requirements are met. Workers wait to obtain necessary information pertaining to all eligibility requirements, and then once eligibility is established they submit a retroactive adjustment to claim title IV-E maintenance for the prior period of eligibility. However, in the noted nine cases, the retroactive claims inadvertently were not submitted. The state has indicated it plans to recover the identified underpayments.

In some cases, title IV-E was not claimed for a child placed with a licensed foster care provider. The title IV-E agency did not claim title IV-E funds for each eligible child during the entire period of eligibility. However, each of those children was either eligible when they resided in the foster care placement for the entire month or the period beginning with the actual date of foster care placement. In other cases, title IV-E foster care maintenance payment began on the date the title IV-E eligibility determination was completed for a child who met all eligibility requirements at an earlier date.

Underpayments identified as a result of the review may be claimed by a state by filing an increasing adjustment in the next quarter, but no later than two years after the calendar quarter in which the agency made the expenditure.

Title IV-E Requirement: Federal regulations at 45 CFR §1356.60 provide that title IV-E foster care maintenance payments may be claimed for allowable costs that are covered by the federal definition of foster care maintenance found at §475(4) of the Act. Under §472 of the Act, title IV-E maintenance payments may be claimed from the first day of the foster care placement in the month in which all title IV-E eligibility criteria are met. The payment may be claimed for the entire month when an eligible child has resided in the foster care placement for the entire month. However, if the eligible child is placed on a date in the month other than the first of the month, title IV-E funds may be claimed for the period beginning with the actual date of foster care placement.

Recommended Corrective Action: We recommend that the state enhance its Continuous Quality Improvement (CQI) system to include the review of title IV-E cases to ensure North Carolina is maximizing its potential of claiming title IV-E maintenance funds for eligible children including when they are in fully-licensed placements. This will allow the state to identify gaps and ensure complete and proper claiming for children in fully-licensed placements.

Program 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 in the identified areas.

Court Hearings and Court Orders

Judicial determinations of contrary to welfare and reasonable efforts to prevent removal were child-specific, and the circumstances in which the child was removed from the home were clearly stated. The judicial determination on initial court orders listed the efforts to prevent removal that were made. Davidson County courts orders were generally well-written and the court did a good job in capturing current history of events since the last proceeding. However, in Wake and Mecklenburg counties, court removal orders did not identify the parents, only the child. A good practice would be for the court orders to accurately reflect the name and the relationship of participants in the case.

The review findings of good court practice is an indication of NC-DSS ongoing meaningful collaboration with the Administrative office of the courts, and in working closely to educate the judiciary to promote timely and quality judicial findings. We encourage the state to continue the collaborative effort to ensure quality, child specific findings statewide.

The required reasonable efforts to finalize a permanency plan were obtained in a timely manner and more frequently than every six months. Frequent hearings assist the state in meeting the requirements for a judicial finding of reasonable efforts to finalize a child's permanency plan. The Lee County court report format regarding reasonable efforts to finalize the permanency plan was explicitly documented and the findings were made on a case-by-case basis. Additionally, services were provided to those children and families which facilitated timeliness in finalizing

the children's permanency plans. The use of model court report for permanency planning hearings, such as those noted by reviewers, can serve as models for statewide improvements in the quality of court order documentation.

Title IV-E Eligibility Determination

As indicated in the findings of the state's 2011 title IV-E eligibility review report, the revisions made to the title IV-E eligibility determination form (DSS-5120) and redetermination form (DSS-5120A) assists in accurately determining eligibility, helped lessen the possibility of errors and ensures documentation of the eligibility determination. During this review, we found that the revised DSS-5120 form encourages partnership between service workers and income maintenance caseworkers in gathering and determining the information needed to assist in eligibility determination. However, the review team noted that the delay by income maintenance caseworkers in completing the AFDC financial portion of the DSS-5120 for a period of 4-6 weeks impacted the timely completion of foster care eligibility determinations and subsequent claiming of title IV-E funds.

Disallowances

A disallowance in the amount of \$2,310.00 in maintenance payments and \$1,781.00 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error cases. The total disallowance as a result of this review is \$4,091.00 in FFP. The state must also identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the PUR. No future claims should be submitted on these until it is determined that all eligibility requirements are met.

Next Steps

The CB recommends that the state look at the areas of noncompliance with federal laws and regulations needing improvement identified in this report and undertake any appropriate corrective action. The state should develop measurable, sustainable strategies that will target the root cause of the concerns and improve the foster care eligibility program. The CB Region IV staff is available to assist the state in identifying and obtaining technical assistance available to facilitate the state's strategies for corrective action.