

**NORTH DAKOTA
TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW REPORT**

**CONDUCTED WITH THE
NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES**

I. INTRODUCTION

The Children's Bureau (CB), within the Administration for Families and Children (ACF), in partnership with the North Dakota Department of Human Services, Division of Child and Family Services (DCFS), conducted a primary title IV-E foster care eligibility review in Bismarck, North Dakota from August 18 - 22, 2008. In addition to State and Federal agency staff, the review team included two cross-State peer reviewers with significant title IV-E review experience.

The purpose of the title IV-E foster care eligibility review is to evaluate the State's accuracy in claiming Federal Financial Participation (FFP) and to assure that appropriate maintenance payments were made on behalf of eligible children residing in licensed and/or approved homes and institutions.

II. SCOPE OF THE REVIEW

The North Dakota title IV-E eligibility review encompassed a sample of all of the State's title IV-E foster care cases that received at least one title IV-E foster care maintenance payment during the period of October 1, 2007 through March 31, 2008, the period under review (PUR). During the primary review, eighty (80) case records are reviewed. A computerized statistical sample of one hundred (100) cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data previously transmitted by the State to ACF. The sample of 100 cases allows for 80 sample cases and an over-sample of 20 cases, which are available in the instance of a sample case disqualification. Prior to the on-site review, three cases in the original sample were eliminated after it was determined that title IV-E payments were not made during the PUR.

During the on-site review, each child's case file in the selected sample was reviewed to determine title IV-E eligibility. The associated provider's file was examined to ensure that the foster home or child care institution in which the child was placed during the PUR was licensed or approved and that safety considerations were appropriately addressed. Payments made on behalf of each child were reviewed to verify that the expenses were allowable under title IV-E. Efforts also were made to identify any underpayments that may have existed in the reviewed sample cases. In addition, CB and North Dakota's DCFS agreed that, subsequent to the on-site review, the State 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, three initial case determinations were modified.

Of the eighty cases reviewed, two cases were ultimately determined to be in error for part or all of the review period because of issues related to judicial determinations. In both cases, reviewers found a lack of documented judicial findings for the determination of “contrary to the welfare” of the respective children to remain in their own homes.

As a result of the case review, ACF has determined that North Dakota is in substantial compliance with title IV-E requirements for this primary review. The next title IV-E foster care eligibility review will be conducted in North Dakota in three years.

III. CASE RECORD SUMMARY

For each sample case, the child’s file and the provider file detailing the child’s foster care placement during the PUR were reviewed for documentation that supported the determination of title IV-E eligibility. Two (2) cases were determined to be in error for all of the review period. The following details the error cases, the reasons for the error findings, and the related periods of disallowance.

Sample number #03: The child was removed from their home and placed in foster care in March, 2007. The shelter care order authorizing the removal does not indicate a judicial finding of “contrary to the welfare or best interests of the child” to be placed outside of the home. The transcript of the court proceedings for the removal was not provided by the State agency to substantiate compliance with the judicial requirement. The child has remained in foster care since the March, 2007 removal and, thus, repayment of FFP and related administrative costs must be made from the beginning of this foster care episode. The period of disallowance for this case is from March, 2007 until the date of the review finding. All claims for FFP after this date also must be repaid.

Sample number #15: The child came into foster care in November, 2006. The shelter care order authorizing the removal has a judicial determination that reasonable efforts were made to prevent the need for the removal of the child from the parental home. However, the shelter care order does not include a finding of “contrary to the welfare or best interests” related to the removal and placement of the child. The State agency disputed the review finding for this case in its documentation following the on-site review. The State’s comments related to this case spoke to the “reasonable efforts” judicial determination, but were silent about ACF’s decision that the court order lacked a “contrary to welfare or best interests” finding. Therefore, the on-site finding related to this case is being maintained. The FFP for this case for maintenance and administrative costs must be repaid to ACF for the entire period of the foster care episode that FFP was claimed. The disallowance period begins November 2006.

IV. NON-ERROR CASES WITH INELIGIBLE PAYMENTS AND/OR OVERPAYMENTS

There were no additional cases that had ineligible payments or overpayments in the sample cases reviewed.

V. UNDERPAYMENTS

There were no cases determined to have underpayments in the sample cases reviewed.

VI. STRENGTHS OBSERVED

As in previous reviews of the North Dakota title IV-E eligibility processes, there were several strengths noted by the reviewers who participated during the week.

These strengths include the following:

- Clearly defined eligibility determination procedures in State and Tribal cases.
- Evidence that permanency hearings are occurring for children in foster care per Adoption and Safe Families Act requirements. The required judicial determinations of “reasonable efforts to finalize the permanency plan” occur in these hearings.
- Some courts orders from Tribal courts were very detailed.
- Staff are specifically assigned to title IV-E eligibility determination.
- Title IV-E processes are monitored through the State’s quality assurance system.
- Foster home and facility licenses were up-to-date in all cases.
- Title IV-E eligibility is re-determined every six months, which exceeds Federal requirements.

VII. AREAS NEEDING IMPROVEMENT

The State of North Dakota has a title IV-E program that is functioning well, as previously discussed in this report. However, during the team’s debriefing discussions about observations and experiences during the review week there are a few areas that were noted as areas needing improvement.

Some areas recommended for continued attention and improvement include:

- Specific permanency planning information in some cases was sketchy; a hearing occurred but it was unclear as to what the plans were for the child.
- Documentation could be more consistently gathered and used to make eligibility decisions from county to county; it was not always easy to follow the decision-making rationale.

VIII. FINDINGS AND DISALLOWANCES

The State of North Dakota had two cases that were determined to be in error and not eligible for title IV-E funds for maintenance payments and administrative costs related to the error cases. The amount of ineligible maintenance payments for these cases is \$15,311 in FFP, and the

associated FFP for unallowable administrative costs is \$20,084. The total disallowance for the two error cases is \$35,395 in FFP. The following chart details the specific disallowance for each error case.

DISALLOWANCES			
Sample #	Maintenance	Administration	Total FFP
3	11,604	14,158	25,762
15	3,707	5,926	9,633
Total	\$15,311	\$20,084	\$35,395

The State must also identify and repay any ineligible payments that occurred for the error cases subsequent to the PUR.