

**North Dakota Children and Family Services  
Primary Review  
Title IV-E Foster Care Eligibility  
Report of Findings for  
October 1, 2010 – March 31, 2011**

**Introduction**

During the week of August 22, 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 State of North Dakota Department of Human Resources, Children and Family Services and was completed by a review team comprised of representatives from State and County agencies, State court improvement project, CB Central and Regional Offices and ACF Regional Grants Management.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether North Dakota Children and Family 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 October 1, 2010 through March 31, 2011. A computerized statistical sample of 88 cases (80 cases plus 8 oversample cases) was drawn from North Dakota 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 77 cases from the original sample plus 3 oversample cases. Three (3) 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 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. A sample case was assigned an error rating when the child was not eligible during the PUR for which title IV-E maintenance was paid. In addition, one underpayment was identified for a sample case when an allowable title IV-E maintenance payment was claimed at an inaccurate coding for the level of care by the State for an eligible child during the 2-year filing period specified in 45 CFR §95.7. CB and the State agreed that the State would have two weeks following the onsite review to submit additional documentation for a case that during the onsite review was identified as in undetermined status. Based on a review of the supplemental documentation, the improper payment findings for sample case 43 was changed to a non-error case.

**Compliance Finding**

The review team determined that 79 of the 80 cases reviewed met eligibility requirements (i.e., were deemed non-error cases) for the PUR. One (1) case was determined to be in error for all of the PUR and was ineligible for Federal funding for the entire placement episode. Accordingly, Federal funds claimed for title IV-E foster care maintenance payments, including related administrative costs associated with the error case, are being disallowed. In addition, one (1) non-error case was identified to have a period of eligibility for which the State claimed at an inaccurate coding of the level of care resulting in an underpayment. Because the number of cases in error is fewer than four (4), North Dakota Children and Family Services is found to be in substantial compliance for the PUR.

**Case Summary**

The following charts record the error case; underpayment; reasons for the improper payments; improper payment amounts; and Federal provisions for which the State did not meet the compliance mandates.

**Error Case**

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
#37	At the time of removal the mother’s income exceeded the	\$116,439 Maint.

	State's AFDC need standard making the child ineligible for title IV-E for the entire foster care placement episode. Ineligible: Entire FC episode; [45 CFR §472(a) of the Act] Reported Disallowance Period: 05/08/2006-02/25/2011	\$37,591 Admin.
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Total: \$154,030

**Non-error Cases with Ineligible Payments**

There were no additional cases with ineligible payment in the sample cases reviewed.

**Underpayment Case**

<b>Sample Number</b>	<b>Improper Payment Reason &amp; Ineligibility Period</b>	<b>Improper Payments (FFP)</b>
#59	State claimed at an inaccurate coding of the level of care for one child during a single month resulting in an underpayment. Eligible: 06/01/10-06/30/10	\$35 Maint.

Total: \$35

**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.

Clearly defined eligibility determination procedures and forms: The State has engaged county eligibility workers in the monitoring and refinement of forms and process for title IV-E eligibility determination. This has increased their knowledge of title IV-E requirements and resulted in forms which clearly define the eligibility process in a County-administered and State-supervised setting. Use of these detailed forms has led to thorough and detailed information regarding the specified relative from whom children are removed.

Given the nature of the one case determined to be in error, the State is reminded that the AFDC eligibility requirement must be met prior to claiming title IV-B funds. It may want to consider putting a quality assurance process into place as an oversight mechanism to ensure better compliance with Federal requirements.

Detailed and complete Tribal court orders: Collaboration with Tribal programs and technical support provided by the State has resulted in Tribal court orders which are individualized and detailed, clearly identifying reasonable efforts and best interests of the child to meet title IV-E eligibility requirements. The State and Tribal programs meet quarterly and the State has contracted for technical support to enhance Tribal application for eligibility and claiming.

Pre-printed court orders are individualized and provide clear documentation: In some areas of the State, pre-printed court orders are in use and include detailed documentation of case-specific information for children in foster care. In other areas, improvement is needed, including more

individualized findings for children to provide additional detailed documentation for permanency goals and agency efforts regarding those goals. However, clearly efforts have been made to individualize court orders which are pre-printed.

Licensing procedures for foster homes and facilities are thorough and well documented: Review of foster care licensing files for cases reviewed revealed very thorough documentation of the licensing process and individual steps of the background check process. In addition, review of the facility licensing files reflected timely and complete licensing procedures with attention to program, safety requirements, and documentation of the involvement of both State and regional staff in the process.

### **Disallowances**

A disallowance in the amount of \$116,439 in maintenance payments and \$37,591 in related administrative costs of Federal Financial Participation (FFP) is assessed for title IV-E foster care payments claimed for the error case. The total disallowance as a result of this review is \$154,030 in FFP. No future claims should be submitted on this case until it is determined that all eligibility requirements are met.

### **Next Steps**

North Dakota must identify and repay any ineligible payments for the entire placement episode for the identified error case.