

**State of New Hampshire  
Division for Children, Youth and Families  
Title IV-E Foster Care Eligibility  
Primary Review  
Report of Findings for  
October 1, 2012 – March 31, 2013**

**Introduction**

During the week of July 15, 2013, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the New Hampshire title IV-E foster care program. The review was conducted in Concord, New Hampshire in collaboration with the New Hampshire Division for Children, Youth and Families (DCYF) and was completed by a review team comprised of representatives from DCYF, CB Central and Regional Offices, and the ACF Regional Grants Management Office.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether New Hampshire's title IV-E foster care program was in compliance with the eligibility requirements as outlined in Federal mandates at 45 CFR 1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of New Hampshire'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 New Hampshire's foster care cases that received a title IV-E maintenance payment during the six-month period under review (PUR) of October 1, 2012 through March 31, 2013. 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 consisting of seventy one (71) cases from the original sample plus nine (9) cases from the oversample. The oversample cases were selected for review to replace cases for which no title IV-E maintenance payment was made for an activity during the PUR.

The nine (9) cases from the original sample that were replaced with oversample cases had previously received title IV-E foster care maintenance payments for the PUR, but the State later made negative adjustments to its title IV-E claims and instead used Temporary Assistance for Needy Families (TANF) funding to cover the cost of the foster care maintenance payments for the nine (9) cases. However, the State did not make the necessary adjustment to AFCARS Element #59 to indicate that title IV-E was not paid for the nine (9) cases 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 of 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. Foster care provider information was examined to ensure the foster family home or childcare institution in which the child was placed during the PUR was licensed and safety considerations were met. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify any underpayments that were eligible for title IV-E claiming. A sample case is determined to be in error when a title IV-E payment for a maintenance claim was made for an activity during the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility during the foster care episode. A sample case is cited as non-error with ineligible payment when a title IV-E payment for a maintenance claim was made for an activity solely outside the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility. A case also may be cited as non-error with ineligible payment when the title IV-E eligibility criteria was fully met, but an unallowable title IV-E maintenance payment (e.g. for a duplicate payment; for an overpayment; or for any other unallowable program cost) is paid for an activity during or outside of the PUR. In addition, underpayments are identified for a sample case when an allowable title IV-E maintenance payment is 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 has expired.

## **Compliance Finding**

The review team determined that 79 of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. One (1) case was determined to be in error for the PUR and the period of ineligibility extended to the entire foster care episode. Based on these review findings, CB has determined that the New Hampshire DCYF title IV-E foster care program is in substantial compliance with Federal eligibility requirements for the PUR.

We did not identify any non-error cases with improper payments. A non-error case would be one in which ineligible title IV-E payments were made for a period outside the PUR. We also did not identify any underpayments. In the payment history, we did identify a number of payments that were eligible for title IV-E reimbursement, but not claimed by the State for title IV-E reimbursement. However, as described earlier in the report, the State opted to use TANF funds for these foster care maintenance payments. When a State intentionally decides not to claim title IV-E reimbursement for the purpose of using an alternate funding source, we do not consider these to be underpayments.

The next review of New Hampshire's title IV-E eligibility program will be a primary review and will be conducted within three years of the date of this primary review.

### **Case Record Summary**

The following chart records the error case; reason 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 Maintenance Payment FFP	Improper Administrative Payment FFP	Total
11	Child's AFDC eligibility not established for specified relative's home from which there was a valid removal and where child had lived within 6 months prior to the initiation of court proceeding leading to removal. [§472(a)(1)(B) and §472(a)(3)(A)(ii)(II) of the Act; 45 CFR 1356.21(1)(2)]	01/06/2012-03/31/2013	\$540	\$0	\$540

### **Program Strengths & Promising Practices**

New Hampshire continues to operate an effective and highly accurate title IV-E foster care maintenance payments program. DCYF title IV-E eligibility staff possess a high level of knowledge of and extensive experience with title IV-E eligibility requirements. This highly skilled team provides DCYF with a solid foundation in the operation of an accurate title IV-E eligibility program. DCYF staff maintain files that show clear evidence of the documentation used to establish financial need and deprivation of parental support according to the State's guidelines for Aid to families with Dependent Children (AFDC), as required for title IV-E eligibility determinations of children removed from home and placed into foster care. All foster home and child care institution licensing records were available for review and contained the required foster care provider license information for the PUR. License renewals appear to be occurring on time which helps to ensure a child's continued title IV-E eligibility. Criminal record checks were consistently completed on foster family homes and child care staff employed in child care institutions for all of the cases reviewed.

We believe, however, that the process of clearing the criminal background check results for the staff of child care institutions needs to be strengthened. We noted during our review of licensing files for child care institutions that, when a prospective employee was found to have a prior criminal conviction, the licensing file would contain a notation that the applicant was cleared to work. However, no detail was provided in these notes about the process involved to review the criminal conviction and subsequently clear the applicant for employment. During the

week of our review, DCYF licensing staff were able to provide additional documentation indicating that these convictions did not disqualify the individuals. However, we recommend that the licensing file provide more explicit documentation concerning the reason for clearing an applicant for employment when a criminal background check indicates a prior conviction.

Each of the cases reviewed contained the required judicial determinations explicitly documented and within the required timeframes. Cases were reviewed for the judicial findings that continuation in the home would be contrary to the child's welfare; reasonable efforts were made to prevent removal; and reasonable efforts were made to finalize the permanency plan. Court orders contained case specific findings and described the reasons for the judicial determination. We also noted that adjudicatory hearings regarding the child maltreatment allegations are conducted for most cases within 60 days of the child's removal.

### **Area in Need of Improvement**

Issue: One (1) case was found to be in error because ineligible payments were made for a child whose AFDC eligibility was not established for the specified relative's home from which a valid removal occurred and where the child had lived within the 6 month period prior to the initiation of the court proceeding leading to the child's removal.

For the error case, the State determined AFDC eligibility for the home of the child's uncle with whom the child was residing immediately prior to entering foster care. However, the specified relatives who were the subject of the judicial finding of "contrary to the welfare" were the child's parents. AFDC eligibility therefore needed to be determined for the home of the child's parents. DCYF was not able to establish AFDC eligibility for the home of the parents and the case record did not contain information about when the child last lived in the parents' home. As a result, the child remains ineligible for title IV-E payments for the entire placement episode.

Title IV-E Requirement: Consistent with Federal provisions at 45 CFR 1356.21(1)(2) and §472(a)(1)(b) and §472(a)(3)(A)(ii)(II) of the Act, in order for a child to be eligible for title IV-E, a child must be determined to be eligible for AFDC in the home from which there is a valid removal of the child in accordance with a judicial determination that it is contrary to the welfare of the child to remain in the home. Under title IV-E, the home from which the child is removed is the home of the parent or other specified relative who is the subject of the "contrary to welfare" finding. AFDC eligibility must be based on that home for the month in which court proceedings were initiated that lead to the child's removal. The child must also have lived with the same parent or other specified relative within the 6 month period prior to the initiation of court proceedings.

Recommended Corrective Action: DCYF should review this title IV-E requirement with eligibility staff and provide training as necessary.

### **Disallowance**

A disallowance in the amount of \$540 in maintenance payments is assessed for title IV-E foster care payments claimed for the error case. The State must also identify and repay any ineligible payments that occurred for the error case subsequent to the payments provided in the payment history for this review. No future claims should be submitted on this case until it is

determined that all eligibility requirements are met. No disallowance is assessed for associated administrative payments when the improper maintenance payment is for a period covering 15 days or fewer in the month. None of the disallowed maintenance payments for the error case covered a period of more than 15 days in the month.

### **Next Steps**

As part of the State's ongoing efforts to improve its title IV-E foster care eligibility determination process, CB recommends that DCYF examine the identified area needing improvement and address the problem identified as preventing the State from operating a fully accurate foster care eligibility program. Appropriate corrective action should be taken in instances of noncompliance with Federal laws and regulations and to address general case management and documentation issues. The CB Regional Office is available to work with the State to identify and provide available technical assistance.