

Final Report
State of New Hampshire
Title IV-E Foster Care Eligibility
Primary Review

Report of Findings for
April 1, 2015 – September 30, 2015

Introduction

The Children's Bureau of the Administration for Children and Families (ACF) conducted a primary review of New Hampshire's title IV-E foster care program. The title IV-E foster care review (IV-E review) was conducted during the week of April 25, 2016, in collaboration with New Hampshire's Division for Children, Youth and Families (DCYF) and was completed by a review team comprised of representatives from New Hampshire DCYF, Children's Bureau Central and Regional Offices and ACF Regional Grants Management Office.

Key purposes of the IV-E review are (1) to determine whether New Hampshire's title IV-E foster care program is 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 New Hampshire's financial claims to ensure appropriate payments are made on behalf of eligible children.

Scope of the Review

The IV-E review encompasses a sample of the state's foster care cases in which a title IV-E maintenance payment is claimed for an activity that occurs in the six-month period under review (PUR) of April 1, 2015 – September 30, 2015. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from data New Hampshire submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 78 cases from the original sample plus two (2) oversample cases. The two (2) cases in the original sample were replaced because no title IV-E payment was made for a period of activity during the PUR.

In accordance with federal provisions at 45 CFR 1356.71, the state is reviewed against 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) and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A)(i) 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 1356.71(d)(1)(iv); and
- Safety requirements for the child's foster care placement as required at §471(a)(20)(A) of the Act and 45 CFR 1356.30.

The case record of each child in the selected sample is reviewed to verify title IV-E eligibility. The foster care provider’s record also is examined to ensure the foster family home or child care institution where the child resided during the PUR is fully licensed and meets safety requirements. Payments made on behalf of each child also are reviewed to verify expenditures are properly claimed under title IV-E and to identify underpayments eligible for claiming.

A sample case is assigned an error rating when the child is not eligible on the date of activity in the PUR for which title IV-E maintenance is claimed. A sample case is cited as non-error with ineligible payment when the child is not eligible on the activity date outside the PUR or the child is eligible in the PUR on the date of an unallowable activity and title IV-E maintenance is claimed for the unallowable activity in either situation. In addition, underpayments are identified for a sample case when the state unintentionally has not claimed an allowable title IV-E maintenance payment for an eligible child within the 2 year filing period specified in 45 CFR 95.7 and the filing period has not expired.

Compliance Finding

The review team has determined 79 of the 80 sample cases met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. One (1) case was determined to be in error for not meeting eligibility requirements for a period during the PUR.

The Children’s Bureau has determined the New Hampshire title IV-E foster care program is in substantial compliance for the PUR. Substantial compliance in a primary IV-E review means that four or fewer cases were identified as not meeting eligibility requirements for the PUR. Since the state is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

Case Summary

The following chart records the improper payment case comprised of one (1) error case with the reason for the improper payment; improper payment amount; and federal provisions for which the state does not meet compliance mandates. Calculation of the improper payment is based on the federal financial participation (FFP) rates of maintenance payments at the state’s Federal Medical Assistance Percentages (FMAP) for applicable year for the sample case.

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2015 – September 30, 2015	Improper Payments (FFP)
37	Foster care maintenance payment made for period the agency did not have placement and care responsibility; child reunified with parents. [§472(a)(2)(B) of the Act; 45 CFR 1356.71(d)(1)(iii)] Ineligible period 7/11/2015 – 9/30/2015	\$380 Maint. \$2,216 Admin.

Maint. FFP: **\$380**
Admn. FFP: **\$2,216**
Total FFP: \$2,596

Areas Needing Improvement

Findings of this review indicate the state needs to further develop and implement procedures to improve program performance in the following area. For the program 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: Responsibility for placement and care vested with state agency.

During the onsite review, cases were examined to ensure that the title IV-E agency maintained responsibility for the placement and care of the child for the PUR. Placement and care responsibility may be granted in the removal court order or in a subsequent court ruling for a judicial removal. The review found one (1) error case for which title IV-E funds were claimed for the period in the PUR New Hampshire no longer maintained responsibility for the placement and care of the child. According to the child's case file, including the placement history, court order and case narrative, the child was returned home on July 10, 2015 and the agency's placement and care ended August 17, 2015.

Title IV-E Requirement: Section 472(a)(2) of the Act requires that the responsibility for placement and care of a child be vested with the state agency administering the title IV-E plan approved under section 471 of the Act, or any other public agency with which the state agency has a written agreement in effect. The state agency must present documentation during a title IV-E foster care eligibility review that it has responsibility for placement and care of the child for the entire period for which title IV-E maintenance payments are claimed during the foster care episode. The court order or voluntary placement agreement must indicate that the agency has this responsibility.

Recommended Corrective Action: The state should determine why claims for title IV-E maintenance payments continued beyond the eligibility period and develop a corrective action plan to prevent improper payments from occurring.

Additional Concern: Although no payment issues were found pertaining to these cases, New Hampshire's court orders for the juvenile justice cases lack language that specifically documented placement and care being vested with DCYF. A decision on whether the requirement was met in the cases was based on other language and findings in the court orders that, in the context of the whole order, evidenced assignment of placement and care authority to the agency. Secondly, the review highlighted concerns surrounding some judges using only initials to certify court orders and some of these were illegible. New Hampshire policy considers a bona fide court order as an order that a judge signs and dates. The illegible initials made it difficult to discern whether a valid court order was presented to document a judicial finding.

Recommended Corrective Action: The judicial requirements, including placement and care authority, must be explicitly documented in a court order or court transcript. A mere reference to state statute is not sufficient. The DCYF should continue the excellent work that has been done through the Court Improvement Program that has strengthened the quality of court orders for child protective cases so that the agency can achieve the same level of specificity and quality in the orders for juvenile justice cases.

Program Strengths and Promising Practices

The following positive practices and processes of the state's title IV-E program were observed during the review. These approaches seem to have led to improved program performance and successful program operations.

Judicial Determinations:

The DCYF and the court have collaborated to strengthen the efficiency of actions through training and support of judges, attorneys, and other court staff, particularly in terms of the required judicial determinations. Judicial determinations were child-specific and those pertaining to the child's removal clearly outlined the circumstances under which the child was removed from the home. The judicial determinations were timely and included rulings that facilitated timely permanency plans. The DCYF has strengthened judicial determinations through strong collaboration among the Court Appointed Special Advocates (CASA) program, parents' attorneys, agency attorneys and the work of the Court Improvement Program.

Safety Requirements:

New Hampshire's criminal background checks system is effective. The completion of FBI fingerprint-based checks, state and local criminal record checks, and child abuse and neglect registry checks to ensure compliance with section 471(a)(20) of the Act are clearly documented in the licensing file. The DCYF has designated staff that work with both state and local police to ensure criminal background checks are completed and processed timely.

Eligibility Determinations:

New Hampshire continues to operate an effective and highly accurate title IV-E foster care maintenance payments program. The DCYF has a separate module in the agency's automated eligibility system that is programmed to include all of the state's Aid to Families with Dependent Children (AFDC) state plan requirements that were in effect on 7/16/1996. All fiscal specialists are also trained to do a manual AFDC budget based on the AFDC requirements. The DCYF includes specific trainings for both new and veteran staff. Training needs are identified through the quality assurance work being completed in the unit. In addition, DCYF supervisors review all cases using the Children's Bureau instrument for the IV-E review. This helps the agency address ongoing training issues based on the outcomes of these supervisory reviews. The DCYF has developed flow charts, desk reference tools, and mini tests that assist staff with eligibility determinations based on both the internal quality assurance and the supervisory review processes.

The staff has a clear understanding of title IV-E foster care eligibility requirements related to the AFDC requirements of financial need, deprivation, and living with and removal from a specified relative. As evidenced by the cases reviewed, eligibility staff are verifying and clearly documenting the persons in the home at the time of removal and the month for which the AFDC determination is completed. The path to eligibility was clearly documented in each case reviewed.

New Hampshire's automated system "BRIDGES" reminds staff when a license is coming due, when permanency reviews are due and has the ability to turn on and off payments based on eligibility status.

Quality Assurance:

The state has developed a quality assurance (QA) process to track and monitor program performance and to strengthen the proficiency of eligibility specialists responsible for eligibility determinations. The QA process is in place to support training and identify areas needed for additional training and focus areas. The QA process has been a main driver to allow supervisors and managers the ability to identify key training areas and offer customized training for eligibility staff. The DCYF commitment to a continuous quality improvement process was evident throughout this review.

Disallowances

A disallowance in the amount of \$380 in maintenance payments and \$2,216 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for the error case. The total disallowance as a result of this IV-E review is \$2,596 in FFP.

Next Steps

As part of New Hampshire's ongoing effort to improve its title IV-E foster care eligibility determination process, the Children's Bureau recommends New Hampshire continue to examine the identified areas needing improvement and develop measurable, sustainable strategies that target root causes of issues. The Children's Bureau Region 1 office staff is available to assist the state in identifying corrective action and obtaining support available through our national network of training and technical assistance centers to help the state address issues and concerns raised during this IV-E review.