Final Report
State of New Jersey Title IV-E Foster Care
Primary Eligibility Review
April 1, 2005 – September 30, 2005

Introduction

During the week of May 8-12, 2006, Administration for Children and Families' (ACF) staff from the Central and Regional Offices, contracted consultant reviewers and State of New Jersey staff conducted a primary eligibility review of New Jersey's title IV-E foster care program in Trenton, New Jersey. The purpose of the title IV-E foster care eligibility review (FCER) was (1) to determine if the State of New Jersey was in compliance with the child and provider eligibility requirements as outlined in 45 CFR §1356.71 and Section 472 of 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 and to eligible homes and institutions.

This FCER constitutes a second round of such reviews in New Jersey. An initial primary FCER was conducted during the week of September 18, 2000 and, after completion of the State's developed title IV-E Program Improvement Plan (PIP), a secondary FCER was conducted during the week of June 2, 2003. New Jersey was determined not to be in substantial compliance with title IV-E eligibility requirements in both of these prior reviews.

Scope and Results of the Second Round Primary Review

The State of New Jersey's primary title IV-E foster care eligibility review encompassed a sample of all of the title IV-E foster care cases that received a foster care maintenance payment during the period of April 1, 2005 to September 30, 2005. This period is referred to as the period under review (PUR). A computerized statistical sample of 163 cases (80 cases plus 83 over sample cases) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which was transmitted by the State agency to the ACF for the period under review. Of the 83 over sample cases, 18 cases were selected for review to replace cases in which there had been no title IV-E payment 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 provider's file was also reviewed to ensure that the foster home or child care institution in which the child was placed was licensed or approved for the period of the review. In addition, ACF and the State agreed that, subsequent to the on-site review, the State would have two weeks in which to submit any additional child and provider documentation for any case that was found to be in error, in undetermined status or to have an ineligible payment. As a result of such submissions, a number of case and payment determinations were modified.

For primary reviews conducted after the initial round of primary reviews, substantial compliance means that no more than four cases are determined to be in error for the PUR. In an initial primary review, substantial compliance is achieved when no more than eight cases are determined to be in error for the PUR. A primary review disallowance (initial and subsequent rounds) is based on the actual amount of claims (maintenance payments and, where appropriate, associated administrative costs) found to be in error for individually reviewed sample cases during the PUR. Further, a disallowance is also assessed on the basis of all sample case payments made during the entire period of the foster care episode associated with ineligibility for title IV-E foster care and any payments that are determined as unallowable or as paid in an amount in excess of the State's standards. Efforts have also been made to identify any underpayments that may exist in the reviewed sample cases.

The second round primary FCER conducted in New Jersey during the week of May 8-12, 2006 consisted of a review of 80 cases as required for all states undergoing a primary review. One of the findings from this review is that a total of six (6) cases are in error for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report. Since the number of error cases exceeds four, the ACF has determined New Jersey not to be in substantial compliance with title IV-E child and provider eligibility requirements as outlined in 45 CFSR 1356.71 and Section 472 of the Social Security Act. We note, however, that this result represents a major improvement from the case findings obtained in the two previous FCERs conducted New Jersey in September 2000 and June 2003.

Pursuant to 45 CFR §1356.71(i), the State is required to develop a Program Improvement Plan (PIP) designed to correct those areas (case specific and systemic) determined not to be in substantial compliance. The PIP will be developed by the State, in consultation with ACF Regional Office staff, and must be submitted to the ACF Regional Office by September 11, 2006. Once the State agency has satisfactorily completed the PIP, a secondary review of a sample of 150 title IV-E foster care cases will be conducted.

In addition to the 6 cases with errors, 12 cases were found to contain payments that were claimed improperly. Ineligible payments were identified in 9 of the 12 cases where an eligibility factor was not met for a period other than the PUR. The other 3 cases contained at least one payment that is not title IV-E allowable because of the nature of the payment rather than the eligibility of the child and placement facility. The FCER did not identify any overpayments or underpayments. The specific improper payment determinations are delineated in the Improper Payments Summary section of this report.

Although none of the improper payment cases are considered "error cases" for determining substantial compliance, the ineligible maintenance payments and (where applicable) the associated administrative costs as well as such amounts associated with error cases are subject to disallowance. A title IV-E foster care claims disallowance in the amount of $62,665 Federal financial participation (FFP) in maintenance payments and $67,892 FFP in administrative costs is assessed for all of the unallowable claims found as a result of the FCER.

Case Record Summary

Cases Containing an Error

The following chart details for the 6 error cases the reason(s) for the ineligibility, appropriate citations, and the dates of ineligibility for the period under review (PUR) and for periods prior to or subsequent to the PUR. Information on the disallowed payment and administrative cost claims for each case is provided as part of the disallowance letter accompanying this report.

Case Count	Sample No.	Title IV-E Eligibility Criterion	Statutory Citation	Ineligibility Dates
1	20	Aid to Families with Dependent Children (AFDC) Initial	472(a)(1) and (4)	12/23/04 – Present
2	24	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	04/21/05 – Present
3	25	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	05/01/05 – 05/31/05
4	53	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	05/19/05 – Present
5	OS-15	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	08/19/04 – 09/30/05
6	OS-204	Contrary to Welfare	472(a)(1)	08/09/04 –Present
		Reasonable Efforts to Prevent Removals	472(a)(1),and 471(a)(15)(B)(i)	08/09/04 –Present
		Placement and Care Responsibility Vested with the State Agency	472(a)(2)	08/09/04 –Present
		Aid to Families with Dependent Children (AFDC) - Initial Eligibility; Re-Determination; and Removal	472(a)(1) and (4)	08/09/04 –Present
		Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	08/09/04 –Present

		Safety Requirements of Provider Reasonable Efforts to Make and Finalize a Permanency Plan	471(a)(20) and 475(1) 472(a)(1),and 471(a)(15)(B)(ii) and (C)	08/09/04 –Present 11/01/05- Present

Cases Containing Improper Payments

The following chart details for the 12 cases with improper payments the reason for the ineligible or unallowable payment, appropriate citations, and the dates of ineligibility for the period under review and for periods prior to or subsequent to the period under review. Information on the disallowed payment and administrative cost claims for each case is provided as part of the disallowance letter accompanying this report.

Case Count	Sample No.	Title IV-E Eligibility Criterion	Statutory Citation	Ineligibility Dates for Payment Error
1	1	Items Outside of the Definition of Foster Care Maintenance Assistance Payments	475(4)(A)	06/04/04 – 06/04/04
2	2	Items Outside of the Definition of Foster Care Maintenance Assistance Payments	475(4)(A)	05/18/05 - 05/18/05
3	7	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1),and 471(a)(15)(B)(ii) and (C)	09/01/03 – 11/30/03
4	17	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1),and 471(a)(15)(B)(ii) and (C)	03/01/03 – 06/30/04
5	22	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1),and 471(a)(15)(B)(ii) and (C)	03/01/03 – 08/31/03
6	28	Items Outside of the Definition of Foster Care Maintenance Assistance Payments	475(4)(A)	07/01/04 - 09/30/04
7	49	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1),and 471(a)(15)(B)(ii) and (C)	03/01/05 – 03/31/05

8	55	Safety Requirements of Provider	471(a)(20) and 475(1)	12/04/01 – 03/31/04
9	61	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1),and 471(a)(15)(B)(ii) and (C)	10/01/01 – 05/31/02
10	70	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1),and 471(a)(15)(B)(ii) and (C)	04/01/01 – 09/30/03
11	OS-10	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1),and 471(a)(15)(B)(ii) and (C)	10/01/02 – 01/31/04
12	OS-13	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1),and 471(a)(15)(B)(ii) and (C)	01/01/03 – 09/30/03

Case Specific Areas in Need of Improvement

The areas needing improvements in New Jersey's title IV-E program identified through specific case findings are provided in the following sections. Under each heading the statutory and regulatory basis and the specific results from the review are provided.

I. <u>Removal Pursuant to a Court Order</u> - Removal of the child from the home must be pursuant to a judicial determination or a voluntary placement agreement. The contrary to the welfare determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. The judicial determination that reasonable efforts to prevent removal were made (or were not required) must be made no later than 60 days from the date of the child's removal from home. Judicial determinations must be made in a timely manner in a valid court order. [Statutory Citation: 472(a) (1), 471(a) (15) (B) (I); Regulatory Citation: §1356.21]

<u>For a child who enters care prior to March 27, 2000</u>: If the removal order does not contain the judicial determination regarding "contrary to the welfare", the requisite finding may result from court proceedings (the petition filed) that are initiated no later than 6 months from the date the child is removed from home, consistent with Departmental Appeals Board Decision Number 1508 (DAB 1508). The Departmental Appeals Board, through DAB 1508, ruled that a petition to the court stating the reason for the State agency's request for the child's removal from home, followed by a court order granting custody to the State agency, is sufficient to meet the contrary to the welfare requirement. The judicial determination that reasonable efforts were made to prevent removal or that reasonable efforts were made to reunify the child and family satisfies the reasonable efforts requirement.

Contrary to Welfare/Best Interest of the Child, Reasonable Efforts to Prevent Removal/Reasonable Efforts to Reunify Child and Family

One (1) case was found ineligible for Federal Financial Participation (FFP) because the case record did not contain the removal petition or court order and a determination could not be made regarding contrary to welfare, reasonable efforts to prevent removal or reunify child and family

II. <u>Reasonable Efforts to Finalize the Permanency Plan</u> [Statutory Citation: 472(a)(1), 471(a)(15)(B)(ii) and (C) Regulatory Citation: 1356.21(b)(2)] - In order for a child to be eligible for title IV-E payments, there must be a judicial determination that reasonable efforts were made to finalize the child's permanency plan that is in effect. The permanency plan goal may be: reunification, adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement. The judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date on which the child is considered to have entered foster care and at least once every 12 months thereafter, while the child is in foster care.

If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within this timeframe, the child is ineligible at the end of the 12th month from the date the child was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due. The child remains ineligible until such a judicial determination is made. This requirement may also be satisfied by a judicial determination that reasonable efforts were made to reunify the child and family.

Subsequent judicial determinations of “reasonable efforts to finalize” must occur at regular 12-month intervals and no later than 12 months from the month in which the prior determination actually is obtained. If the judicial determination of “reasonable efforts to finalize” is not made or is not timely, the child becomes ineligible from the time the finding is due and remains ineligible until such a judicial determination is made.

Reasonable Efforts to Finalize the Permanency Plan

One (1) case was found ineligible for Federal Financial Participation (FFP) because the case record did not contain the required judicial determination within the PUR. This is the same individual case as cited above as failing to meet the removal pursuant to a court order requirement.

Eight (8) additional cases were determined to contain payments ineligible for FFP for period prior to the PUR because either: 1) the case record did not contain the court order and a determination could not be made regarding reasonable efforts to finalize the permanency plan; or 2) the judicial determination was not made in a timely manner.

Based on the cases reviewed, one of the positive findings was that permanency hearings were being conducted by the New Jersey Family Courts. This positive finding is covered in more detail in the Areas of Systemic Strengths section below. However, it was also

determined that, for periods prior to the PUR, there were a number of lapses or delays in the required twelve month judicial determinations regarding the efforts of the State to achieve permanency for the child. It was also noted that several cases (both for periods within the PUR and prior to the PUR) barely met the requirement in that the judicial determination was issued before the expiration of the thirteenth calendar month after the prior determination.

ACF recommends that State agency staff and the New Jersey Administrative Office of the Courts continue working to build on the improvements in judicial determinations. The State should consider scheduling permanency hearings prior to expiration of the twelve month period as a way of assuring that gaps impacting title IV-E will not occur.

III. <u>AFDC Eligibility</u> - Using its criteria in effect in its July 16, 1996 title IV-A State plan (or, if removal was prior to the effective date of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWORA] the title IV-A State Plan in effect at the time), the State must document that the child was removed from a specified relative, and that the child was financially needy and deprived of parental support in the month the voluntary placement agreement was signed or the month in which the petition that resulted in a court-ordered removal was signed. Deprivation must be by reason of death, absence, physical or mental incapacity of one parent, or the unemployment of the principal wage earner. In addition, the "living with" and "removal from" requirements have to be satisfied by the same specified relative. [Statutory Citation: 472(a) (1) and (4); Regulatory Citation: 1356.71(d) (1) (v)]

Eligibility for AFDC at Removal

Two (2) cases were determined ineligible for FFP because the necessary documentation was not provided to determine whether the child was eligible for AFDC at the time of placement. See the Systemic Factors In Need of Improvement section below for more information on the AFDC eligibility documentation concerns.

Re-Determination of AFDC Eligibility

For a child in foster care longer than 1 year, the State must document annually that the child continues to be financially needy and deprived of parental support or care, using the State's criteria in effect in its July 16, 1996, or earlier, title IV-A State plan. The basis for the determination of financial need is the child in foster care as his/her own assistance unit. The basis for the deprivation of parental support is the home from which the child was removed.

One (1) case was determined ineligible for FFP because for the period under review the case record did not contain the necessary documentation that the child continued to be financially needy and deprived of parental support or care.

IV. <u>State Agency Responsibility for Placement and Care</u> - Title IV-E payments can only be made for a child's placement and care that is under the responsibility of the State

agency administering the title IV-E State Plan (or another public agency, including an Indian tribe, with which the title IV-E agency has a written agreement that is in effect). The court order or voluntary placement agreement must indicate that the agency has this responsibility. The State agency must maintain responsibility for placement and care regardless of the placement type. In addition, the court order giving the State agency placement and care responsibility must be maintained and available for review. [Statutory Citation: 472(a) (2); Regulatory Citation: 1356.71(d) (1) (iii)]

One (1) case was determined ineligible for FFP because the review results indicated that the court order could not be located for review, thus it could not be determined if the child was under the responsibility of the State agency or if the State maintained responsibility for placement and care of the child during the review period.

V. <u>Placement in Licensed Home or Facility</u> [Statutory Citation: 1356.71(d) (1) (IV), Regulatory Citation: 1355.20]

In order to receive Federal financial reimbursement for foster care payments made on behalf of a child, the child must be placed in a facility that is licensed and meets all of the State agency standards of full licensure or approval. The documentation of full licensure can be satisfied by the certificate of licensure/approval or a letter of approval. Effective September 28, 2000, full licensure must be met by all providers, including those licensed or approved by a child placing agency. The license must show that the foster family home or child care institution is licensed for the duration of the child's placement.

An eligible facility may be a family foster home, group home, private child care institution, or public child care institution which accommodates 25 or fewer children. Children placed in detention facilities, forestry camps, training schools, or other facilities operated primarily for the detention of children determined to be delinquent are not eligible for title IV-E foster care maintenance payments. For each case being reviewed, the State agency must make available a licensing file which contains the licensing history, including a copy of the certificate of licensure/approval or letter of approval, for each of the child's foster care providers.

Four (4) cases were found ineligible for FFP because either the: 1) facility or foster family home was not licensed; 2) the licensing information was not provided; 3) the license expired and was not renewed; or 4) the child had been placed in an out-of-state foster family home and the home was not licensed by either New Jersey or the receiving State.

Although licensing files were provided for all of the reviewed cases, we noted some difficulty in readily locating licenses and criminal history record information particularly in situations in which a child experienced placement in more than one facility. Several additional cases were initially found to be missing this information. The State agency was, however, able to provide the information subsequent to the on-site work.

VI. <u>Safety Requirements of Provider</u> [Statutory Citation: 471(a)(20), 475(1); Regulatory Citation: 1356.30]

Unless the State opts out of the criminal records check provision (New Jersey has not opted-out), the State must provide documentation that criminal record checks have been conducted with respect to prospective foster and adoptive parents. Acceptable documentation to satisfy this eligibility requirement is evidence that a criminal records check was completed satisfactorily (such as copies of the results of the criminal records check). The licensing file must document the results of the record check. For child care institutions, the licensing file must contain documentation verifying that safety considerations with respect to the staff of the institution have been addressed.

In one (1) case, it was determined that the documentation regarding the safety considerations for staff of a child care institution was not provided.

In one (1) additional case, it was determined that the criminal history record information was unavailable for a foster parent for a period prior to the PUR. The State could not explain why the child was placed in that home for several years prior to the date on which fingerprint information for the foster parents was processed.

VII. <u>Unallowable Payment</u> – Title IV-E foster care maintenance assistance payments may only cover the costs of providing certain items encompassed within the definition of this term. [Statutory Citation: 475(4); Regulatory Citation: 1356.60(a)(i)]

The State must document that foster care maintenance payments claimed for title IV-E reimbursement are for items or services encompassed within the statutory definition of this term, are in amounts conforming with the State established rates of payment for the type and level of care provided and reflect non-duplicative amounts of the costs of daily maintenance.

In three (3) cases, it was determined that unallowable payments were claimed for title IV-E reimbursement. These amounts are included as part of the disallowed claims, but do not involve either the designation of a case as being in error or the disallowance of associated administrative costs. All of the unallowable payments consist of claims for transportation costs. The State documentation indicated that in two cases the transportation was provided to permit the child's mother or another individual to receive services and in one case for the child to receive mentoring services. None of these activities meet the statutory definition of title IV-E allowable transportation costs. State agency officials indicated that these costs were inadvertently coded for title IV-E claiming. ACF recommends that the State assure a common understanding of the types of transportation cost that are and are not eligible for title IV-E reimbursement.

Systemic Areas In Need of Improvement

The following items cover systemic issues identified through the FCER where there is a need for improvement. While these matters do not directly relate to any of the cases

found to be in error, they must, unless otherwise noted, be addressed as part of the State's PIP since these items have a significant potential impact on title IV-E eligibility determinations..

Caseload Data Management System

The FCER case sample is drawn from a universe of children in care during the PUR on whose behalf at least one foster care payment has been claimed for title IV-E reimbursement. This information is obtained from an automated file prepared by the State and submitted to the national Adoption and Foster Care Reporting and Analysis System (AFCARS). The AFCARS information initially provided by New Jersey raised concerns in that the number of children classified as in receipt of a title IV-E foster care payment (AFCARS element #59) was somewhat less than the average number of children reported as in title IV-E foster care through the State's quarterly financial report of expenditures (form ACF-IV-E-1). ACF raised this concern and were provided with a supplemental listing of several hundred children on whose behalf title IV-E payments were issued. An initial attempt was made to draw an FCER sample from both submissions. The State reported, however, that none of the children selected for review from the supplemental submission were in receipt of an IV-E foster care payment during the PUR. Eighteen cases were also required to be dropped from the original sample due to lack of title IV-E payments. A decision was made to accept the original AFCARS submission as the sole basis for the FCER sample based upon State assurances that any omissions were not concentrated on cases containing specific characteristics or from specific section of the State. The State, however, could not explain the basis for the incomplete or inaccurate AFCARS data.

ACF understands that efforts are being made to assure that all required AFCARS information will be properly collected and maintained in the State's upcoming statewide automated child welfare information system (SACWIS) referred to as NJ SPIRIT which is now scheduled for implementation in 2007. In this context, the State should address any planned actions regarding the caseload data management system in its NJ SPIRIT advanced planning document updates (APDUs) submissions to ACF rather than as part of an FCER PIP.

Documentation of Initial Title IV-E Eligibility Determinations

Eligibility for the Aid to Families with Dependent Children (AFDC) program as in effect in New Jersey on July 16, 1996 is a requirement for title IV-E eligibility purposes. The State agency uses form 10-5fc to conduct and document an initial determination of title IV-E eligibility. Section #5 of this form contains the basis for determining that financial need is met. This determination must be made in accordance with circumstances present in the month in which efforts to secure a legal removal of the child from the home of a specified relative are initiated. That month can be either the month in which a removal petition is filed, a voluntary placement agreement is signed or a court ordered removal occurs. ACF noted that neither Section 5 nor Section 2 (addressing AFDC deprivation factors) of form 10-5fc identify the month for which the determination is being

conducted. This omission makes it difficult to determine whether the family circumstances assessed in determining AFDC eligibility are those that existed in the appropriate month. The State's eligibility determination form must, therefore, include this information.

Determination of AFDC Financial Need For Families Currently in Receipt of Public Assistance or Medicaid

In those instances where a child is found to be part of a family that is in receipt of public assistance (TANF) or Medicaid benefits in the month for which title IV-E initial eligibility must be established, the determination of financial need in accordance with the AFDC standards in effect on July 16, 1996 is verified through the presence of a systems code. ACF was informed by State agency officials that even though New Jersey's currently administered TANF and Medicaid programs do not utilize the exact income and resource eligibility standards that were in effect on July 16, 1996, the automated system used by the State agency component responsible for those programs (Division of Family Development) maintains codes that establish which families it serves continue to meet these standards. ACF's understanding is that the presence of a systems code of "A-113" in the SIS automated system is indicative of such a financial need circumstance. The State agency was not able, however, to document how such a code is generated nor what documentation maintained by the Division of Family Development (DFD) supports this determination.

For purposes of individual case determinations in this primary FCER, ACF accepted the presence of a systems code as supporting AFDC financial need unless evidence to the contrary was found in the case record. The State agency, however, must understand and maintain support for all automated systems upon which it places reliance in the title IV-E eligibility process. It is unacceptable to conclude that a code obtained through an interface with an automated system maintained by another Division documents a title IV-E eligibility criterion. This process is not acceptable to ACF for purposes of documenting title IV-E eligibility. The State should also be aware that, as part of its PIP, documentation must be obtained and presented to ACF establishing that the DFD sourced codes do, in fact, represent documented determinations that the family meets the AFDC financial need standard (including a two-step analysis of income and resources) that were in effect on July 15, 1996. If this is not fully documented, the PIP must contain appropriate action steps to address how AFDC financial need will be established for families in receipt of public assistance or Medicaid during the month of an initial title IV-E eligibility determination and how existing title IV-E cases will be reviewed to assure that title IV-E initial eligibility determinations are appropriately documented..

Determination of AFDC Financial Need For Families Not Currently Receiving Public Assistance/Medicaid

When a family is determined not to be in receipt of public assistance or Medicaid at the time of a child's placement, the State agency must conduct a financial need determination in accordance with the AFDC standards in effect in New Jersey on July 16, 1996. This is

accomplished in New Jersey through the assemblage of manual and automated sources of information on the family income. ACF understands, however, that no specific New Jersey form currently exists upon which contemporaneous information on family circumstances regarding income and resources is recorded. The State agency's centralized eligibility unit is, therefore, required to piece together information that it obtains from several sources including case record narrative, legal documents and automated systems such as the Service Information System (SIS), Social Security and State Department of Labor (LOOPS) matches. These systems were relied on to verify income and wage information used to determine financial need. It is noted, however, that the LOOPS data provides a quarterly total earnings rather than monthly information and that none of the systems provides any information on family resources or a comprehensive assessment of family income. Prime case record documents used by the State in assessing financial need include the verified complaint and the form 9-7 (referral response report) which include narrative information gathered by the social worker and investigator about the family financial circumstances. This information is helpful, but does not, even in combination with the automated systems matches, constitute a complete analysis of financial need.

The State agency title IV-E eligibility determination form (10-5fc) does not contain a section that identifies the specific parties counted as part of the financial assistance unit nor does it show the presence or absence of specific types of income or resources for these individuals. Instead, Section 5 contains a check-off box indicating that "The child met 185 percent of the New Jersey AFDC Payment Standard of Need that was in effect on July 16, 1996, and therefore, would have been eligible for assistance at the time he was placed by an informed consent agreement, or judicial determination under title 9 or Title 30." This entry is supported by the completion of a chart entitled "185 percent of the New Jersey AFDC Standard of Need that was in effect on July 16, 1996" on the following page. That chart lists a total number of individuals and a total gross monthly family income. There is no reference to how the income is calculated or to the presence or absence of family resources.

For purposes of individual case determinations in this primary FCER, case records were reviewed and errors were cited only where information was available to establish that income or resources in excess of the applicable standards exist. We note, however, that in addition to excluding information on the calculation of income and the presence of resources, the State agency has systemically failed to apply the full AFDC financial need eligibility test to its title IV-E cases. This process is not acceptable to ACF for purposes of documenting title IV-E eligibility. The State's PIP must contain appropriate action steps to address how AFDC financial need will be established for families not in receipt of public assistance or Medicaid during the month of an initial title IV-E eligibility determination and how existing title IV-E cases will be reviewed to assure that title IV-E initial eligibility determinations are appropriately documented..

Determination that gross family income does not exceed 185 percent of the need standard is only the first of two income eligibility tests that must be applied to as part of an AFDC eligibility determination. For initial eligibility determinations, the State must apply the

former AFDC program's two-step income test to establish whether a child would have been considered a "needy child" under the State's title IV-A plan in effect on July 16, 1996. In addition to the income test, the State must apply a test of resources. Both the two-step income and resources tests must be applied, in accordance with 45 CFR 233.20 and policy guidance contained in sections 8.4.A.15 and 18 of the Child Welfare Policy Manual (CWPM).

In this second step, the State compares the family's income, after applying further appropriate disregards, to 100 percent of the State's AFDC need standard, the same need standard used in step one. If the family's income is in excess of 100 percent of the State's need standard, the child would not have been eligible for AFDC and, thus, is not eligible for title IV-E. If the family's income does not exceed 100 percent of the need standard, the child would have met the AFDC income test for eligibility.

In addition to applying the two-step income test to determine if a child would have been considered a "needy child" under AFDC, the State must determine whether the child's family has resources under $10,000 in value, after appropriate disregards. Both the income and resources tests must be applied to the child and family in the removal home to determine initial eligibility for AFDC.

The State’s existing eligibility determination form does not document AFDC financial need for any case. It is only through a separate, and often convoluted, effort that any conclusion can be made with respect to this element. ACF recommends that the State's eligibility determination form be revised and expanded in order to document in a clear and concise manner the basis and supporting sources of AFDC financial need (for both income and resources) based on the criteria in effect July 16, 1996. The State should also consider creation of a form to collect detailed information on the circumstances, income and resources of all family members living in the home from which the child is removed. The development of the NJ SPIRIT should incorporate all of the required information and calculations necessary to determine AFDC financial need for title IV-E initial and ongoing eligibility purposes. All of these matters, as appropriate, should be addressed in the State’s PIP.

Safety Monitoring For Staff of Child Care Institutions

The New Jersey Department of Human Services Office of Licensing is responsible for, among other things, assuring that all safety requirements are met with respect to all staff employed in child care institutions serving children in foster care. In the course of reviewing licensing files it was noted that a spreadsheet was completed by the Office of Licensing staff as part of the conduct of monitoring visits to child care institutions. This spreadsheet entitled “Residential Personnel Worksheet” identifies compliance with a number of requirements including the child abuse registry inquiry (CARI) and the criminal history record inquiry (CHRI). ACF was not provided with a set of instructions for completion of this spreadsheet. State officials also indicated that individual staff completing the spreadsheet may use different procedures to determine which personnel should be included on the spreadsheet and how the boxes should be completed. In larger program facilities, a sample of personnel records rather than all records are reviewed.

The manner of choosing and the extent of the sample are left to the discretion of the staff responsible for the monitoring visit. It was noted that some of the entries on the completed spreadsheets in the CARI or CHRI columns consisted of: "+", "O", "S", a specific date, "sent", "pending" "no record" or a blank box. The spreadsheet did not contain a key as to the meaning of the entries.

State Office of Licensing officials indicated that anytime CARI or CHRI information is incomplete, the on-site monitoring staff instructs the facility director that such individual may not work alone with children and that steps must be taken immediately to complete the process. The licensing file, however, does not appear to have any confirmation of such action or follow-up resolution of the concerns. The State should review and revise its safety related child care monitoring procedures to assure that they are adequate, consistent and fully documented in the case file. This activity must be addressed in the State's PIP.

Areas of Systemic Strengths

The following is a summary of the systemic items noted as part of the conduct of the FCER that had a positive impact on the outcome of not just the review findings, but in several ways on the lives of children and families served.

Payment History Records

New Jersey has historically had great difficulty in assembling a listing of all payments issued for an entire episode on behalf of a child placed in foster care. This has resulted in delayed submissions, gaps during which a child is in care but no payments can be identified and cases where no payments can be located. ACF is pleased to note that despite the State's continuing use of its legacy automated system (SIS), a complete listing of payments was assembled for all eighty reviewed cases prior to the on-site phase of the review. None of these cases were subsequently removed from the sample due to payment or claiming issues. ACF did continue to identify some gaps in payments, but understands that this is due to the often slow billing and payment processes associated with certain institutional placements identified as the Children's System of Care Initiative (CSOCI). It is our understanding that the vast improvement in the assemblage of the payment history is attributable to the experience of the State staff and the tedious efforts made to review extensive automated and manual records. ACF has been informed that the expected implementation of the statewide automated child welfare information system (SACWIS) known as NJ SPIRIT in 2007 will further enhance access to payment history information.

Court Order Language

ACF understands that New Jersey Administrative Office of the Courts personnel have been working as part of the State's Court Improvement Project in a collaborative effort for a number of years with child welfare State agency personnel to standardize and improve the quality and timeliness of court orders issued in foster care cases. The results

of this effort as demonstrated through the FCER are dramatic. Not only were the court orders in the sampled cases for the PUR readily available and found to contain the required judicial determinations at the appropriate points in the child's placement, but the orders contained detailed child specific information and clear enunciation of judicial expectations for actions to achieve the desired permanency outcome. There were a number of sample cases with untimely judicial determinations of reasonable efforts to finalize the permanency plan. This finding, however, was invariably for periods prior to the PUR. Overall, this is a dramatic change from what was found in the New Jersey secondary FCER conducted in June 2003. The findings in that review were that a lack of documentation of court order findings constituted the largest group of case errors. This change could not have occurred without the formation and nurturing of critical linkages between the courts and the State agency. ACF applauds all that have and continue to be involved in this effort.

Centralized Eligibility Determination Unit

In the past several years New Jersey has centralized the determination and re-determination of title IV-E eligibility in a specialized unit. These determinations were previously performed by case workers in field offices. As a result of past reviews, it was demonstrated that title IV-E eligibility determinations were not always performed consistently or completed. Documentation supporting the determinations was also often not readily available. The State agency centralized eligibility unit was charged with managing the eligibility determination process.

The centralized eligibility determination unit consists of an administrator, an administrative analyst, supervisors and a number of reviewers. The administrative analyst oversees the tracking and monitoring of IV-E eligibility determination, documents compliance and is responsible for quality assurance activities. The centralization of the eligibility determination function has facilitated training on title IV-E eligibility and on the IV-E Tracking System developed for the unit. It also permits more accurate and consistent application of policy as well as timely issue and emerging trend identification and problem solving.

ACF found that the work of the centralized eligibility unit has been a key component in enhancing the development and availability of documentation supporting title IV-E eligibility. ACF also understands that staff in the unit work with field office, court, office of licensing and State agency claiming officials to assure that required actions and supporting paperwork is completed timely and that title IV-E claims are only filed for those cases meeting all applicable requirements. These efforts have been instrumental in reducing the number and proportion of title IV-E claims for cases not documented as meeting the eligibility criteria.

Enhanced Safety Checks for Institutional Child Care Workers

New Jersey amended its law effective in March 2004 to require that all directors and adult staff members working in residential child care programs be fingerprinted as part of

the effort to secure Criminal History Record Information (CHRI). Those individuals subject to fingerprinting are not permitted to work alone with children until the CHRI results are obtained with a determination that the individual has no criminal record or a record that does not include an exclusionary crime. The CHRI is conducted against State police and Federal Bureau of Investigation data bases. This safety check measure is in addition to the existing requirement that all residential child care workers be screened against the child abuse and neglect registry. The State has thus added an extra level of protection to assure that children in institutional placements are not subject to contact with individuals who may place their safety at risk.

Information Identified Through FCER Data Analysis

Length of Stay in Foster Care

Although the purpose of the FCER is not to assess the length of stay of children in an episode of foster care, ACF identified interesting information for the cases reviewed on this critical measure of permanency achievement. Specifically, the payment history data provided by the State indicates that the number of children in care for two or more years (in the current foster care episode) as of the beginning of the PUR (April 2005) totaled 19 of the 80 (23.8%) sampled cases. This compares with 53 of the 150 (35.4%) children included in the sampled cases for the New Jersey secondary FCER conducted with a PUR beginning April 2002. While it is possible that the mix of children in the 2005 sample was somehow different from the 2002 sample, we note that the prevalence of more recently placed children may be indicative of successful efforts to achieve permanency outcomes quicker. It appears, however, that a significantly greater percentage of children in the 2005 sample (although a small number) spent more than five years in care prior to the PUR.

The following table illustrates the findings with respect to length of stay from both FCERs:

New Jersey Length of Current Foster Care Episode for Sampled FCER Cases

Length of Prior Stay As of Start of PUR	April – September 2002 PUR (150 Cases)	April – September 2005 PUR (80 Cases)	Percentage Change
Six Or More Months (# and % of sample)	92 (61.33%)	47 (58.75%)	-4.21%
One Or More Years (# and % of sample)	80 (53.33%)	37 (46.25%)	-13.28%
Two Or More Years (# and % of sample)	53 (35.33%)	19 (23.75%)	-32.78%

Three Or More Years (# and % of sample)	33 (22.00%)	14 (17.50%)	-20.45%
Four Or More Years (# and % of sample)	20 (13.33%)	13 (16.25%)	+21.88%
Five Or More Years (# and % of sample)	8 (5.33%)	11 (13.75%)	+157.81%
Six Or More Years (# and % of sample)	6 (4.00%)	7 (8.75%)	+118.75%

It is clear that the New Jersey title IV-E foster care population subject to review in the April – September 2005 PUR consists of children in care for a shorter median period of time prior to the start of the PUR than the population reviewed in the April – September 2002 PUR. Only the groups of cases where a child is in care for four or more years grew as a proportion of the overall sample. While this change may be attributable to a number of case work or demographic factors, the review of the sample case records identified that many actions were taken (especially in recently opened cases) by case workers, eligibility reviewers, licensing officials, judges, attorneys and other court and State agency personnel to promptly document case circumstances, locate appropriate placements and to develop and implement permanency plans. These actions have likely resulted in shorter foster care stays (than would have occurred absent such actions) for many New Jersey children. A remaining challenge for the State will be to more thoroughly address the permanency needs of children already in care for long periods of time.

Disallowance

The New Jersey primary FCER included a sample of 80 cases with a total maintenance assistance dollar value of $992,964 FFP for the entire foster care episode. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the 6-month AFCARS period of April 1, 2005 to September 30, 2005.

Based upon the results of the review, the State of New Jersey has been found not to be in substantial compliance. The review team determined that 6 cases were found to be in error for either part or all of the PUR, and that 12 additional cases contained improper payments for Federal funding for reasons that are identified in this report. Therefore, a disallowance in the amount of $62,665 FFP in maintenance assistance and $67,892 FFP in associated administrative costs is assessed for the entire period of time that these cases were determined to be in error. The total disallowance is $130,557 FFP.

The ineligible maintenance payments and administrative costs associated with the sample cases were calculated as shown in Attachment A. The administrative costs were

identified based upon actual average monthly per child title IV-E foster care claimed costs. This calculation of average Federal fiscal year (FFY) administrative cost uses FFY 2005 reported New Jersey expenditures and applies the OMB Deflator Factor to other periods. It excluded claims for pre-placement services, eligibility determinations and SACWIS operations. The full calculation of the FFY average monthly per child administrative cost is delineated in Attachment B. The calculation of disallowed administrative costs for individual cases for applicable periods is shown in Attachment C.

Required Action

The State of New Jersey must make the appropriate prospective claiming adjustments on behalf of the sample cases that were determined ineligible for FFP during the primary FCER from April 1, 2006 to the present as a decreasing adjustment. The State must cease claiming IV-E costs until these cases are determined to be eligible. New Jersey must also take appropriate claiming action to apply the findings contained in this report for any additional payments that are subsequently identified as title IV-E claimed or claimable for services rendered during the review period or for other periods during the same episode of foster care. To the extent that this effort results in the filing of prior period adjustments claims on Part 2 of Form IV-E-1, the State should include in column e (Other Comments) a reference to the "FY 2005 Title IV-E Review."

The State is also required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed by the State, in consultation with ACF Regional Office staff, and must be submitted to the ACF Regional Office by September 11, 2006.

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