

**New Jersey
Title IV-E Foster Care
Eligibility Review
October 1, 2007- March 31, 2008**

Introduction

During the week of September, 8, 2008, the Children's Bureau (CB), Administration for Children and Families (ACF), conducted a secondary eligibility review of New Jersey's title IV-E foster care program. The secondary title IV-E Foster Care Eligibility Review was conducted in Trenton, New Jersey by a review team consisting of ACF Central and Regional Office (RO) staff, State of New Jersey staff, and cross-State peer reviewers.

The purpose of the title IV-E Foster Care Eligibility Review was (1) to determine if New Jersey was in compliance with the eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act; and (2) to validate the basis of New Jersey's financial claims to ensure that appropriate payments were made on behalf of eligible children placed in licensed or approved facilities..

This secondary review resulted from the findings of the primary review which was completed during the week of May 8, 2006. At that time, New Jersey was determined not to be in substantial compliance with the title IV-E eligibility requirements for the period under review (PUR), April 1, 2005 to September 30, 2005. As required, New Jersey submitted a Program Improvement Plan (PIP) to correct the areas found to be deficient in its title IV-E foster care program. The PIP, approved with an effective date of October 1, 2006, was jointly developed by the State and CB's RO staff. The State provided reports of progress and final implementation of the planned improvements. The PIP goals included, but were not limited to, the following:

1. Judicial determinations of reasonable efforts to finalize the permanency plan made within the 12 month timeframe;
2. Revision of the title IV-E eligibility form in order to clearly document the basis and supporting documentation of financial need for Aid to Families with Dependent Children (AFDC);
3. Placement of children in licensed foster family homes or childcare facilities; and
4. Improved safety monitoring for staff of child care institutions.

Scope and Results of the Secondary Review

The New Jersey title IV-E foster care eligibility review encompassed a sample of all of the State's cases that received a foster care maintenance payment during the period of October 1, 2007 to March 31, 2008. This period is referred to as the period under review or PUR. A computerized statistical sample of 210 cases (150 cases plus 60 over-sample cases) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submission for the PUR which was transmitted by the State agency to CB. The secondary review consisted of a review of 150 cases. Of the 60 over-sample cases, 24 were selected for review to replace cases in which there had been no title IV-E foster care maintenance 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 and the provider's file also was reviewed to ensure that the foster home or childcare institution in which the child was placed was licensed or approved and met the safety requirements for the PUR. In addition, CB and the State agreed that subsequent to the on-site review the State would have two weeks in which to submit additional child and provider documentation for a case that was in error or had an ineligible payment.

For a secondary review, substantial compliance means that **either** the case error rate or the dollar error rate does not exceed 10 percent. Any disallowance assessed for States found in substantial compliance is based on the actual amount of claims (maintenance payments and, where appropriate, associated administrative costs) found to be in error or as constituting ineligible or otherwise improper payments for individually reviewed sample cases. If a State is determined not to be in substantial compliance, the disallowance for the PUR is based upon a projection of the results of the review over the universe from which the sample is drawn. Any additional disallowance for periods outside of the PUR is based on the actual amount of claims determined to be unallowable for those periods.

Following the on-site review, CB's RO team leader further reviewed the completed instruments with particular emphasis on the error cases to ensure that the findings were accurately determined. On September 23, 2008, the State submitted additional provider documentation for one case, but that documentation did not change the status of the error finding for the case. Therefore, of the 150 cases reviewed, ten (10) cases were determined as being 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.

The case error rate for the review was 6.67% (10 of 150 cases). The total dollar amount of payments in Federal Financial Participation (FFP) for the review sample cases during the PUR was \$952,585 with the error cases totaling \$27,058 in FFP. The dollar error rate for the review is thus 2.84%. These data indicate that New Jersey's error rate (measured by cases or dollars) is less than the 10 percent threshold. Therefore, New Jersey is considered to be in substantial compliance with the title IV-E eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act. The next primary review will be conducted in three years.

A disallowance in the amount of \$9,523 FFP in maintenance assistance payments and \$17,535 FFP in administrative costs is assessed for the identified error cases during the PUR. An additional disallowance associated with the error cases is assessed for ineligible payments identified as outside the PUR, in the amount of \$3,124 FFP in maintenance assistance payments and \$4,921 FFP in administrative costs.

In addition to the ten (10) cases with errors, eight (8) non-error cases were identified as containing payments that were claimed improperly because an eligibility factor was not met for a period other than the PUR. The specific improper payment determinations are delineated in the Improper Payments Summary section of this report. Although these cases are not considered "error cases" for determining substantial compliance, the ineligible maintenance payments and the associated administrative costs are subject to disallowance. A disallowance in the amount of \$29,814 in maintenance assistance

payments and \$29,532 in administrative costs is assessed for these ineligible payments. The total disallowance resulting from the review is \$94,449 FFP (\$42,461 maintenance and \$51,988 administration).

Case Record Summary

Error Cases

The following summary details the error cases, reasons for the error, appropriate citations and dates of ineligibility during, and where applicable, outside the PUR:

Sample Number	IV-E Eligibility Criterion	Statutory Citation	Ineligible Dates
15	Placement in a Licensed Foster Care Facility	472(b) and (c)	8/17/05-6/06/08
69	Placement in a Licensed Foster Care Facility	472 (b) and (c)	12/1/07-2/29/08
73	Placement in a Licensed Foster Care Facility Safety Requirements of Foster Family Home	472(b) and (c) 471(a)(20)(A)	12/1/07-2/29/08
111	Placement in a Licensed Foster Care Facility Safety Requirements of Foster Family Home	472(b) and (c) 471 (a) (20) (A)	1/23/07-present
112	Placement in a Licensed Foster Care Facility	472(b) and (c)	3/23/07-2/26/08
123	Placement in a Licensed Foster Care Facility	472 (b) and (c)	12/1/07- 2/29/08
142	Placement in a Licensed Foster Care Facility Safety Requirements of Foster Family Home	472 (b) and (c) 471 (a) (20) (A)	1/2/08-present
143	Safety Requirements of Child Care Facility	471 (a) 20 (A)	3/11/08-3/23/08
OS 6	Placement in a Licensed Foster Care Facility	472 (b) and (c)	12/1/07-4/30/08
OS 22	Placement in a Licensed Foster Care Facility	472 (b) and (c)	12/24/07-present

Ineligible Payment Cases

The following summary details the non-error cases with ineligible payments, reasons for the ineligible payments, appropriate citations, and the dates of ineligibility outside the PUR:

Sample Number	IV-E Eligibility Criterion	Statutory Citation	Ineligible Dates
33	Placement in a Licensed Foster Care Facility	472 (b) and (c)	10/1/06-5/31/07
39	Reasonable Efforts to Finalize Permanency	472(a)(1) 471 (a)(15) (B) (ii) and (C)	5/1/06-3/31/07
57	Reasonable Efforts to Finalize Permanency	472(a)(1) 471 (a)(15) (B) (ii) and (C)	12/1/01 -12/31/01 2/1/03-3/01/03, and 5/1/04-8/01/06
61	FFP claimed prior to meeting Reasonable Efforts to Prevent Removal	472(a) (1) and 471(a) (15) (B) (i)	2/1/07- 2/28/07
72	Placement in a Licensed Foster Care Facility	472 (b) and (c)	12/01/06-8/14/07
77	Reasonable Efforts to Finalize the Permanency Plan	472(a) (1), and 471(a) (15) (B) (ii) and (C)	4/1/07-4/30/07
101	Reasonable Efforts to Finalize the Permanency Plan	472(a) (1), and 471(a) (15) (B) (ii) and (C)	4/1/02–6/30/02 2/1/05-9/30/05
OS 12	Items Outside of the Definition of FC Maintenance Assistance Payments	475 (4) (A)	1/01/04-1/12/04

Underpayments

It also was determined that 24 cases contained underpayments. An underpayment is considered to have occurred when a title IV-E payment is not claimed, but could have been claimed for an allowable title IV-E activity or a period of eligibility. The total amount of identified underpayments was \$107,553 for maintenance payments. The vast majority of this amount was for periods prior to the PUR. The portion of underpayments for the PUR was \$5,803. Details on the individual expenditures and timeframes have been provided to State agency claiming officials.

Underpayments identified as the result of the review may subsequently be claimed by a State filing an increasing adjustment on its Form IV-E-1 in the next quarter, but no later than 2 years after the calendar quarter in which the State agency made the expenditure (45 CFR 95.7).

Areas in Need of Improvement

Although New Jersey was found to be in substantial compliance with title IV-E eligibility requirements, the following are areas in need of improvement, as evidenced through the case file review.

Placement in Licensed Home or Facility - [Regulatory Citations: 45 CFR 1356.71(d) (1) (iv), and 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.

A licensed or approved facility may be a family foster home, group home, private child care institution or public child care institution which accommodates twenty-five (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 document full licensure or approval for each of the child's foster care providers during the PUR.

Of the ten (10) error cases, nine (9) cases were found ineligible for FFP because either the foster family home was not fully licensed for a period when a title IV-E payment was made during the PUR or the foster family home license or certification could not be produced in order to verify its validity for title IV-E eligibility. Two (2) non-error cases with ineligible payments outside the PUR also were cited as improperly paid because of licensing issues.

Safety Requirements of Provider - [Statutory Citation: section 471(a)(20) and 475(1) of the Social Security Act (the Act); Regulatory Citation: 45 CFR 1356.30] In all cases where the State does not opt out of the criminal records check requirement, as is the case for New Jersey, there must be documentation that verifies that criminal record checks were conducted satisfactorily with respect to the foster parent. In addition, in order for a child placed in a child care institution to be eligible for title IV-E funding, there must be documentation that verifies safety considerations with respect to the staff of the institution have been addressed.

Of the ten (10) cases found in error, four (4) cases were found ineligible for FFP because it was determined that documentation regarding completion of the criminal history record check process was unavailable for foster parents for a period encompassing the PUR. It should be noted that three (3) of the four (4) providers also had not been documented as fully licensed.

Reasonable Efforts to Finalize Permanency - [Statutory Citation: section 472(a)(1) and 471(a)(15)(B)(ii) and (C) of the Act; Regulatory Citation: 45 CFR 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.

Four (4) of the non-error cases were determined to contain payments ineligible for FFP prior to the PUR because the judicial determinations were not made in a timely manner. While improvements could be seen since the previous review, we are concerned that payments in these cases were still being made although the Reasonable Efforts requirements were not met.

Systemic Areas in Need of Improvement

The following items represent several systemic issues identified through the secondary title IV-E Foster Care Eligibility Review where improvement is recommended as part of the continuing efforts to enhance operations. While these issues do not directly relate to any of the cases found to be in error or improperly paid, they should be addressed as they could potentially have an impact on the future level of title IV-E claims for New Jersey.

Cases Removed from the Sample - On August 13, 2008, CB approved the State's request to remove 25 cases from the title IV-E eligibility review sample provided by CB. The approved removals included 21 cases from the initial 180 random sample and 4 cases from the replacement sample. The large number of cases needing to be replaced raises concerns about the accuracy of the State's reporting of element #59 in AFCARS which is to record whether title IV-E payments were made on behalf of the child. Element 59 should not be coded as a "1" if title IV-E payments were not made in that AFCARS period. It is important for New Jersey to address this issue.

Among the sample cases that were dropped were ten cases dropped on the basis that "Child placed in Dept. of Children's Behavioral Health Services (DCBHS) – Interface is not complete therefore no claiming data has been available." The State provided documentation supporting that title IV-E claims were not included on submitted form ACF-IV-E-1 on behalf of these children for the PUR. However, in addition to the issue of the need for accurate reporting in AFCARS, we express our concern about the consistent pattern of delays in submitting title IV-E foster care maintenance assistance claims on behalf of children classified as title IV-E eligible and placed in institutional facilities operated through its Division of Children's Behavioral Health Services (DCBHS).

It is our understanding, based on internal discussions and past claiming practices, that the State's process of paying and claiming costs for children classified as title IV-E eligible in New Jersey's DCBHS placements involves several intermediate steps and significant paperwork. Such procedures do not support the proper administration of the State's title IV-E program. The practice results in a period in excess of one year before services

provided are paid and claimed for title IV-E FFP purposes. Such delayed claiming may lead to delayed reimbursement for provider services and this, in turn, may lead to providers being unwilling or unable to provide services to title IV-E eligible children. The pattern of delayed claiming also has the effect of excluding a significant category of children in foster care from title IV-E reviews. This is of concern, since it affects our ability to provide both appropriate oversight and any needed technical assistance to the State with respect to unique issues that may be identified for the population relating to title IV-E claims. For these reasons, we strongly urge the State to take necessary steps to ensure that claims for these cases can be filed in a more timely and streamlined manner.

AFDC Eligibility and Re-determination - The revised and expanded AFDC eligibility form is much improved over the prior version of the form. It allows the worker to record family circumstances regarding income and resources for families that are not receiving public assistance or Medicaid. We note, however, that some problems remain in documenting the existence of deprivation and in obtaining contemporaneous information on financial need. Information should first be obtained from the families by posing the appropriate questions and recording the responses in case notes. The eligibility determination forms should be filled out completely and accurately. Although deprivation existed, there were several instances in which the wrong reason for deprivation was selected. Improved supervisory oversight of the completion of the forms is needed. In addition, the redetermination forms frequently did not indicate the period of time being covered. New Jersey may want to address these practice issues in its training procedures to ensure that deprivation is clearly documented and supported in the case file.

Strengths

Significant improvements in the State's title IV-E eligibility program were reflected in this secondary review. Many of the elements implemented through the PIP resulting from the primary title IV-E review were clearly evidenced in the case files, and contributed to the finding of substantial compliance on this review. Following are some of the strengths noted during the review through case review and policy as provided:

- Case records were well organized.
- Continued improvements from the prior title IV-E eligibility review could be seen in the quality of the findings and language of court orders. The court orders for all the sampled cases were readily available for the PUR. Findings of contrary to the welfare and reasonable efforts to prevent removal were addressed in the first court orders. In general, court orders were clear, comprehensive, and child-specific. These improvements are a testament to the strong, collaborative relationship between the State and the Court Improvement Program staff.
- The State's centralized eligibility determination unit has continued to be a key component in enhancing the development of documentation for eligibility.

- Judicial determinations of reasonable efforts to finalize the permanency plans are timely and in most instances are occurring before the due dates.

Summary of Review Findings

State in substantial compliance: The review included a sample of 150 cases with a total PUR dollar value of \$952,585 in FFP. 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 October 1, 2007 to March 31, 2008. Based on the results of the review, the State of New Jersey has been found to be in substantial compliance; however, ten (10) cases were determined to be in error and are not eligible for funding under title IV-E foster care. In addition, there were eight (8) sample cases that were not counted as errors but were identified as having ineligible payments for a timeframe outside of the PUR. The financial disallowance derived from these case findings totals \$94,449 [see calculation spreadsheet] in FFP. See the enclosures for the financial details on the error cases and the ineligible payment cases.

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