

Nevada Title IV-E Foster Care Eligibility Review Final Report
Period Under Review: April 1, 2007 – September 30, 2007

Introduction

During the week of June 9, 2008, staff from the Central (CO) and Regional (RO) Offices of the Children's Bureau (CB), within the Administration for Children and Families (ACF), in collaboration with staff from the State of Nevada, conducted an eligibility review of Nevada's title IV-E foster care maintenance program. The review team was comprised of representatives from the State agency, the State's three county child welfare jurisdictions, the Coordinator of the Nevada Court Improvement Project, CB CO and RO staff, and a cross-State peer reviewer provided through the Federal contract for eligibility monitoring.

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

Scope of the Review

The review encompassed a sample of the State's title IV-E foster care cases that received a title IV-E foster care maintenance payment during the period under review (PUR) of April 1, 2007 through September 30, 2007. A computerized statistical sample of 120 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data transmitted by the State agency to CB for the PUR. Eighty cases were reviewed, as required in a primary review.

During this Primary Review, three cases were found to be in error. The ineligible maintenance payment amount is \$9,887, the associated administrative cost is \$11,088. Since the number of error cases was fewer than four, CB has determined that Nevada is in substantial compliance for the PUR.

There were seventeen instances of ineligible payments in sixteen cases that were not error cases. One case (sample #22), was an error case and, in addition, an overpayment was identified. The ineligible maintenance payments associated with these seventeen cases were assessed at \$1,555. Therefore, the total amount of IV-E funds being disallowed in maintenance payments and administrative costs is \$22,530.

For each case, reviewers determined whether appropriate documentation existed to substantiate compliance with the following requirements:

1. Judicial determinations regarding:
 - contrary to the welfare pursuant to Section 472(a)(2)(A)(ii) of the Social Security Act (the Act) and 45 CFR 1356.21(c),

- reasonable efforts to prevent removal pursuant to Section 472(a)(2)(A)(ii) of the Act and 45 CFR 1356.21(b)(1), and
 - reasonable efforts to finalize permanency pursuant to Section 472(a)(2)(A)(ii) of the Act and 45 CFR 1356.21(b)(2);
2. Voluntary placement agreements pursuant to Sections 472(a)(2)(A)(i), 472(e), 472(f), and 472(g) of the Act and 45 CFR 1356.22;
 3. State agency responsibility for placement and care pursuant to Section 472(a)(2)(B) of the Act;
 4. Aid to Families with Dependent Children (AFDC) eligibility (as of July 16, 1996) pursuant to Section 472(a)(3) of the Act;
 5. Placement in a licensed foster family home or child care institution pursuant to Sections 472(b) and (c) of the Act and 45 CFR 1355.20(a); and
 6. Criminal records check and other safety requirements for foster care providers pursuant to 45 CFR 1356.30.

A case was determined to be in error if a title IV-E payment was made on behalf of a title IV-E ineligible child during the PUR. A case was determined to be a “non-error case with ineligible payments” if there were title IV-E maintenance payments made on behalf of a child who was ineligible for title IV-E for a period of time solely outside the PUR. The review also determined whether the correct amount was paid to a provider and thus whether an underpayment or an overpayment existed in or outside the PUR.

Case Record Summary

Error Cases

There were three cases determined to be errors. These were sample #s 22, 56, and 64.

Case Number	Reason Case Was Not Eligible	Federal Citation	Maintenance Payment FFP	Administrative Cost FFP
#22	Ineligible Placement	SSA Section 472(b) and (c); 45 CFR 1356.71(d)(1)(iv) and 1355.20	\$5,595	\$1,710
#56	No Judicial Determination of Reasonable Efforts to Finalize Permanency	SSA Section 472(a)(2)(A)(ii) 45 CFR 1356.21(b)(2) 472 (a)(1), 471(a)(15)(B)(ii) and (C)	\$2,451	\$4,107

#64	Ineligible Placement	SSA Section 472(b) and (c); 45 CFR 1356.71(d)(1)(iv) and 1355.20	\$1,841	\$5,271
		Total	\$9,887	\$11,088

Sample Case # 22:

During the PUR, from 5/18/07 – 7/5/07 and 8/3/07 – 9/6/07, the child was placed at Westcare Nevada, and title IV-E payments were made on behalf of the child. Westcare Nevada is a private, non-profit agency that is licensed by the Nevada Department of Health, but does not meet the licensing or background (safety) check requirements as defined in the following Federal citations: Section 472(b) and (c) of the Act; 45 CFR 1356.71(d)(1)(iv) and 1355.20 and is, therefore, not eligible to receive payments under the title IV-E foster care program.

Recommendation: Due to of the volume of children placed in the facility, Nevada may consider assessing the Westcare facility and considering whether it is a viable option for being licensed as a child care institution that would meet title IV-E eligibility requirements.

Sample Case # 64:

Prior to the PUR, on 6/19/06, the child in the case was placed with relative caregivers who were fully licensed on 6/20/06 by the State of Washington in accordance with the receiving State’s licensing requirements. Nevada was able to document the caregiver’s licensing with documentation contained in their licensing case record, by maintaining a copy of the completed home study and the family foster home licenses issued by the receiving State. However, Nevada was unable to provide documentation of the criminal background (safety) check received from the Department of Justice/Federal Bureau of Investigation that the State requires for a licensed foster care provider. Title IV-E eligibility requirements, therefore, are not met as defined in the following Federal citations: Section 472(b) and (c) of the Act; 45 CFR 1356.71(d)(1)(iv) and 1355.20.

Recommendation: Nevada must ensure that it receives both the license and background clearance for a child placed out-of-State prior to claiming title IV-E payments on behalf of a child. Title IV-E foster care maintenance payments may not be claimed on behalf of a child before all title IV-E eligibility criteria are met. Evidence of compliance is necessary to substantiate eligibility.

Sample Case # 56: The date of removal for this child was 6/3/06. The child entered foster care on 8/7/06 due to a judicial finding of neglect or abuse. The judicial determination regarding reasonable efforts to finalize the permanency plan was due on or before 8/31/07 in accordance with Federal statutory citations of Sections 472 (a)(1), 471(a)(15)(B)(ii) and (C) of the Act, and regulatory citations at 45 CFR 1356.21(b)(2). Failure to obtain the court finding on reasonable efforts to finalize the permanency plan made the child ineligible as of 9/01/07. A court hearing was subsequently held on 12/17/07, but the judicial determination of reasonable efforts to finalize a permanency plan was not rendered during this hearing.

Recommendation: Nevada should assess the factors that caused the failure to obtain the required judicial determination of reasonable efforts to finalize the permanency plan, develop strategies to promote and complete timely judicial determinations, and implement the changes identified to ensure compliance with the Federal requirement.

Overpayments

The review of cases found that there were a total of seventeen cases that contained eighteen overpayments (Case sample #s 9, 13, 16, 17, 18 (had two overpayments), 19, 22, 27, 29, 34, 35, 49, 53, 61, 70, 71 and 73). Case sample #s 9, 17, 18, 19, 27, 34, 35, 49, 71, and 73 were overpayments because two providers were paid for the same period of time. Case sample # 13 was an overpayment because payments were made when the child was not in care. Case sample # 53 provided payment to three different providers for the same period of time. In case sample #29 the provider was paid when the child was returned to the parent's care. Finally, case sample #s 16, 18, 22, 61, and 70 paid the same provider twice for the same period of time.

Case Number	Reason Case Was Not Eligible	Federal Citation	Maintenance Payment FFP	Administrative Cost FFP
#9	Two providers paid for same period	45 CFR 92.22	\$447.20	\$0
#13	Child not in care of provider	45 CFR 92.22	\$1.40	\$0
#16	Provider paid Personal and Incidentals (PI) twice for same day	45 CFR 92.22	\$1.07	\$0
#17	Two providers paid for same day	45 CFR 92.22	\$11.88	\$0
#18	Provider paid twice for same day	45 CFR 92.22	\$12.31	\$0
#18	Two providers paid PI for same period	45 CFR 92.22	\$6.37	\$0
#19	Two providers paid for same period	45 CFR 92.22	\$451.22	\$0
#22	Provider paid twice for same day		\$14.04	\$0
#27	Two providers paid PI for same period	45 CFR 92.22	\$32.90	\$0
#29	Child not in care of provider	45 CFR 92.22	\$52.26	\$0
#34	Two providers paid for same period	45 CFR 92.22	\$59.40	\$0
#35	Two providers paid for same period	45 CFR 92.22	\$8.11	\$0
#49	Two providers paid for same period	45 CFR 92.22	\$273.20	\$0
#53	Three payments made for same day	45 CFR 92.22	\$20.61	\$0
#61	Provider paid twice for same day	45 CFR 92.22	\$12.40	\$0
#70	Provider paid twice for same day	45 CFR 92.22	\$12.40	\$0
#71	Two providers paid for same period	45 CFR 92.22	\$137.55	\$0
#73	Two providers paid PI for same day	45 CFR 92.22	\$1.07	\$0
		Total	\$1,555 (rounded down to nearest dollar)	\$0

The review team could not easily identify a common theme for these overpayments. It is noted that out of the eighteen overpayments, eight of these ineligible payments occurred during the first or last day of the month, and four of them occurred during the last week of the month.

Recommendations: It is recommended that the State and counties further explore the underlying reasons that overpayments occurred, develop a strategy to minimize such overpayments, and implement systemic or technology-related improvements that would minimize the occurrence of overpayments. Corrective measures also should ensure that payments are properly pro-rated when a child is moved from a foster care placement.

Underpayments

Three cases have been documented where the State had the opportunity to claim title IV-E funds for a period of time where the child had met the criteria to be determined IV-E eligible, and was residing in a title IV-E licensed or approved placement.

Case Number	Maintenance Payment FFP
#40	\$10.31
#55	\$147.96
#63	\$95.71
Total	\$254 (rounded up to nearest dollar)

Sample #40 - paid the provider for only 30 days in the month of May 2007, when the provider could have been paid for 31 days because the child remained eligible and all other criteria were met.

Sample #55 - terminated title IV-E payments on the child’s 18th birthday (7/15/07). However, the child remained in care for an additional 11 days during the month of July 2007 (the 16th – 27th), and title IV-E funds could have been paid for the entire period that the child was in care for the month of July.

Sample #53 - the child was title IV-E eligible and all other criteria were met during April 2007, but no claim was made from 4/1 to 4/9.

Strengths

We applaud the State for the following practices noted during the review which appear effective in operating the State’s title IV-E foster care maintenance program.

Obtaining Judicial Determinations

- Judicial determinations about whether the agency is making reasonable efforts to prevent a child’s removal are being obtained within 60 days of the child’s removal from their home and generally are occurring in the first court order at the same time the contrary to the child’s welfare determination is rendered.

- The requirement for a judicial determination of reasonable efforts to finalize permanency was met in 79 of the 80 cases reviewed. The practice of seeking judicial determinations to finalize the permanency plan at 6-month rather than 12-month intervals, particularly in Clark County cases, was seen as strength as it not only ensures compliance with eligibility requirements, but enhances judicial oversight to promote timely permanency for children in the child welfare system. The language contained in these court orders was clear and explicit.

Aid to Families with Dependent Children (AFDC) Eligibility

All cases demonstrated that the AFDC linkages were properly established at initial removal and that re-determinations were performed regularly. Eligibility always was based on the home from which the child was removed as the result of a voluntary placement agreement or judicial determination of contrary to the welfare and reasonable efforts to prevent removal. The financial needs and eligibility criteria documented in the case record comported with the worksheet. Noteworthy is the fact that the Nevada Division of Children and Family Services has standardized the eligibility forms being utilized by the three jurisdictions as of April 1, 2008 to promote uniformity across the three child welfare jurisdictions.

Licensure

Across Nevada, the review team found that family and child care institutions' licenses were clearly documented.

Background Clearances

Reviewers noted that the results from the fingerprint checks of the Nevada criminal records, the Federal Bureau of Investigation (FBI) records, and the Nevada Child Abuse and Neglect Registry (CANS) were received within 2 weeks of the clearance request for those jurisdictions in the State that utilize Live Scan. Live Scan is the automated background (fingerprint clearance) check technology that electronically transfers and clears fingerprints against Department of Justice/FBI, State, County and local databases.

Areas in Need of Improvement

Payment System

All of the State's foster care payments are entered into the State's UNITY System, except those payments made to Kidz Kottage, in Washoe County. It was difficult to track payments made on behalf of a specific child placed there. To do so, the Federal financial management specialist was required to review a spreadsheet that included a list of all title IV-E children and a total amount of funds for the month. The child's name and the number of days the child was in placement are entered manually. This process lends itself to error and inconsistencies. We

reminded the State staff that payments made on behalf of a child must be directly linked to the child. In addition, we are unclear as to why this is the only system that does not include payments in the UNITY system. To ensure the payment system accurately accounts for payments to all foster care providers in the State, we strongly urge the State and Washoe County to change the payment process to be consistent with the UNITY system.