

**State of Nevada
Primary Review
Title IV-E Foster Care Eligibility**

**Report of Findings for
April 1, 2013- September 30, 2013**

Introduction

During the week of April 28 2014, the Children’s Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the state’s title IV-E foster care program. The review was conducted in collaboration with the Nevada Division of Child and Family Services (DCFS) and was completed by a review team comprised of representatives from the state agency, CB Central and Regional Offices, ACF Regional Grants Management and peer reviewers.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether the Nevada DCFS title IV-E foster care program was in compliance with the 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 the state’s financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

The primary review encompassed a sample of the state’s foster care cases that received a title IV-E maintenance payment during the six-month period under review (PUR) of April 1, 2013 – September 30, 2013. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from state data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 75 cases from the original sample plus 5 oversample cases. Five (5) cases were excluded from the original sample because no title IV-E foster care maintenance payment was made during the PUR. The state provided documentation to support excluding these cases from the review sample and replacing them with cases from the oversample.

In accordance with federal provisions at 45 CFR 1356.71, the state was reviewed against the requirements of title IV-E of the Act and federal regulations regarding:

- Judicial determinations 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)(1) and (2), and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A) and (d)-(g) of the Act and 45 CFR §1356.22;

- Responsibility for placement and care vested with state agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v).
- Placement in a licensed foster family home or child care institution as defined in §§472 (b) and (c) of the Act and 45 CFR §1355.20(a); and
- Safety requirements for the child’s foster care placement as required at 45 CFR §1356.30

The case file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider’s file also was examined to ensure the foster family home or child care institution where the child was placed during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating when the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was paid. A sample case was cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity. In addition, underpayments were identified for a sample case when an allowable title IV-E maintenance payment was not claimed by the state for an eligible child during the 2 year filing period specified in 45 CFR §95.7, unless the title IV-E agency elected not to claim the payment or the filing period had expired.

The CB and the state agreed that the state would have two weeks following the onsite review to submit additional documentation for a case that during the onsite review was identified as in error, in undetermined status or not in error but with ineligible payments.

Compliance Finding

The review team determined that 78 of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Two (2) cases were determined in error for either part or all of the PUR and eight (8) non-error cases were ineligible for federal funding for a period of claiming. Accordingly, federal funds claimed for title IV-E foster care maintenance payments, including related administrative costs, associated with the error and non-error cases with ineligible payments are being disallowed. In addition, two (2) non-error cases were identified to have periods of eligibility for which the state did not claim allowable title IV-E maintenance payments. Because the number of cases in error is not greater than four (4), Nevada is in substantial compliance for the PUR.

Case Summary

The following charts record the error cases; non-error cases with ineligible payments; underpayments; reasons for the improper payments; improper payment amounts; and federal provisions for which the state did not meet the compliance mandates.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments Federal Financial Participation (FFP)
13	IV-E maintenance payment claimed for foster child while child was on a trial home visit. [472(b) and (c) of the Act and CFR 45 1356.71(d)(1)(iv)] Ineligible: Reported Disallowance Period: 4/1/13	\$13.58 Maint.
65	IV-E maintenance payment claimed for foster child while child was on a trial home visit.[472(b) and (c) of the Act and CFR 45 1356.71(d)(1)(iv)] Ineligible: Reported Disallowance Period: 8/9/13-12/31/13	\$302.70 Maint. \$554.00 Admin.

Total Maint: 316.28
Total Admin: 554.00
Total: 870.28

Non-error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments Federal Financial Participation (FFP)
27	IV-E payments made for period prior to reasonable efforts to prevent removal finding[§475(4) of the Act; [CFR 45 1356.21] Ineligible: 12/31/08 to 12/31/08	\$37.45 Maint.
28	The same provider paid for the same 5 day period twice. [CFR 45 1356.21] Ineligible period: 07/27/13 – 07/31/13	\$65.76 Maint.
33	Claiming started for period before removal order dated 9/13/12 ; [CFR 45 1356.21] Ineligible: 08/27/12 to 08/31/12	\$61.92 Maint.
68	Paid same provider twice for 12/1/10 [CFR 45 1356.21]	\$13.21 Maint.

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments Federal Financial Participation (FFP)
70	Paid some provider twice for 10/1/10 [CFR 45 1356.21]	\$13.80 Maint.
75	Judicial determination of reasonable efforts to finalize permanency plan not made [§472(a)(2)(A)(ii) of the Act; 45 CFR §§1356.21(b)(2)] Ineligible: 10/01/2006-05/31/2007	\$56.20 Maint.
76	Paid provider twice for 03/01/13 [CFR 45 1356.21] Ineligible: 3/01/13	\$13.14 Maint.
79	Paid the same provider twice for 2/1/11 [CFR 45 1356.21]	\$13.61 Maint.

Total: \$275.09

Underpayment Cases

Sample Number	Underpayment Payment Reason & Eligibility Period	Underpayments Payments (FFP)
#38	Agency considered the finding from the 7/13 hearings as not meeting judicial determination criteria regarding reasonable efforts to finalize the permanency plan. Previous court orders dated 12/17/12 & 3/18/13 sufficiently met the requirement for that period. 8/1/13-12/18/13 [45 CFR §1356.21(b)]	\$1,914.11 Maint.
#72	Eligible child was placed with the same foster care provider for the entire month; title IV-E was claimed for only 12 days. [§472 of the Act] 3/12-30/13	\$454.02 Maint

Total: \$2368.13

Areas in Need of Improvement

The findings of this review indicate the state needs to further develop and implement procedures to improve program performance in the following areas. For each 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 #1: *Unallowable Program Costs*

The state did not have systems in place to prevent claiming of title IV-E maintenance payments when children move to placements unallowable under the title IV-E maintenance payment program. Cases 13 and 65 are examples where title IV-E payments were claimed for foster care costs resulting in 2 error cases in which title IV-E was claimed. There were an additional 8 non error cases with overpayment issues. Case documentation and narratives suggests most of the overpayments were due to agency staff not knowing where and with which provider the child was placed.

Title IV-E Requirement:

Consistent with the federal provision at 45 CFR 1356.60(a) (i), title IV-E foster care maintenance payments may only be claimed for the cost of providing expenditures covered within the federal definition of foster care maintenance at 475 (4) of the Act. Title IV-E reimbursement is for allowable expenditures in accordance with the statutory definition and reflects non-duplicative cost of daily maintenance. The state must document that payments claimed for title IV-E reimbursement are allowable expenditures in accordance with the statutory definition and reflect non-duplicative amounts of the costs of daily maintenance.

The state also must substantiate payments are claimed for title IV-E reimbursement only for the period in which the child meets all eligibility requirements. Consistent with section 472 of the Act, title IV-E claiming may not begin until the first day of placement in the month in which all eligibility requirements are met. Title IV-E foster care maintenance payments are available only for AFDC eligible children who have been removed from their homes and placed in foster care. A child living at home while in the parents' care is not eligible to have title IV-E foster care maintenance payments made on their behalf, per 472(a) of the Act and Question 1, section 8.3A.3 of the CB Child Welfare Policy Manual.

Recommended Corrective Action:

The state must apply edits within UNITY (state tracking system) to alleviate issues with tracking the placement of children within the system. As children move from placement to placement it should be expediently noted within the system (UNITY) to ensure the correct placement episode has been noted. Also, the establishment of a quality assurance system will allow DCFS to monitor the accuracy of title IV-E eligibility determinations and claiming.

Issue #2 *Underpayments*

There were two (2) cases where it was documented that the child met the criteria to be eligible for IV-E. The DCFS failed to claim maintenance payments for the maximum time that they could have claimed for each child. The total amount that could have been claimed for these children is \$2368.13.

Title IV-E Requirement:

Federal regulations at 45 CFR 1356.60 state that title IV-E foster care maintenance payments may be claimed for allowable costs of expenditures that are covered by the federal definition of foster care maintenance found at 475 (4) of the Act. Under 472 of the Act, title IV-E maintenance payments may be claimed from the first day of the foster care placement in the month in which all title IV-E eligibility criteria have been met.

Recommended Corrective Action:

The DCFS must identify the systemic factors which cause the occurrence of improper payments and develop an action plan to correct it. The process should involve the application of controls that will reduce or eliminate underpayments and maximize the state's ability to collect for allowable costs for the care of eligible children.

Strengths and Promising Practices

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

Automated Data System Interfaces: Nevada Division of Child and Family Services (DCFS) has improved its process for determining title IV-E eligibility through the development and implementation of an automated data system which facilitates timely eligibility decisions and tracks eligibility throughout the foster care episode. The system is able to interface electronically with other state agencies such as the Department of Economic Security and Department of Revenue to obtain information pertinent in determining financial need and deprivation for AFDC eligibility. In addition, the system sends electronic requests for and receives electronic transmissions of criminal record checks from state and federal law enforcement agencies. These electronic system interfaces with the database of the DCFS Statewide Automated Child Welfare Information System (SACWIS), eliminate duplicative data collection efforts by staff and increase the authenticity of data used for eligibility determinations.

Judicial Determinations: The collaborative efforts of the courts and the child welfare system resulted in documentation for court orders in all cases. Cases were reviewed by the courts semi-annually exceeding the federal requirement for annual hearings in which the ongoing judicial determinations were made. Court orders for reasonable efforts and "contrary to the welfare" findings were met timely. The language within the court order was consistent with the recommended contrary to the welfare and reasonable efforts findings and the findings was child specific. On occasion the court used the statutory reference instead of using simplified language. It is suggested that the court move to the practice of using explanatory language to make it easier for the family to understand what the court has ordered.

Licensing Requirements: Requirements for foster care provider licenses were in order for both the foster homes and group homes. The state has a system by which they solicit licensing applications 90 days before they are due to expire. The workers notify the provider that a new license is due and ensure the provider initiates the steps for obtaining a new license prior to the expiration of the old license. The workers use the licensing renewal time to assist the family in the process of getting cleared regarding required state and federal criminal background checks. All applications for licensing renewal are reviewed prior to their due date. If a person is out of compliance with a licensing renewal, the worker has the provider complete the application as a priority and if necessary claiming of title IV-E funding will be stopped until the process is completed.

Disallowances

A disallowance in the amount of \$316.28 in maintenance payments and \$554.00 in related administrative cost of Federal Financial Participation (FFP) is assessed for title IV-E foster care payments claimed for the error cases. Additional amounts of \$275.09 in maintenance payments are disallowed for title IV-E foster care payments claimed improperly for the non-error cases. The total disallowance as a result of this review is \$1145.37. The state also must identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the PUR. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

Next Steps

Since Nevada was found to be in substantial compliance, no formal action plan is required in follow-up to this review. We commend the state for its ongoing efforts in examining program deficiencies and implementing measures that have resulted in improvements to its title IV-E program.

As part of the state's continued efforts to improve its title IV-E foster care eligibility program, CB recommends that the state of Nevada's DCFS examine identified program deficiencies and develop measurable, sustainable strategies that target the root cause of problems hindering the state from operating an accurate foster care eligibility program. The CB Regional Office is available to assist the state in identifying strategies and obtaining existing technical assistance to support in the proper and efficient administration of the title IV-E foster care maintenance program. The next title IV-E foster care eligibility review will be held in three years.