

Title IV-E Program Improvement Plan

New York State's Title IV-E Program Improvement Plan (PIP) has been developed in response to the Title IV-E Phase I review conducted during the week of April 28, 2003. The Administration for Children and Families' (ACF) report issued to the Office of Children and Family Services (OCFS) on June 2, 2003 required the submission of this PIP to ACF by September 1, 2003. The PIP addresses the issues identified in the report as well as other Title IV-E eligibility and payment requirements. The PIP prioritizes the audit issues by degree of significance and complexity. Issues discussed are referenced to the ACF report by page number, as appropriate.

The PIP describes the issues as reported by ACF and the strategies and tasks in which the State, its social service districts and external stakeholders are or will be engaged. A separate section discusses the process for quarterly progress reports to ACF.

Goals Included in the PIP:

- Increase the accuracy and reliability of the social service district Title IV-E eligibility determination and re-determination process;
- Make automated changes to increase reliability in the Title IV-E claim process;
- Secure court orders in a timely manner that reflect Title IV-E criteria on legal authority, best interests and reasonable efforts;
- Improve Title IV-E eligibility documentation; and
- Eliminate from Title IV-E claims any costs that are not documented as eligible.

To put the State's PIP in context, the following should be noted (background):

1. OCFS, the State Title IV-E Agency, supervises 58 social services districts having responsibility for administering the Title IV-E program. However, the State has learned from prior experience that additional entities must be actively involved in the execution of the PIP if it is to be successful. Among them are: the New York State Office of Court Administration (OCA); the Court Improvements Project; New York State Family Courts; State and county probation offices; county attorneys; and voluntary child care agencies. OCFS has been actively engaged with these entities in a variety of forums prior to the submission of this PIP to ACF. This participation and engagement will continue throughout the duration of the PIP.
2. OCFS, through its Division of Information Technology, continues to enhance the Statewide Services Payment System (SSPS). SSPS applies financial editing to support proper claiming of payments to comply with Title IV-E requirements. As part of the PIP, the enhancement will extend the edits and review processes to foster care payments made to voluntary childcare

agencies and to all 58 social services districts. SSPS and related payment records will provide the basis for the Adoption and Foster Care Analysis and Reporting System (AFCARS) Data Report element 59, which identifies Title IV-E foster care cases, once SSPS is operational Statewide on or about April 1, 2004.

3. Based on the Statewide PIP, each social services district will develop its own PIP that incorporates the Title IV-E issues tailored to the social services district's particular needs and circumstances.
4. Based on the results of the Title IV-E review, OCFS is preparing a set of legislative initiatives needed to address certain issues regarding legal authority and reasonable efforts to achieve permanency. As discussed with the ACF officials during a recent meeting, without key legislative changes, federal compliance will remain difficult to achieve. OCFS requests an extension of the PIP as contemplated in 45 CFR 1356.71 to extend the PIP to be in effect until July 31, 2005, to provide the State the ability to secure the necessary legislation and implement its provisions.
5. OCFS has established a new schedule of Title IV-E foster care audits, effective July 2003, thus continuing and enhancing quality assurance efforts throughout the State. This includes reviews of all major social services districts and will provide an objective view of the Title IV-E eligibility determination practices in New York State.

Action Steps Required to Correct Each Identified Area Needing Improvement and Dates Action Steps Completed

A. Court Related Issues

1. Reasonable Efforts to Finalize the Permanency Plan

Results of the review indicated that 20 cases were determined ineligible for Title IV-E because: (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; (2) the judicial determination was not made in a timely manner; or (3) the court order did not contain a reasonable efforts determination. (Page 4 of report. The number of cases cited reflect those in the report and does not reflect cases under appeal nor other data reported by ACF in accompanying worksheets.)

The ACF recommended that OCFS work with the local social services districts to correct and improve the issues regarding judicial determinations. The State must continue to emphasize to social services districts, Family Court judges, and staff of the Family Court system the importance of the Federal requirements regarding judicial determinations. A clear

understanding must be achieved of the need for court orders to contain the necessary judicial findings regarding legal authority, best interests/contrary to welfare, reasonable efforts to prevent removal, and reasonable efforts to finalize the child's permanency plan. These findings must be rendered in a timely manner, explicitly documented and maintained in the case record. OCFS will encourage all districts to use OCA court forms or substantively equivalent forms, as the OCA court forms meet Title IV-E requirements.

Action Step

OCFS will participate in regional judicial training forums as requested by OCA by the end of the first quarter.

Action Step

OCFS provided the Court Improvement Project (CIP) with the results of the Phase I Review so that complementary activities can be developed in CIP work plans.

Action Step

OCFS, OCA and other parties will identify specific reasons causing late filing, scheduling or delays in holding permanency hearings in a variety of court settings and involving numerous parties. OCFS will work with the court system and other stakeholders to share recommended practices and provide support where possible to remedy problems. This activity has already begun with coordination of efforts with the OCA and the Court Improvement Project and will be carried out during the PIP period.

Action Step

OCFS will propose legislative remedies to facilitate the ability of the court to make determinations regarding reasonable efforts to finalize the child's permanency plan in hearings other than permanency hearings. ACF permits such determinations outside of a permanency hearing based on its audit guide instructions. The Legislative proposals must be approved by the Governor's Office before submission to the Legislature. After submission, the bill must move through the legislative process. Assuming passage, the legislation requires a reasonable time for implementation. New York requests that it be given an extension to the PIP for one year from either the enactment of the legislation or to July 31, 2005, whichever is earlier.

Action Step

OCFS is considering additional resources to function as quality assurance specialists. The purpose of this effort would be to assist the social service districts and the courts in verifying that appropriate documentation required under Title IV-E is immediately available. However, this segment of the PIP is currently unfunded.

2. Contrary to Welfare/Best Interest of the Child

Based on the results of this review (page 4), seven cases were found ineligible for federal financial participation (FFP) because: (1) the case record did not contain the removal petition or court order and a determination could not be made regarding “contrary to welfare”; (2) the judicial determination was not made in a timely manner; or (3) the court order did not contain a “contrary to the welfare” or “best interest of the child” finding.

3. Reasonable Efforts to Prevent Removal/Reasonable Efforts to Reunify Child and Family

Nine cases were determined ineligible (page 4) for FFP because: (1) the case record did not contain the court order and a determination could not be made regarding reasonable efforts to prevent removal or reunify child and family; (2) the judicial determination was not made in a timely manner; or (3) the court order did not contain a reasonable efforts determination.

4. Voluntary Placements

Title IV-E payments may be made on behalf of a child who is in foster care pursuant to a voluntary placement agreement only for the first 180 days of the foster care placement, unless there is a judicial determination that continued voluntary placement is in the best interest of the child. To be eligible for Title IV-E payment, a valid voluntary placement agreement must be signed by the parent or legal guardian and the Titles IV-B/IV-E agency representative(s).

Two cases were found ineligible (page 5) because: (1) the court order was not obtained within 180 days of placement, and (2) the voluntary placement agreement was not valid.

Action Step

OCFS will issue written guidance to local attorneys regarding the timeframes and standards regarding appropriate signators by the end of the first quarter.

5. Ongoing Judicial Activity

In order for a child to be eligible for Title IV-E payments, there must be a judicial determination that reasonable efforts are being 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 child and family.

6. State Agency Responsibility for Placement and Care

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 review (page 6 of report) results indicated that either the court order that extended the child's placement in foster care was not renewed in a timely manner, or that the placement and/or extension order could not be located for review. As a result, in four cases, 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, and the child was determined ineligible for FFP.

Action Step

Please note for items 2 – 6, OCFS will review a Statewide sample of court orders to verify that all necessary legal requirements are found in these orders. OCFS will provide written feedback to the OCA and social services districts on the findings. This will be completed during the first and third quarters.

B. Eligibility for Aid to Families with Dependent Children (AFDC) at Removal

Review results indicated that four children were determined ineligible for FFP (page 6 of report) because the case record did not contain the necessary documentation to determine whether the child received AFDC at the time of placement, or would have received AFDC within six months of placement based on financial need and deprivation of parental support.

Action Step

OCFS has invested substantial resources to improve eligibility determinations by local casework staff. The issuance of an eligibility manual includes a chapter on Title IV-E for social services district staff. The manual

provides the basis for ongoing training, provided regionally by training contractors, of social services district staff. This, in combination with an Automated Eligibility Work Sheet, will assist caseworkers in collecting and recording required information in determining financial eligibility for Title IV-E and other federal and State funding. The Automated Eligibility Work Sheet is being incorporated into New York State's Statewide Automated Child Welfare Information System (SACWIS) to be used uniformly throughout the State. OCFS will develop a plan by the end of the first quarter to provide technical assistance to social services districts where staff are not currently using the Automated Eligibility Work Sheet.

C. School Attendance for Students who are Age 18

When a child reaches his or her 18th birthday, eligibility for AFDC ceases unless, at State option, the child is a full-time student in a secondary school or its equivalent and is expected to complete the program before age 19. If the State does exercise this option, eligibility for Title IV-E foster care ceases at the end of the month in which the child leaves school or when the child turns 19, whichever occurs earlier.

The review (page 6) indicated that in one case the child was age 18 and not expected to graduate prior to age 19.

Action Step

This issue will be addressed through local program improvement plans submitted by the first quarter.

D. Ineligible Payment

Title IV-E foster care maintenance assistance payments may only cover the costs of providing certain items encompassed within the definition of this term.

The review (page 7 of the report) indicated that for one child a Title IV-E claimed payment was ineligible based upon documentation establishing that the service provided was therapeutic counseling. This item of cost constitutes the provision of social services and is not allowable as a Title IV-E claim. The payment was classified in the State's automated system as "Type 63 – Additional Per Diem".

Action Step

On 7/11/03, local districts were advised that they must follow proper procedures for coding activities/services appropriately so that claims will not inadvertently be made for costs ineligible for Title IV-E funding.

E. Foster Placement Licensing and Safety

The review indicated that in all foster family home cases reviewed, the files contained the required documentation verifying that the safety consideration had been addressed for foster care providers. Specifically, it was determined that the

State-required criminal records check had been conducted for all foster home cases reviewed and any concerns reviewed.

Concurrently, the review also indicated that in all institutional cases reviewed, the files contained the required documentation verifying that the safety consideration had been addressed for staff/caretakers in child care institutions.

Action Step

OCFS intends to maintain compliance in this area and will continue to periodically monitor these areas on a sampling basis for the duration of the PIP. OCFS will complete the foster care home certification activity by the end of the third quarter.

F. Audit Activity

As previously discussed, OCFS will conduct Title IV-E foster care audits of all major districts and provide written reports to social services districts. The ACF Title IV-E foster care eligibility review instrument issued May 30, 2003 will be the basis of the OCFS audits. The findings of each report issued will be reviewed against the context of the State's PIP.

Action Step

A quarterly audit schedule has been established for all major social services districts. Audit reports will be issued to the social services districts and they will be required to adjust their local improvement plans to improve compliance with Title IV-E Eligibility requirements, as appropriate.

Description of How Progress Will Be Evaluated by State and ACF, Including Frequency and Format

Thirty days after the end of each quarter, OCFS will provide ACF with a written update on each of the activities included in the PIP. Any changes that need to be made to the PIP will be reported to ACF no later than the quarterly report. At the six-month point, OCFS will convene a meeting or conference call with ACF to discuss progress and adherence to timetables. The quarterly reports will address the following areas:

1. OCFS will review all social services district PIPs and provide feedback on any areas that need to be strengthened. OCFS has developed a written review tool.
2. Monitoring tools have been developed for legal activities and foster home certification and approval.
3. OCFS will review legal activities through sampling court orders and provide written feedback to social services districts and OCA.

4. OCFS will review foster home certifications/approvals and licensing/safety requirements of programs and provide written feedback to all relevant parties.
5. Evaluations from training sessions on the Title IV-E Eligibility Manual will be reviewed, including pre-tests and post-test information.
6. OCFS audit reports will be independent measures of compliance on a social services district specific level. As audit reports are released, districts will be required to adjust local program improvement plans if any deficiencies are noted.