

Pennsylvania Primary Review Title IV-E Foster Care Eligibility Report of Findings for October 1, 2009 – March 31, 2010

Introduction

During the week of September 20, 2010, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of Pennsylvania's title IV-E foster care program. The review was conducted in collaboration with the Pennsylvania Department of Public Welfare (DPW) and was completed by a review team comprised of representatives from Pennsylvania's Office of Children, Youth and Families (OCYF), County Children and Youth Agencies (CCYA), CB Central and Regional Offices, ACF Regional Grants Management and a peer reviewer.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether Pennsylvania's 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 October 1, 2009 – March 31, 2010. A computerized statistical sample of 210 cases was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. One hundred fifteen (115) cases were excluded from the original sample because no title IV-E foster care maintenance payment was made during the PUR. Pennsylvania provided documentation to support excluding these cases from the review sample. Of the one hundred and five (105) eligible cases confirmed as receiving a title IV-E foster care maintenance payment during the PUR, 80 cases were reviewed consisting of 75 cases from the original sample plus 5 oversample cases.

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)(i) and 472(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 was also examined to ensure the foster family home or childcare 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 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 Pennsylvania 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. CB and Pennsylvania 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 being in error, in undetermined status, or not in error but with ineligible payments. Based on the supplemental documentation, the improper payment finding for sample case 68 was changed to non-error case with no 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 cases were determined to be in error for either part or all of the PUR and three non-error cases were determined 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 cases and non-error cases with ineligible payments, are being disallowed. In addition, two non-error cases were identified to have periods of eligibility for which Pennsylvania did not claim allowable title IV-E maintenance payments. Because the number of cases in error is fewer than four, Pennsylvania is found to be 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 Pennsylvania did not meet the compliance mandates.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)	
		Maintenance	Administration
51	Foster care maintenance payment made for a period after the youth turned 18 and was not expected to graduate by his 19 th birthday. [§406(a) of the Act; 45 CFR §233.90(b)(3)] Ineligible: 02/01/2010-03/31/2010	\$6,298.21	\$3,897.00
63	Foster care maintenance payment made for a month in which foster family home had a provisional license. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Ineligible: 02/01/2010-02/28/2010	\$307.49	\$1,948.00
Total:		\$6,605.70	\$5,845.00

Non-error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)	
		Maintenance	Administration
31	Foster care maintenance payment made for a period of time before the foster family home was licensed. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Ineligible: 08/16/2008-10/31/2008	\$849.72	\$5,602.00
48	Foster care maintenance payment made prior to the month in which safety requirements were met for the foster home. [45 CFR §1356.30] Ineligible: 04/30/2009-08/31/2009	\$1,825.16	\$7,553.00
50	Foster care maintenance payment covering incidental costs made twice in the month for periods before the foster family home license was approved. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Ineligible: 09/01/2007-09/30/2007	\$113.08	\$0
Total:		\$2,787.96	\$13,155.00

Underpayment Case

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP) Maintenance
52	Judicial determination of reasonable efforts to finalize a permanency plan was timely and title IV-E was not claimed for an otherwise eligible child. State policy requires that a judicial determination of reasonable efforts to finalize a permanency plan be made every six months. [§472 (a)(2)(A)(ii) of the Act; 45 CFR §1356.21(b)(2)] Eligible: 03/14/2008-03/17/2008	\$105.22
53	Foster family home was fully licensed and title IV-E was not claimed for an otherwise eligible child. [§472 (b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 05/01/2008-06/30/2008	\$1,192.55
	Total:	\$1,297.77

Areas in Need of Improvement

The findings of this review indicate that Pennsylvania 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: Financial Controls

In the two error cases and three non-error cases, it was determined that title IV-E maintenance payments were made improperly for children who did not meet the eligibility requirements. However, in both of the error cases the improper payments were recognized by the county agency and reversed, but only after the sample had been shared with the State. One of the error cases consisted of paying two months of foster care maintenance payments for a youth after his 18th birthday when there was documentation the youth would not have graduated by his 19th birthday. This payment was made for February 2010, but not reversed until July 2010. The second error case consisted of a foster care maintenance payment that was made for a month when the foster family home had a provisional license due to deficiencies in licensing standards. This payment was made for March 2010, but not reversed until September 2010.

Title IV-E Requirement: Consistent with the Federal provision at 45 CFR §1356.60(a)(i), title IV-E foster care maintenance payments may be claimed only on behalf of eligible children and, then, only for the cost of providing certain expenditures covered within the Federal definition of foster care maintenance payments at §475(4) of the Act. The State must document that foster care maintenance payments claimed for title IV-E reimbursement are for allowable expenditures in accordance with the statutory definition, are in amounts conforming to 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.

Recommended Corrective Action: Since 2008, Pennsylvania has been in the process of implementing a title IV-E invoice validation system. Although significant progress has been made, there are still some improvements that yet need to be made. More training and technical assistance to county agencies would help the CCYA to identify improper payments before title IV-E reimbursement is requested, preventing the need to reverse payments at a later date. It is also important for the invoicing system to be able to interface electronically with other county and OCYF fiscal electronic systems.

Issue #2: Correct coding of AFCARS data element 59

One hundred fifteen (115) cases were excluded from the original sample. Documentation provided by the State confirmed the case replacements were necessary because a title IV-E maintenance payment was not made on behalf of the child for a period during the PUR.

Title IV-E Requirement: The case sample and oversample drawn for review consist of cases of individual children with a “1” coded in AFCARS data element 59, “Sources of Federal Financial Support/Assistance for Child,” for the six-month reporting period of the PUR. As provided for in Appendix A of 45 CFR §1355.40, the AFCARS data element 59 inquires whether title IV-E foster care maintenance payments are paid on behalf of an eligible child in foster care. If title IV-E foster care maintenance payments are paid on behalf of the child, the data element should be coded “1.” If no title IV-E foster care maintenance payments were paid on behalf of the child, the data element should be coded “0.”

Recommended Corrective Action: The validity of the sample and oversample depends on the accuracy with which the State agency completes the AFCARS data element 59. It is critical, therefore, that State agencies report data element 59 accurately. CB recommends that the State assure a common understanding among staff that the State should only indicate whether a child received a title IV-E foster care maintenance payment during the reporting period in answering foster care element 59.

Issue #3: Underpayments

State policy requires a judicial finding that reasonable efforts have been made to finalize a child’s permanency plan at least every six months, more frequent than the Federal requirement for a judicial determination every 12 months. This policy promotes timely decisions for achieving permanency for a child. In a case cited as an underpayment, the State ceased claiming FFP when a judicial finding was not made within the timeframes set by the State, though the case remained in compliance with Federal requirements.

Title IV-E Requirement: For a child who is judicially removed and remains in foster care for 12 months or more, Federal provisions at §472(a)(2)(A) of the Act and 45 CFR §1356.21(b)(2) require the State to obtain a judicial determination of whether or not the State made reasonable efforts to finalize a permanency plan for the child. The judicial finding must occur at regular 12-month intervals for the duration of the foster care episode and no later than 12 months from the month in which the prior determination is obtained. If the judicial determination of reasonable efforts to finalize the permanency plan is not made or is not timely, the child becomes

ineligible from the beginning of the first month after it is due and remains ineligible until the judicial determination is made.

Recommended Corrective Action: It is recommended that the State review its practice to cease claiming FFP when a judicial finding is not made within the timeframes set by the State but continues to meet Federal requirements.

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 have led to improved program performance and successful program operations.

New Court Orders: In recent years, there has been increased collaboration between DPW and the Administrative Office of Pennsylvania Courts through the Court Improvement Program, focusing on the development and implementation of new standardized court orders statewide. In the previous title IV-E review conducted in July 2007, concerns were noted around judicial findings with some older court orders. However, this review found significant progress had been made in the cases with newer court orders. The orders were much clearer and child-specific. The judicial determinations of contrary-to-welfare, reasonable efforts to prevent placement or to reunify, and reasonable efforts to finalize the permanency plan were made timely on all of the cases reviewed. In most cases, the reasonable efforts to finalize the child's permanency plan was made at least every six months, if not every three months which promotes timely decisions about plans for achieving the permanency plan goal for the child.

Licensing and Criminal Records Checks: Both licensing and criminal records checks were clearly documented and available in the case records. Almost all of the cases had all three criminal records checks (ChildLine, State, and FBI) required by Pennsylvania State law and were received and completed timely. Licenses for childcare institutions and foster family homes were also completed timely and clearly indicated the specific periods for which they were licensed. OCYF's Regional Offices inspect and issue these certificates to foster care facilities and county agencies to assure that licensing and criminal record check requirements are met.

Automated Invoice System: Pennsylvania has significantly improved its process of financial controls in claiming title IV-E allowable costs. This has primarily occurred through the development and implementation of a new State Title IV-E Invoice Validation System. The review found clear evidence that the system was able to identify and exclude most unallowable costs such as in the cases where foster care maintenance payments were stopped when the adoption finalized, when a provider license was provisional or not approved, when a youth turns 18, and when a facility was no longer title IV-E reimbursable. The State has demonstrated in its work with the Regional Office an ongoing commitment to continue improvements in this area.

Disallowances

A disallowance in the amount of \$6,605.70 in maintenance payments and \$5,845.00 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error cases. Additional amounts of \$2,787.96 in maintenance payments and \$13,155.00 in related administrative costs of FFP 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 \$28,393.66 in FFP. Pennsylvania must also 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

The Regional Office is available to provide technical assistance to the State to address the areas of concern identified during this review.