

**Pennsylvania
Title IV-E Foster Care Eligibility
Primary Review
Report of Findings
October 1, 2012 - March 31, 2013**

Introduction

During the week of August 26, 2013, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the Pennsylvania title IV-E foster care program. The review was conducted in collaboration with the Department of Public Welfare (DPW) and was completed by a review team comprised of representatives from Pennsylvania's Office of Children, Youth & Families (OCYF), County Children and Youth Agencies (CCYA), Administrative Office of Pennsylvania Courts, CB Central and Regional Office staff, 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 eligibility review encompassed a sample of Pennsylvania's foster care cases that received a title IV- E maintenance payment for an activity during the six-month period under review (PUR) of October 1, 2012 – March 31, 2013. A computerized statistical sample of 150 cases was drawn from Pennsylvania's data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Thirty three (33) cases were excluded from the sample prior to the onsite review because no title IV-E foster care maintenance payment was made for an activity during the PUR. Pennsylvania provided documentation to support excluding these cases from the review sample. Eighty (80) cases of the original sample were reviewed during the review; no further oversample cases were reviewed.

In accordance with Federal provisions at 45 CFR 1356.71, Pennsylvania 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 the State agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1556.71(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 an 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 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. The CB and Pennsylvania agreed that 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. Based upon additional documentation provided subsequent to the onsite review, the findings for sample cases 23, 45, and 73 were changed to non-error.

Compliance Finding

The review determined that seventy-seven (77) of the eighty (80) cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Three (3) cases were determined to be in error for either part or all of the PUR and two (2) non-error cases were determined to be ineligible for Federal funding for a period of claiming outside the PUR. Accordingly, Federal funds claimed for the title IV-E foster care maintenance payments, including related administrative costs associated with error and non-error cases with ineligible payments, are being disallowed. Because the number of cases in error is fewer than five (5), Pennsylvania was found to be in substantial compliance for the PUR.

Case Record Summary

The following chart records the error cases; reasons for the improper payments; improper payment amounts; and the Federal provisions for which Pennsylvania did not meet the compliance mandates.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
2	Judicial determination of reasonable efforts to prevent removal was not attained [§472(a)(2)(A)(ii) of the Act; 45 CFR §1356.21(b)(1)]. Ineligible for entire foster care episode. Ineligible: 10/4/2012-12/21/2012	\$1,099.95 Maintenance \$3,092.81 Administrative
18	Foster care maintenance payment made for a period after responsibility for care and placement of the child was removed from the agency [§472(a)(2)(B) of the Act; 45 CFR §1356.71(d)(1)(iii)] Ineligible: 1/18/2013 – 1/28/2013	\$210.28 Maintenance \$0 Administrative
58	Foster care maintenance payment made for a period of time before safety requirements were met for the caregiving staff of a child care institution [§471(a)(20)of the Act; 45 CFR §1356.30(f)] Ineligible: 6/22/2011 – 12/17/2012	\$51,067.82 Maintenance \$8,942.00 Administrative

\$52,378.05 Maintenance
\$12,034.81 Administrative
TOTAL: \$64,412.86

Non Error Cases

The following chart provides details for the two non-error cases containing ineligible payments, the reasons for ineligibility, the appropriate citations, the dates of ineligibility and the disallowance amount.

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
13	Foster care maintenance payment made for the period outside the PUR prior to the month in which safety requirements were met for the foster home [§471(a)(20)(a) of the Act; 45 CFR §1356.30(a) & (b)] Ineligible: 9/1/2012 – 9/30/2012	\$413.03 Maintenance \$496.00 Administrative
31	Foster care maintenance payment made for the period outside the PUR prior to the month in which the reasonable efforts to prevent removal finding was made [§472(a)(2)(A)(ii) of the Act; 45 §CFR1356.21(b)(1)] Ineligible: 6/27/2011 – 6/30/2011	\$45.47 Maintenance \$0 Administrative

\$458.50 maintenance
\$496.00 Administrative
TOTAL: \$954.50

Underpayment Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
35	Foster family home was fully licensed and foster care maintenance payment was not claimed for an otherwise eligible child. [§472(b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 6/01/2012 – 6/30/2012	\$475.64 Maintenance
46	Foster family home was fully licensed and foster care maintenance payment was not claimed for an otherwise eligible child. [§472(b) and (c) of the Act and 45 CFR §1355.20(a)] Eligible: 11/1/2011 – 9/30/2012	\$4,746.92 Maintenance

Areas in Need of Improvement

The findings of the review indicate 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: AFDC Eligibility

In the planning and policy discussions prior to the on-site review, CB and OCYF identified that Pennsylvania was not using the two-step income test to determine financial eligibility for AFDC as required in the State’s AFDC plan in effect on July 16, 1996. The State, therefore, was out of compliance with its title IV-E State Plan requirements regarding AFDC eligibility determinations.

Title IV-E Requirement: In order to meet AFDC-related requirements of §472(a)(1) and (3) of the Act and 45 CFR §1356.71(d)(1)(v), a child must be determined a dependent child which is defined in the requirements of the former AFDC program as a child who has been deprived of parental support or care, has been living with a parent or other specified relative in a place maintained as the home of the relative, and has not reached the maximum age designated for program eligibility. The State must establish that the child is financially needy and deprived of parental support based on the home from which the child is removed.

The former AFDC eligibility program used a two-step process to determine financial need based on the family’s income. In the first of the two-step process, the State must determine that a family’s gross income is less than 185% of the State’s AFDC need standard, in effect on July 16, 1996, after applying the appropriate disregards. If the family’s gross income does not exceed 185% of the State’s AFDC need standard, the agency proceeds to the second step to continue the process of determining if a child would have been eligible for AFDC based on financial need. In the second step, the State must compare the family’s income, after applying further appropriate disregards, to 100% of the State’s AFDC need standard. [Refer to Federal regulations at 45 CFR 233.20; the Title IV-E Eligibility Review Guide, Chapter 4, “Determining Financial Need”; and the Child Welfare Policy Manual section 8.4, Question #18].

Recommended Corrective Action: The OCYF was able to develop a new form prior to the on-site review and used the form to reconstruct all cases in the sample. No errors were identified with regard to AFDC financial need or eligibility, however, the CB RO informed the State that it must take corrective actions to ensure it programmatically complies with the two-step test and eligibility determination process specified in the State's AFDC plan in effect on July 16, 1996. The State must provide the CB RO with confirmation within sixty (60) days of the disallowance notice transmitting this final report of review findings that corrective actions have been implemented statewide. The corrective action should result in a change in agency policy and title IV-E eligibility forms to reflect the two-step process for properly determining AFDC financial need. It also should provide for training of appropriate income maintenance and title IV-E eligibility staff. It is also recommended that the month of eligibility be included on the CY-61 eligibility form. If corrective actions have not yet been fully implemented statewide, a corrective action plan of no longer than one year is required within 60 days of the disallowance notice to address the outstanding issues. Quarterly updates will be required until this issue is resolved.

The development and implementation of a corrective action plan may necessitate making changes to your automated information systems. We encourage you to include your data analysis staff and information technology staff in discussions with your program staff about the modifications. If your State has an active information technology project that qualifies for title IV-E funding under Federal regulations at 45 CFR §1355.52, the information technology changes must be reported and approved through the process described in 45 CFR §1355.54.

Issue # 2: *Judicial determination of reasonable efforts to prevent removal*

One (1) case was in error because the judicial determination of "reasonable efforts" was not made. This previous in-home case was under court jurisdiction for protective services. The judge removed the child from the home during a permanency review hearing. The State's permanency review court orders do not have a check box that would allow the court to indicate a judicial finding whether reasonable efforts to prevent a child's removal from the home were made by the agency. Furthermore, the judge did not include the determination in the space provided for additional comments/findings and there is no transcript of the proceeding to document that such a finding was made.

Title IV-E Requirement: Sections 472(a)(2)(A)(ii) and 471(a)(15) of the Act require that for a judicial removal, there must be a determination to the effect that the State agency made reasonable efforts to prevent removal of the child from the home or that reasonable efforts were not necessary. The judicial requirement must be met within 60 days of the removal of a child entering foster care on or after 3-27-2000. Federal financial participation, however, may not begin until the first day of placement in the month in which all initial eligibility requirements that must be met are satisfied.

Recommended Corrective Action: The State should provide guidance and training to judges, masters, and other court personnel that court orders need to include specific case-level information. Removal orders need to be clear and reference reasonable efforts to prevent removal findings as either a check box or added in the text box provided for additional information. Additionally, while no cases were found to be in error for this reason, reviewers

noted that removal orders need to clearly document the judicial determination and reference (as relevant) the contrary to the welfare finding made in a verbal removal order. It is recommended that OCYF work with the Court Improvement Program to ensure court orders include all necessary findings.

Issue # 3: *Safety Considerations for Staff of Child Care Institutions*

One (1) case was in error because the safety requirements for two staff of the facility were not met in accordance with State and Federal regulations. The two staff had not completed the requisite FBI clearances when reviewed during their annual licensure. The new bureau for licensing child care institutions in the State, the Bureau of Human Services Licensing (BHSL), identified the missing FBI clearances for these staff in its annual inspection of the facility and documented this as a violation. However, BHSL is a new State agency which had not developed procedures for notifying OCYF of such a violation which would alert OCYF to cease claiming title IV-E for the period of ineligibility.

Title IV-E Requirement: As specified in 45 CFR 1356.30(f) and 1356.71(g), the licensing file for a child care institution must contain documentation which verifies that safety considerations with respect to the caregiver staff of the facility have been addressed in order for a child placed in the institution to be eligible for title IV-E funding. The State must provide documentation validating that all of the safety considerations, including required safety checks, established by the State are satisfied for the duration of the child's placement during the PUR.

Recommended Corrective Action: Pennsylvania should develop procedures between BHSL and OCYF to communicate any violations cited during licensing inspections. Eligibility and licensing staff should work together to ensure that any violations that have been identified are shared and establish a system for reviewing compliance with this requirement periodically. In addition, Pennsylvania's invoice validation system should be reviewed to determine if there are adequate edits in place to prevent title IV-E from being claimed when a child is placed with a provider who has not met the criminal records check requirements.

The BHSL should ensure that they have a record retention policy that is consistent with federal requirements at 45 CFR 92.42 so the appropriate documentation may be provided to demonstrate that safety checks of staff were monitored in accordance with State policy during their annual licensing inspections.

Issue # 4: *Inadequate internal controls*

One (1) case was in error because the county (Philadelphia) no longer maintained responsibility for the placement and care of the child. Title IV-E funds were claimed for the period after the child had been reunified with family. Additional documentation provided onsite indicated this was due to a data entry issue; the worker entered the date the discharge summary report was printed instead of the date of reunification.

Title IV-E Requirement: Section 472(a)(2)(b)(i) of the Act requires that the responsibility for placement and care of a child be with the State agency administering the title IV-E plan approved under Section §471 of the Act, or any other public agency with whom the State

agency has a written agreement in effect. For the eligibility review, the State agency must present documentation that it has responsibility for placement and care of the child for the entire period under review. The court order or voluntary placement agreement must indicate that the agency has this responsibility.

Recommended Corrective Action: Pennsylvania should provide technical assistance to the counties to ensure that all caseworkers and data entry staff have appropriate training on payment and cost requirements as well as processes for reviewing critical factors such as discharge paperwork and eligibility forms. The State should ensure no claims are made for cases prior to when all eligibility requirements are met. In addition, Philadelphia County should institute a quality assurance process to periodically review program compliance and track payments to ensure accuracy, so that these types of data entry errors are identified before being sent to the State IV-E Invoicing Validation System.

Additional Concerns

Nineteen (19) cases were eliminated from the sample prior to the onsite review because no invoice for an activity during the PUR had been processed by the State for title IV-E reimbursement. Pennsylvania is county-administered system and has a two-tiered process that it must undergo before a payment is claimed for Federal financial participation: 1) the county pays the foster care provider and later invoices the State for title IV-E costs. 2) the State, in turn, determines whether a claim for title IV-E reimbursement should be submitted. Often a county's requests to the State for reimbursement are not submitted until two or more months after the provider's service date, causing the State to predominantly report prior quarter adjustments on the Form CB-496. Additionally, Pennsylvania has been delayed in approving the per diem amounts counties may use for child care institutions. This resulted in numerous cases in the sample for which the State had not yet submitted a title IV-E claim for an activity during the PUR. Pennsylvania must address these issues to ensure timely establishment of per diems and timely invoicing by the counties so significant delays are eliminated.

An issue was also identified with Pennsylvania's new unique identifiers, the master client index (MCI). Three (3) cases that were originally eliminated because they were determined to not have a title IV-E payment invoiced by the State for an activity during the PUR were later found to have such a payment and were added back into the review sample. Two of the cases had children that came back into foster care after a dissolved adoption and, therefore, had two different MCI numbers. Pennsylvania should work with information technology systems staff to ensure that children with multiple MCI numbers are linked so a full history of a child's placement and care with the agency can be viewed and tracked.

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.

Interagency Collaboration

There continues to be a strong collaboration between OCYF and the Administrative Office of Pennsylvania Courts through the Court Improvement Program (CIP), evidenced in the review by the wide usage of detailed model court orders and CIP staff active participation in the review. A model court order was developed as a tool to help court officials create documents that sufficiently and explicitly record pertinent judicial decisions and can be modified to include case details specific to the child's circumstances. Significant progress has been made in improving the quality of court orders since the development of the model court order following the 2007 title IV-E foster care eligibility review. The current review found that the model court orders used by the majority of the courts in cases reviewed were very clear and child-specific.

The judicial determinations of “contrary to welfare”, “reasonable efforts to prevent placement” and “reasonable efforts to finalize the permanency plan” were made timely in all but one of the cases reviewed. In most of the cases reviewed, the reasonable efforts to finalize the permanency plan finding was made at least every six months, and in many cases made every three months. The review also found that there was timely movement to permanency through adoptions, kinship placements, and guardianship.

Licensing and Criminal Records Checks

Reviewers found that children were placed only with licensed or approved providers and that criminal record checks had been completed in all cases in which a child was placed in a child care institution, with the exception of one case. Consistent with previous reviews, all three background checks (ChildLine, State Police and FBI) were found in the case records as required by Pennsylvania State law. In addition, provider licenses were clearly documented and completed timely in all of the cases. With the exception of one error case and one non-error case reviewers found frequent criminal records checks being completed on both foster family homes and child care institutions.

Disallowance

A disallowance in the amount of \$52,378.05 in maintenance payments and \$12,034.81 in related administrative costs of Federal financial participation (FFP) is assessed for title IV-E foster care payments claimed for the error cases. An additional amount of \$458.50 in maintenance payments is 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 \$65,367.36 in FFP. Pennsylvania also must identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the payments provided in the payment histories for the review. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

Next Steps

As part of Pennsylvania's ongoing efforts to improve its title IV-E foster care eligibility determination process, CB recommends that Pennsylvania examine identified program deficiencies and develop measurable, sustainable strategies that target the root cause of

problems hindering Pennsylvania from operating an accurate foster care eligibility program. Appropriate corrective action should be taken in instances of noncompliance with Federal laws and regulations. As noted above, the State must make corrective actions immediately to resolve the program issue pertaining to Pennsylvania's lack of compliance with the two-step process consistent with the methods specified in the State's AFDC State plan in effect on July 16, 1996. The CB Regional Office will continue to provide technical assistance to OCYF in these efforts.