Introduction

During the week of April 29, 2019, the Children’s Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of Puerto Rico’s title IV-E foster care program. The title IV-E foster care review (IV-E Review) was conducted in collaboration with Puerto Rico and was completed by a review team comprised of representatives from Puerto Rico’s Administration for Families and Children (ADFAN), Court Improvement Project (CIP), CB Central and Regional Offices, ACF Regional Grants Management, and cross-state peer reviewers.

Key purposes of the title IV-E review were: (1) to determine whether the Puerto Rico 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 ADFAN’s financial claims to ensure appropriate payments were made on behalf of eligible children.

Scope of the Review

The title IV-E review encompassed a sample of ADFAN’s foster care cases in which a title IV-E maintenance payment was made for an activity that occurred in the six-month period under review (PUR) of April 1, 2018- September 30, 2018. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from data ADFAN submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 70 cases from the original sample plus 10 oversample cases. Seven cases were excluded from the original sample because no title IV-E foster care maintenance payment was made for a period of activity during the PUR. Three cases were excluded from the original sample because they were duplicates of other cases already included in the sample. The ADFAN provided documentation to support excluding these cases from the review sample and replacing them with cases from the oversample. The CB is aware that Puerto Rico has been diligently working towards converting records from paper and legacy systems to their electronic case record system, SIMCa (Sistema Integrado de Manejo de Casos). This conversion process is likely contributing to the errors in the AFCARS data files, which, in turn, resulted in the duplicate cases in the review sample. We encourage ADFAN to continue the work to clean the data in the system and ensure they are accurate.

In accordance with federal provisions at 45 CFR 1356.71, ADFAN 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) and (c), respectively;
• Voluntary placement agreements as set forth in §§472(a)(2)(A)(i) 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)(ii);
• 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)(vi);
• 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 1356.71(d)(1)(iv); and
• Safety requirements for the child’s foster care placement as required at §471(a)(20)(A) of the Act and 45 CFR §1356.30.

The case record of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider’s record also was examined to ensure that the foster family home or child care institution where the child was placed during the PUR was fully licensed and met the relevant safety requirements. Payments made on behalf of each child also were reviewed to verify expenditures were properly claimed under title IV-E and to identify underpayments 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.

The Children’s Bureau and Puerto Rico agreed that ADFAN would have two weeks following the onsite review to submit additional documentation for the cases identified as errors during the onsite review.

**Compliance Finding**

The review team determined that 78 of the 80 cases met all eligibility requirements (i.e., were deemed non-error cases) for the PUR. Two cases were determined as in error for not meeting the eligibility requirements either for periods only during the PUR or for the entire foster care episode.

As such, the Children’s Bureau has determined the Puerto Rico title IV-E foster care program is in substantial compliance for the PUR. Substantial compliance in a primary IV-E Review means the total number of error cases is four or fewer cases determined as not meeting eligibility requirements for the PUR. Since ADFAN is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

**Case Summary**

The following chart records the improper payment cases comprised of error cases; reasons for the improper payments; improper payment amounts; and federal provisions for which ADFAN did not meet the compliance mandates. Calculation of improper payments is based on the federal financial participation (FFP) rates of maintenance payments at ADFAN’s Federal Medical Assistance Percentages (FMAP) for applicable year(s) for each sample case.
Error Cases:

<table>
<thead>
<tr>
<th>Sample Number</th>
<th>Improper Payment Reason &amp; Ineligibility Period</th>
<th>Improper Payments (FFP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>#41</td>
<td>Judicial determination requirement of reasonable efforts to prevent removal was not met. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)]</td>
<td>$7,948 Maint. $16,552 Admin.</td>
</tr>
<tr>
<td></td>
<td>Ineligible: Entire foster care episode</td>
<td></td>
</tr>
<tr>
<td>OS #9</td>
<td>Judicial determination requirement of reasonable efforts to finalize the permanency plan was not met. [§472(a)(2)(A)(ii) of the Act; 45 CFR §1356.21(b)(2).]</td>
<td>$2,496 Maint. $13,005 Admin.</td>
</tr>
<tr>
<td></td>
<td>Ineligible: 10/01/2017 – 06/06/2018, 09/11/2018 – 12/11/2018</td>
<td></td>
</tr>
</tbody>
</table>

Areas Needing Improvement

Findings of this review indicate ADFAN 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 ADFAN should undertake.

**Issue #1:** Judicial Determinations Regarding Reasonable Efforts. Two cases were in error because they did not meet these judicial determination requirements. One case, Sample #41, lacked a judicial determination of reasonable efforts to prevent removal. A second case, OS #9, lacked a judicial determination of reasonable efforts to finalize a permanency plan.

**Title IV-E Requirement:** The provisions at §472(a)(2)(A) of the Act require the title IV-E agency to obtain judicial determinations that it has made reasonable efforts (1) to maintain the family unit and prevent the unnecessary removal of a child from the home, as long as the child’s safety is ensured and (2) to make and finalize a permanency plan in a timely manner. The judicial determinations that the title IV-E agency has made necessary and reasonable efforts to prevent the child’s removal from the home from which he or she is judicially removed, and has made reasonable efforts to finalize a permanency plan are eligibility criteria. The reasonable efforts determinations must be explicitly stated in the court order (or transcript of the court proceeding).

**Recommended Corrective Action:** There are only two errors, neither of which appear to reflect systemic problems. The ADFAN will continue to work with Puerto Rico’s Court Improvement Program (CIP) to improve quality of court practice and documentation, with a specific focus on judicial determinations regarding reasonable efforts to prevent removal and reasonable efforts to finalize a permanency plan. The ADFAN and the CIP should develop and implement training for child welfare staff and court personnel with the support of CB. Training will emphasize the importance of all judicial determinations at removal and on an ongoing basis insofar as they impact title IV-E as eligibility criteria. Once the training has been delivered, ADFAN should, with CB support, develop a plan to monitor performance to implement improvements across Puerto
Rico’s programs and courts. Based upon the results of monitoring, ADFAN will implement corrective action that will include providing technical assistance to courts in need of support.

**Program Strengths and Promising Practices**

The following positive practices and processes of ADFAN’s title IV-E program were observed during the review. These approaches have resulted in strong program performance and successful program operations.

Eligibility Determinations: Puerto Rico continues to maintain a title IV-E unit, which ADFAN developed in 2015. Due to the extensive training the staff receive in title IV-E, coupled with the fact that the sole responsibility of the staff in this unit is to perform eligibility determinations, they have become highly specialized in this area. The unit is also centrally located with all staff in a dedicated area which allows the staff of the unit to provide consistent support to one another such as, in the ongoing orientation of new unit staff and in troubleshooting case decisions. The expertise of this unit was evident throughout the review week.

Puerto Rico presented complete case documentation for all sample cases, except two, and the title IV-E unit staff were available to address any questions. More importantly, the quality of the documentation reflected the title IV-E unit’s depth and breadth of knowledge about the details of the title IV-E foster care maintenance payment program. The title IV-E unit continues to work closely with personnel from courts, local offices, and the licensing agency which has resulted in the accuracy and availability of documentation supporting title IV-E eligibility. This effective collaboration was evidenced by the presence of representatives from all of these groups during the review week.

Fiscal controls also were quite strong. The title IV-E unit works closely with fiscal staff of the title IV-E agency to help ensure that financial claims are submitted correctly, and that payments start and stop at the appropriate time. For example, when there was a pending background check, claiming ceased until all criteria were in place, and started as soon as all criteria were met. The strong fiscal controls ADFAN has in place are especially notable given that its current system is manual; and not automated. In order to ensure the effectiveness of their manual system, program and fiscal staff work closely together on a daily basis. The shared understanding that both program and fiscal staff have of title IV-E has created an effective system of checks and balances. Both units work seamlessly to help ensure the accuracy of claims. Both program and fiscal staff clearly understand the impact that their respective roles play to ensure that federal dollars are claimed appropriately.

**Disallowances**

A disallowance in the amount of $10,444 in maintenance payments and $29,557 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the two error cases. The total disallowance as a result of this IV-E review is $40,001 in FFP. Puerto Rico also must identify and repay any ineligible payments for the error cases that occurred for periods subsequent to the PUR. No future claims should be submitted on these cases until it is determined all eligibility requirements are met.

**Next Steps**

As part of Puerto Rico’s ongoing efforts to improve its title IV-E foster care eligibility determination process, the Children’s Bureau recommends that ADFAN examine identified program deficiencies and develop measurable, sustainable strategies that target root causes of
issues and concerns hindering ADFAN from operating the most accurate foster care eligibility program. Appropriate corrective action must be taken in instances of noncompliance with federal laws, regulations, and policies. As noted above, the Children’s Bureau Region 2 Office staff is available to assist ADFAN to continue to improve its title IV-E eligibility practices. Similarly, the Children’s Bureau also is available to help ADFAN obtain any needed support through our national capacity building centers, which can help ADFAN address issues and concerns raised during this title IV-E eligibility review. Additionally, Children’s Bureau encourages ADFAN to continue to invest in and develop its considerable program, fiscal, and staff strengths, all of which result in ADFAN making accurate title IV-E eligibility determinations and supporting the safety and well-being of children in ADFAN’s care.