Rhode Island Title IV-E
Foster Care Eligibility Review
Review Period 10/1/2006 – 3/31/2007

Introduction

During the week of September 10, 2007, staff from the Regional and Central Offices of the Children's Bureau (CB), Administration for Children and Families (ACF), and Rhode Island's Department of Children, Youth and Families (DCYF) conducted a subsequent primary eligibility review of the State's title IV-E Federal foster care program. The review was conducted at DCYF's central office located in Providence, Rhode Island.

The purpose of the title IV-E foster care eligibility review was, (1) to determine if Rhode Island 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 Rhode Island's financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

The Rhode Island title IV-E foster care eligibility review encompassed a sample of all of the title IV-E foster care cases that received a foster care maintenance payment during the period of October 1, 2006 through March 31, 2007. A computerized statistical sample of eighty cases and an over-sample of ten cases were drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submission which was transmitted by the State agency to the CB for the period under review (PUR). The child's case file was reviewed for the determination of title IV-E eligibility and the provider's file was reviewed to ensure that the foster home or childcare institution in which the child was placed had undergone the required criminal records and/or safety checks and was fully licensed or approved for the PUR.

During this subsequent primary review, of the eighty cases reviewed sixteen cases were determined to be in error for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report. Since the number of error cases exceeded four, CB has determined Rhode Island not to be in substantial compliance. Pursuant to 45 CFR 1356.71(i), the State is required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed by the State, in consultation with CB's Child Welfare staff in Region I, and must be submitted to the Regional Office within 90 days of the date of this report's cover letter. Once the State agency has satisfactorily completed the PIP, a secondary review of a sample of one hundred and fifty title IV-E foster care cases will be conducted.

An additional five cases were identified that contained payments that were claimed improperly. Although these cases are not considered "error cases" for determining subsequent compliance, the ineligible maintenance payments and the associated administrative costs are subject to disallowance. A disallowance in the amount of $17,971 in maintenance payments and $19,530 in administrative costs are assessed for these ineligible payments.

Strengths and Model Practices

- All of the cases reviewed were found to have the required initial Aid to Families with Dependent Children (AFDC) determinations. The State has maintained a reliable system for determining and documenting financial need and deprivation of parental support according to the State's July 16, 1996 guidelines for AFDC, as required for title IV-E eligibility determinations of children removed from the home and placed into foster care.

- The State's AFCARS system, Rhode Island Children's Information System (RICHIST), is programmed to automatically suspend claiming for homes that are not fully licensed. The system also suspends claiming after 180 days for children placed under a voluntary care agreement when a judicial determination has not been made that continued voluntary placement is in the child's best interest.

Areas in Need of Improvement

Judicial Determinations

Fourteen of the sixteen cases determined to be in error were missing timely judicial determinations of reasonable efforts to (1) 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/or (2) make and finalize a permanency plan in a timely manner. This was also the basis for determining that all five of the non-error cases had improper payments.

Court decrees with a notation stating "federal findings were made" were provided for some of these cases, as well as a court transcript with a similar statement. This practice does not satisfy the Federal requirements and indeed undercuts the spirit of the law. Federal regulations at 45 CFR 1356.21(d) require the findings to be explicitly documented, made on a case-by-case basis and so stated in the court order. The preamble to the 2000 regulations cites legislative history of the Federal foster care program as the rationale for these requirements and quotes S. Rep. No. 336, 96th Cong., 2d Sess. 16 (1980). This report characterized the required judicial determinations as "…important safeguards against inappropriate agency action…" and made clear that such requirements were not to become "…a mere pro forma exercise in paper shuffling to obtain federal funding…" The judicial determinations themselves need not include the exact terminology used in the statute, but must convey that the court has determined that reasonable efforts have been made or were not required.

Two cases were found to be missing a judicial determination that continuation in the home would be contrary to the child's welfare, or that placement in foster care would be in the best interest of the child. For children removed from the home on or after March 27, 2000, this finding must be made in the first court order sanctioning the State agency's action to remove the child from the home. This requirement is a critical protection that must be afforded to all children and their families to assure that unnecessary removals are minimized.
Addressing delays in timely court determinations and ensuring that appropriate findings are made will require DCYF and the Rhode Island Family Court to work closely together. The State

should implement procedures for the Department and the Court that will not only meet the letter but also the spirit of the law in regards to judicial findings of contrary to the welfare, reasonable efforts to prevent removal and reasonable efforts to finalize permanency. Technical assistance is available free of charge to the State from the National Resource Center on Legal and Judicial Issues to promote the success of these efforts. DCYF is further advised to institute internal controls to ensure that title IV-E funds are not claimed until the month in which all initial eligibility requirements are satisfied, including judicial determinations of contrary to the welfare and reasonable efforts to prevent removal, and funds are not claimed when there is a delay in the required annual judicial determination of reasonable efforts to finalize the permanency plan.

Licensing

Two[1] of the sixteen cases were determined to be in error because reviewers were unable to substantiate that the child's foster care placement was fully licensed for the entire time the child resided in the placement during the PUR. We understand that DCYF has been engaged in an ongoing internal review in order to strengthen its licensing practices. The State is currently receiving technical assistance from the national resource centers to support these efforts. The eligibility review findings should be reviewed and incorporated into these improvement efforts.

AFDC Eligibility

The purpose of the title IV-E foster care program is to provide financial assistance to States for maintaining children who meet the eligibility requirements for the AFDC program and cannot remain safely in their homes. Thus, a child's eligibility for title IV-E maintenance is, in part, predicated on the child's eligibility for AFDC. In general, to meet the AFDC eligibility requirements the State must establish, among other criteria, that the child is financially needy based on AFDC criteria in effect as of July 16, 1996, and that the child was deprived of parental support or care. For a child in foster care longer than one year, the State agency must document periodically, but not less than annually, that the child continues to be financially needy and deprived of parental support or care. All factors of AFDC eligibility must be re-determined. While Rhode Island was found to be documenting initial AFDC eligibility when the child first enters foster care, the State was not adequately establishing continued AFDC eligibility on a periodic basis. Deprivation of parental support was documented in RICHIST. However, financial need was not reconsidered.

No cases were found to be in error due to problems with this re-determination. The eligibility review allows a State to reconstruct the AFDC factors to verify the child's eligibility, retrospectively establishing the case facts that existed at the time of removal or re-determination. Thus, Rhode Island was able to reconstruct AFDC eligibility for each case in the review sample requiring a re-determination documenting continued eligibility throughout the entire PUR. However, the State must establish procedures for ensuring that both deprivation and financial need are re-determined whenever there are changes in the child's circumstances that may affect program eligibility but no less than annually. Documentation, at a minimum, should include an eligibility worksheet or screen in RICHIST that includes the eligibility decision, period of eligibility, basis of decision, and an indication of the State agency's sanction of the decision (e.g., a supervisor's approval). The eligibility summary should provide a clear, evidence-based

[1] The number of errors identified will exceed the total number of cases determined to be in error as some cases had more than one error.

path to the eligibility decision. Re-determination of eligibility is a State plan requirement. Failure to conduct timely periodic reviews of the status of each child receiving assistance may result in the State being out of compliance with its State plan in accordance with §472(a) of the Act.

Case Record Summary

The following details the error and non-error cases, reasons for ineligibility, ineligible periods and amount for each ineligible claim.

Sample #	Case ID	Reason*	Period	Disallowance (FFP)	
Error Cases				**Main.**	**Adm.**
8	1272363	1	11/28/06-12/31/06	$ 351	$ 753
15	1274718	1,2	5/11/05-11/17/06	6,044	6,850
18	1272364	1	11/28/06-12/31/06	335	753
27	1273676	1	5/17/06- 2/17/07	6,076	3,699
31	1199390	2	5/01/06- 6/19/07	6,021	3,699
33	1285820	2	3/01/06-11/30/06	2,318	3,297
36	1154100	1	8/25/05- current	1,437	2,258
45	1157529	1	6/30/05-11/30/06	23,449	6,156
46	1351571	4	7/14/06- 6/13/07	3,005	0
47	1285206	1	3/20/06- current	2,111	1,467
52	185597	4	11/09/06- current	2,065	0
55	1329522	1,3	11/03/05- current	6,040	7,009
63	1102892	2	11/26/05- 4/10/07	3,378	4,656
75	14796	2	10/01/06- 3/31/07	9,066	2,258
79	12816	1,3	3/14/02- current	44,790	11,914
OS2	1325422	1	2/03/06- current	2,409	4,101
SUB-TOTAL				**$118,895**	**$58,870**

Sample #	Case ID	Reason*	Period	Disallowance (FFP)	
Non-Error Cases				**Main.**	**Adm.**
4	1272952	2	9/1/05- 6/30/06	$ 2,979	$ 3,619
14	1328171	1	8/3/06-11/17/06	259	363
19	1204948	2	3/01/03-7/31/06	6,220	7,996
38	1175756	2	6/27/05-12/22/06	5,439	4,709
60	1126930	2	5/24/05-3/16/06	3,074	2,843
SUB-TOTAL				**$17,971**	**$19,530**
TOTAL DISALLOWANCE				**$136,866**	**$78,400**

* Ineligible Codes for Error Cases

1. Reasonable efforts to prevent a child's removal from home court determination not met according to requirements at 45 CFR 1356.21(b)(1).

2. Reasonable efforts to finalize a permanency plan court determination not met according to requirements at 45 CFR 1356.21(b)(2).

3. Contrary to welfare court determination not met according to requirements at 45 CFR 1356.21(c).

4. Provider not fully licensed according to requirements at 45 CFR 1355.20.

Disallowances

Pursuant to 45 CFR 1356.71(j), a total disallowance in the amount of $215,266 in Federal Financial Participation (FFP) is assessed for ineligible payments claimed for error and non-error cases.

The erroneous maintenance payments and administrative costs associated with the sixteen (16) error cases ($177,765 FFP) include all payments claimed on behalf of the child for the entire period of time that each case was determined ineligible for title IV-E payments. No future claims should be submitted on these error cases until it has been determined that all eligibility requirements are met.

Reviewers identified an additional five cases that contained payments that were claimed improperly. Although these cases are not considered "error cases" for determining substantial compliance, the ineligible maintenance payments and associated administrative costs of $37,501 (FFP) are also subject to disallowance.