SOUTH CAROLINA

Title IV-E Foster Care Secondary Eligibility Review

For the period October 1, 2005 to March 31, 2006

Introduction:

During August 7-11, 2006, the Administration for Children and Families (ACF) staff from the Central and Regional Offices, Consultant Reviewers, and State of South Carolina staff conducted an eligibility review of South Carolina's title IV-E Foster Care Program. The purposes of the title IV-E Foster Care Secondary Eligibility Review were (1) to determine if South Carolina was in compliance with eligibility requirements as outlined in 45 CFR 1356.71 and Section 472 of the Social Security Act; and, (2) to validate the basis of South Carolina's financial claims to ensure that appropriate payments were made on behalf of eligible children and to allowable homes and institutions. The reason that the secondary review was necessary was that during the primary review, twenty-one (21) cases were determined to be in error for either part or all of the review period. The primary review found numerous identified errors that were due to the lack of required judicial determinations regarding reasonable efforts to finalize the permanency plan (15 cases). Other errors resulting in IV-E ineligibility were: the lack of a judicial determination regarding reasonable efforts to prevent removal (6 cases); the lack of a judicial determination regarding the child's best interest within 180 days of a voluntary placement (1 case); and child age 18 or older and not a full time student and expecting to graduate prior to 19th birthday (1 case).

Scope of the Review:

The South Carolina title IV-E Foster Care Secondary Eligibility Review encompassed a sample of all the title IV-E foster care cases that received a foster care maintenance payment during the period of October 1, 2005 to March 31, 2006. A statistical sample of 150 cases was drawn from data which were transmitted by ACF to the State agency for the period under review. Each 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 child care institution in which the child was placed was licensed or approved for the period of the review.

This review was classified as a secondary review as defined in the Title IV-E Foster Care Eligibility Review Guide, which was transmitted to State and Territorial agencies by Information Memorandum ACYF-CB-IM-01-11, dated November 30, 2001, and revised in March 2006. In a secondary review an extrapolated disallowance will be assessed if both the child (case) ineligibility and dollar rate exceed ten percent. Since the percentage of error did not exceed this tolerance, we have determined that South Carolina is in

substantial compliance with Federal requirements as outlined in 45 CFR 1356.71(h)(2)(i) for the period of October 1, 2005 to March 31, 2006. The next primary review will be conducted in three years.

Case Record Summary:

During the secondary review, 150 cases were reviewed. Six (6) cases were determined to be in error for either part or all of the review (four of which also have ineligible payments outside of the period under review). The areas where the six (6) cases were determined to be in error relate to the following:

- Valid removal of the child from the home;
- Judicial determination of contrary to the welfare;
- Judicial determination of reasonable efforts to finalize the permanency plan;
- Judicial determination regarding the child's best interest within 180 days of the placement through a voluntary placement agreement; and,
- Placement in a fully licensed foster care facility.

In addition to the six cases found with errors during the period under review, the review team identified twenty-eight (28) cases with ineligible payments occurring outside the review period (four of which are also error cases). The reasons for these errors were related to valid removal; judicial determination of contrary to the welfare; judicial determination regarding the child's best interest within 180 days of a placement through a voluntary placement agreement; judicial determination regarding reasonable efforts to finalize permanency plans; and IV-E payments made prior to removal. Attachments A and B of this report detail each sample case, the reason(s) for ineligibility and the ineligible dollar amounts associated with each case.

Areas Identified Onsite as Strengths in the Title IV-E Foster Care Eligibility System:

- The State has assigned staff whose primary function is to determine financial eligibility. The staff is very knowledgeable about Federal and State eligibility requirements and implementation of the program.

- There has been considerable improvement in judicial determinations of contrary to the welfare, reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan since the primary review, which resulted in fewer error cases related to court orders seen in the secondary review.

- In most cases, the eligibility staff promptly identifies and removes ineligible cases from IV-E to prevent Federal claims being made in error.

- The eligibility staff has developed new eligibility forms that should further improve tracking of case histories and eligibility factors. Until South Carolina's SACWIS is completed and eligibility is automated, we recommend

maintaining copies of completed forms in the eligibility files to document the State's verification of removal home and date, with whom the child was living, financial need and deprivation for initial eligibility determination and annual re-determinations.

- Safety checks are completed every two years on foster care providers. Institutional records of safety considerations being addressed satisfactorily are well documented.

<u>Areas In Need of Improvement:</u>

During the review, the review team identified the following areas in need of improvement.

- **Valid removal of the child from the home; judicial determinations of contrary to the welfare and reasonable efforts to prevent removal**

  Although there has been considerable improvement since the last review, there remain numerous orders not specific to the child and containing conflicting information (in the same court order), such as "reasonable efforts to prevent" and "reasonable efforts not required." One error case during the period under review was in error because the child, without a valid removal, was placed with a relative who was paid with title IV-E funds. Another case was in error because the requirement for a judicial determination of contrary to the welfare was not met. We recommend further collaboration with the judicial community regarding the link between judicial findings and title IV-E eligibility to continue the improvements that have been made in this area.

- **Judicial determination regarding the child's best interest within 180 days of the placement through a voluntary placement agreement**

  One case in error during the period under review lacked the required judicial determination of the child's best interest within 180 days of the placement through a voluntary placement agreement. We recommend further collaboration with the judicial community regarding the link between judicial findings and title IV-E eligibility in this area as well.

- **Judicial determination of reasonable efforts to finalize the permanency plan**

  The review team identified three cases in error during the period under review due to lack of an appropriate judicial determination of reasonable efforts to finalize the permanency plan. (One of these cases also was in error due to a licensure issue.) Recent court orders were much improved in this area, yet there are numerous orders not specific to the child and containing conflicting information (in the same court order), such as judicial determinations regarding reasonable efforts for reunification when the case plan goal was adoption. In many cases, the

report to the court was clear, but the order was not. In one error case, the court report was incorporated in the order, but no finding was made; the order also contained contradictory language.

The reviewers found a number of cases where the judicial determination was late; however, the agency appropriately did not claim Federal reimbursement for the ineligible payments. The review team also identified many cases where the reasonable efforts findings did not meet requirements, but the eligibility staff appropriately removed the case from IV-E reimbursement. Additionally, in several court orders reviewed, there was evidence of confusion regarding the difference between the Court approving the agency's plan and making the required judicial determination of reasonable efforts to finalize the plan.

As stated above, we recommend further collaboration with the judicial community regarding the link between judicial findings and title IV-E eligibility. The State agency prepares a monthly report on the amount of Federal funds that the State is not able to claim due to the above errors, and we recommend sharing that information with the Court Improvement Program and others in the judicial community.

- **Placement in a fully licensed foster care facility**

  Reviewers found one case in error during the period under review because the agency placed the child in the foster home prior to the home being fully licensed. We recommend that full licensure be verified prior to the eligibility determination.

Findings and Disallowances:

Eighty-four (84) cases were identified during our review where title IV-E maintenance payments or administrative costs were not claimed, but may have been claimed, as title IV-E eligibility requirements had been met. The amount of maintenance payments determined underpaid totals $490,014 (total computable) and the amount of associated administrative costs totals $74,987 (FFP). The majority of these underpayments are attributed to the State's practice of paying for the first twelve months of a child's entry into foster care with TANF funds. Once IV-E eligibility is established, the State's practice is to transfer appropriate foster care payments to title IV-E funds and make appropriate adjustments to both TANF and title IV-E grants for periods that the foster care children were determined to be eligible retroactively. Due to staff shortages, South Carolina has been unable to devote time to this effort of determining retroactive eligibility. Thus, after twelve months of TANF payments, cases where eligibility has been coded in the State's system automatically transfer to title IV-E funding. The potential months of eligibility since the child's entry into foster care paid with TANF funds are not being evaluated for recoupment.

We believe the amount of TANF funds expended due to this State practice could more than pay for a part-time position devoted to eligibility determination in this area alone, and the administrative costs associated with the position are title IV-E reimbursable, as well. We recommend the State evaluate this practice and make appropriate changes to preclude this from happening again to such a great extent.

These underpayments are not considered in the determination of the State's substantial compliance nor are they considered disallowances. However, the expenditures may be claimed by filing an increasing adjustment on the IV-E-1 Foster Care and Adoption Assistance Report in the next quarter, but no later than 2 years after the calendar quarter in which the State agency made the expenditure. As of our August 2006 review date, underpayments identified for August 2004, and forward are still eligible for a title IV-E claim.

The cases and respective maintenance payments and associated administrative costs identified during our review are shown on Attachment C. The associated administrative costs were computed using the standard methodology for all improper payments as outlined in Appendix XIV of the March 2006, Title IV-E Foster Care Eligibility Review Guide.

Six (6) cases were determined not eligible for title IV-E Foster Care maintenance payments, and the State is ineligible to receive Federal Financial Participation (FFP) for these cases under the title IV-E foster care maintenance assistance program. A total of $9,881 in FFP must be disallowed based on these six (6) cases. The State is also ineligible for title IV-E foster care administrative costs relating to the error cases. We have calculated the amount of unallowable administrative costs to be $3,052. The State also has an obligation to identify and repay any ineligible payments that occurred for these error cases subsequent to the period under review.

In addition to the above cases found with errors during the period under review, the review team identified twenty-eight (28) cases with ineligible payments occurring outside of the review period. These additional findings were not considered in the determination of South Carolina's substantial compliance with Federal requirements. The State is, nevertheless, ineligible to receive FFP for these cases under the title IV-E program. The amount of ineligible maintenance assistance payments for these cases is $115,955 in FFP. The respective unallowable administrative costs for these cases are $32,613, in FFP.

This report constitutes our formal notice of disallowance of $161,501 in Federal Financial Participation (FFP) for title IV-E foster care maintenance payments and related title IV-E foster care administrative costs. The standard methodologies used by ACF for the computation of both of these disallowances are enclosed in Attachments A and B for your information.