

**State of South Dakota
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
April 1, 2008 – September 30, 2008**

Introduction

During the week of May 18, 2009, the Children's Bureau of the Administration for Children and Families (ACF) conducted a primary review of South Dakota's title IV-E foster care program. The review was conducted in collaboration with the State of South Dakota's Department of Social Services, Child Protection Services (CPS) and was completed by a review team comprised of representatives from the Children's Bureau Central and Regional Offices and CPS.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether South Dakota's CPS 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 South Dakota's financial claims to ensure that appropriate payments were made on behalf of eligible children residing in licensed or approved family homes and childcare institutions.

Scope of the Review

The South Dakota title IV-E eligibility review encompassed a sample of the State's foster care cases that received a title IV-E maintenance payment during the 6-month period under review (PUR) of April 1, 2008 through September 30, 2008. A computerized statistical sample of 80 cases was drawn from data submitted to the Adoption and Foster Care Analysis and Reporting System by the State agency for the PUR. This review was classified as a primary review as defined by 45 CFR §1356.71.

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) 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)(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 childcare 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 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 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 cited as non-error with ineligible payment when (1) the child was not eligible on the activity date outside the PUR; or (2) 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 the State 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.

Compliance Finding

The review team determined that all of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. However, eight (8) non-error cases were ineligible for Federal funding for a period of claiming outside the PUR. Federal funds claimed for title IV-E foster care maintenance payments, including related administrative costs associated with the non-error case with ineligible payments, are being disallowed in the amount of \$6,514. In addition, one (1) non-error case was identified to have periods of eligibility for which the State did not claim allowable title IV-E maintenance payments.

Because the number of cases in error is fewer than four (4), South Dakota CPS is in substantial compliance for the PUR.

Case Summary

The specifics of these case findings are as follows:

Non-Error Cases with Ineligible Payments:

Case #20 – Title IV-E maintenance payments were made for two providers during the same period from March 5, 2008 through March 7, 2008, and from March 7, 2008 through March 10, 2008, respectively. The overpayment amount of \$45 in Federal Financial Participation (FFP) must be returned to the Federal government.

Case #26 – A judicial determination regarding “reasonable efforts to finalize the permanency plan” was not made during the period of August 2006 through September 2007. Ineligible title IV-E payments were claimed in this period from May 2007 through September 2007. The total ineligible amount in FFP was \$4,623.

Case #35 – Emergency shelter care was paid for one day with title IV-E funds, and another provider was also paid for care on this same date. The overpayment amount was \$9 in FFP.

Case #36 – The child was physically removed on July 31, 2007 and the required judicial determination was not made until the court proceeding for removal on August 1, 2007, which is when the “contrary to the welfare” judicial requirement was met. One day of ineligibility was claimed from title IV-E funds. The overpayment amount was \$52 in FFP.

Case #47 – The child was placed in care on April 29, 2007 and the required judicial determination was not made until the court proceeding for removal on May 2, 2007, which is when the “contrary to the welfare” judicial requirement was met. This overpayment amount was \$27 in FFP.

Case #62 – The child came into care on April 29, 2007 and the required judicial determination was not made until the court proceeding for removal on May 4, 2007. Title IV-E funds were paid 2 days in April before the “contrary to the welfare” and “reasonable efforts” requirements were met in May 2007. The overpayment amount was \$27 in FFP.

Case #71 – The child was removed on November 30, 2007 and the required judicial determination was not made until the court proceeding for removal in December 2007, which is when the “contrary to the welfare” and “reasonable efforts” judicial requirements were met. Therefore, the child was not eligible for the one day of placement in November. The overpayment amount was \$13 in FFP.

Case #73 – Prior to the PUR, a judicial finding of “reasonable efforts to finalize a permanency plan” was not made as required from March 1, 2007 through April 30, 2007. The total FFP disallowance is \$1,718.

Underpayments

Case #69 – Title IV-E foster care payments were not claimed by the agency in December 2008 while awaiting the court’s decision regarding the State’s efforts to finalize a permanency plan. The judicial finding was not due until January 31, 2009. Therefore, an underpayment of \$658 in FFP can be claimed for December 2008. Reimbursement for underpayments may be claimed by filing an increasing adjustment on form ACF-IV-E-1 within the 2-year limitation period as described in 45 CFR 95.7.

Strengths and Promising Practices

The following administrative process that supports the title IV-E foster care eligibility program was observed during the review to have led to improved program performance and successful program operations.

Statewide Automated Child Welfare Information System: Known as FACIS, this system is a valuable statewide asset. FACIS can identify the status, demographic characteristics, location, and goals for the placement of every child under the State's supervision. CPS maintains FACIS, which is fully operational and benefits the State with its daily intake, recordkeeping, and automated reminder functions. Payment history documents produced by FACIS are concise and detailed. It also provides data about trends, patterns, and other issues or concerns. The State's title IV-E eligibility determination process is an automated component of FACIS. FACIS uses pertinent data stored in the system from electronic transmissions and manual entries to generate child-specific decisions about title IV-E eligibility. The automated system, with its integrated edits, ticklers, and error alerts, help to ensure timely and accurate eligibility decisions.

Additional Observations

In addition to the above program strength, the State has demonstrated proficiency in the following areas.

State Pre-review and Review Activities: The CPS staff, at the State and Regional levels, did a fine job preparing for this review. Both State program and fiscal staff were very responsive to Federal requests and supplied needed information in a timely manner. On site, case records were well-organized and reviewers had little difficulty locating the required information for documenting AFDC-related eligibility, judicial findings, State agency authority, and provider licensure and safety checks. CPS staff were well-trained and able to answer complicated questions about established work processes.

Judicial Determinations: Findings of "contrary to the welfare," "reasonable efforts to prevent removal," and "reasonable efforts to finalize the permanency plan" were timely in 78 cases in the sample. In general, the determinations were child-specific and included the case facts or referenced reports and affidavits in support of the judge's decision. The number and timing of judicial findings of "reasonable efforts to finalize the permanency plan" often exceeded the standard for title IV-E eligibility. For example, in most jurisdictions these judicial findings are determined at least every 6 months during a permanency hearing instead of at 12-month intervals. The regularity of the permanency hearings furthers the oversight responsibility of the judiciary by providing more frequent monitoring of the effectiveness of the State's efforts and the progress made toward achieving a permanency plan for children under the State's placement and care authority.

Areas in Need of Improvement

Payment Issues

Six (6) non-error cases in the sample were determined to have improper payments that occurred for reasons unrelated to the child's eligibility. In four (4) of these cases, the State claimed title IV-E maintenance payments for a period before the month in which the court rendered a finding of "contrary to the welfare" and "reasonable efforts to prevent removal." In the other two cases, two foster care providers were paid for providing care during the same period for a child. The State may not claim title IV-E foster care maintenance payments for a child until all eligibility criteria pertaining to the child's removal from home and placement in foster care are met. The FFP, then, may begin the first day of placement in the month in which all required eligibility factors are satisfied. In addition, FFP may not be made for duplicative claims. It is recommended that the State implement additional fiscal controls and system edits to guard against payments for ineligible children or unallowable costs.

Next Steps

The State must identify and repay any ineligible payments that occurred beyond the period specified in this report for the non-error cases. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met or that expenditures are determined allowable under title IV-E. In addition, appropriate corrective action should be put in place systematically to ensure program compliance with Federal laws and regulations governing the title IV-E foster care program.