

**State of South Dakota**  
**Department of Family Services Primary Review**  
**Title IV-E Foster Care Eligibility**  
**Report of Findings for Period Under Review**  
**April 1, 2011 – September 30, 2011**

**Introduction**

During the week of May 7, 2012, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the State's title IV-E foster care program. The review was conducted in collaboration with the South Dakota Division of Family Services (DFS) and with a review team comprised of representatives from DFS, Children's Bureau Central Office and Region VIII staff, and ACF Regional Grants Management staff.

The purposes of the title IV-E foster care eligibility review were to determine whether South Dakota's Title IV-E foster care program was in compliance with eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); and to validate the basis of South Dakota's prior financial claims to ensure that appropriate payments were made on behalf of eligible children.

**Scope of the Review**

The primary review examined a sample of South Dakota's foster care cases that received a title IV-E maintenance payment during the six-month period under review (PUR) of April 1, 2011 through September 30, 2011. A computerized statistical sample of one-hundred (100) cases (80 cases plus 20 oversample cases) was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, with seventy-six (76) cases from the original eighty (80) case sample and four (4) cases from the oversample. Prior to the onsite review, four (4) cases from the original sample were eliminated after it was determined that title IV-E payments were not made during the period under review. 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 §1356.7(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 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.

## **Compliance Finding**

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 that 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.

At the conclusion of the South Dakota title IV-E review, there were two cases determined to be in error for the PUR. One sample case was assigned an error rating because the title IV-E-eligible child was sent home for a trial home visit during the PUR, but a foster care daycare payment was made to the foster parents for the month after the trial home visit began which was still within the PUR.

The second sample case was assigned an error rating due to a lack of a “reasonable efforts to finalize the permanency plan” finding that was due during the PUR. A court hearing was convened and later recessed by the presiding judge so that services to the biological parent and child could be evaluated and reported back to the court. The hearing was resumed three months later, which was beyond the PUR, and the court rendered a reasonable efforts finding at that time.

Additionally, there was one case identified with an ineligible payment that occurred prior to the PUR. Specifically, a “reasonable efforts to finalize the permanency plan” finding was not made timely prior to the review period and a respite care payment, including Federal financial participation, was made for one day. The judicial finding was subsequently made prior to the beginning of the PUR.

Another finding of the review was the identification of nine (9) cases in the review sample that had identified underpayments for the PUR. The State staff indicated that they will review these cases and other similar cases in order to better assure that the State is receiving full benefit of Federal financial participation for children served in the State foster care system.

Since the number of cases in error is fewer than four (4), it is determined that the South Dakota Division of Family Services is found to be in substantial compliance for the PUR.

## **Strengths and Promising Practices**

The following administrative process, that supports the title IV-E foster care eligibility program, was observed during the review and seems 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. Payment history documents produced by FACIS are concise and detailed. Case notes were accessible with assistance from the State agency staff and allowed reviewers to ascertain the conditions that resulted in removal, timeliness of removal, etc.
- The State’s title IV-E eligibility determination process is an automated component of FACIS.
- Case documentation was well-organized and reviewers had little difficulty locating the required information during the review.
- Judicial Determinations were timely in most instances.

### **Licensing and Safety Requirements**

- During the review, it was determined that licensing requirements and safety regulations were performed prior to children being placed in out-of-home care and before title IV-E claims were made. Licenses for placement facilities, including family foster homes and childcare institutions, are renewed annually and there were with no gaps in licensure in the cases reviewed.
- The criminal records checks were sufficiently documented and the safety-related requirements were met for children in the sample who were in foster family homes and childcare institutions. The documents included background checks from the Colorado Bureau of Investigation and the Federal Bureau of Investigation. All of the title IV-E State reviewers also had access to the safety check files to verify compliance.

## **Areas in Need of Improvement**

The review team noted that although there has been continuous improvement in the quality of tribal court orders, some orders reviewed still lacked specificity relating to judicial determinations concerning “contrary to the welfare” and “reasonable efforts.” The State should continue to support tribal courts in their improvement of court orders specifically relating to IV-E criteria as reflected in “contrary to the welfare” and “reasonable efforts” findings. The South Dakota Court Improvement Program may be a good vehicle for effort.

## **Next Steps**

South Dakota continues the processes that have been implemented over the past few years for self-examination of its child welfare services program. The result of this most recent review demonstrates the positive impact of these efforts. The CB Denver Regional Office remains committed to provide and facilitate any technical assistance needs South Dakota may identify. The next primary eligibility review for the state will occur in three years.