

**Final Report**  
**State of South Dakota**  
**Primary Review**  
**Title IV-E Foster Care Eligibility**  
**Report of Findings for**  
**April 1, 2014 – September 30, 2014**

**Introduction**

During the week of May 11, 2015, the Children’s Bureau (CB) of the Administration for Children and Families conducted a primary review of the state’s title IV-E foster care program. The title IV-E foster care review (IV-E review) was conducted in collaboration with South Dakota and was completed by a review team comprised of representatives from the state title IV-E agency, CB Central and Region 8 offices, and peer reviewers from the Oglala, Rosebud, and Sisseton Wahpeton Sioux Tribes.

The purposes of the IV-E review were (1) to determine whether the South Dakota title IV-E foster care program is 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 state’s financial claims to ensure appropriate payments were made on behalf of eligible children.

**Scope of the Review**

The IV-E review encompassed a sample of the state’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, 2014 – September 30, 2014. A computerized statistical sample of eighty (80) cases plus twenty (20) oversample cases was drawn from data the state submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of seventy-five (75) cases from the original sample plus five (5) of the oversample cases. Five (5) 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. The state provided documentation to support excluding these cases from the review sample and replacing them with cases from the oversample.

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) 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)(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 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 the foster family home or child care institution where the child resided during the PUR was fully licensed and met the 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.

During a title IV-E review, a sample case is 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. A sample case is cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity in either situation. In addition, underpayments are identified for a sample case when the state unintentionally failed to claim an allowable title IV-E maintenance payment for an eligible child within the 2-year filing period specified in 45 CFR §95.7 and the filing period had not expired.

### **Compliance Finding**

The review team determined that all of the eighty (80) cases met all eligibility requirements (i.e., were deemed non-error cases for the PUR). In addition, none of the cases was found to have other improper payments or underpayments.

The Children’s Bureau has determined the South Dakota 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 the state is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

### **Program Strengths and Promising Practices**

#### **Eligibility**

The agency has continued to make quality improvements in its title IV-E eligibility processes and no systemic areas of concern were identified during the review. A centralized eligibility unit manages the eligibility determination process by overseeing, tracking and monitoring the process for the state and its tribal IV-E partners. Using an automated eligibility process through the state’s SACWIS system, known as FACIS, the unit is able to access accurate and consistent data

to support their work. The state relies on FACIS for statewide case management and has moved away from maintaining paper case files.

The FACIS facilitates timely eligibility decisions and tracks eligibility throughout the foster care episode. The FACIS automatically terminates a child's IV-E eligibility when eligibility factors are identified as non-compliant and eligibility specialists are alerted regarding the action. Tribal IV-E agreements are in place with four (4) tribes and the state and tribes work together to assure accurate and timely title IV-E eligibility determinations through regular communication and on-going training.

## **Foster Care Licensing**

All cases reviewed contained evidence that the state and its tribal IV-E partners have effective licensing processes in place that assure foster care providers are fully licensed and all criminal record checks are completed prior to placement and claiming of title IV-E foster care maintenance payments for the child's period of stay.

South Dakota's state law has required criminal records checks for foster care providers since 1988. Licensing of family foster homes is completed in three ways: 1) By CPS Family Services Specialists in the local offices that study and license homes based on the rules that govern licensing of child welfare agencies; 2) By private child placement agencies that are licensed by one Licensing Program Specialist and given the authority under law and rule to license foster homes; 3) By tribal child welfare programs under Title IV-E agreements with the state based on tribally approved standards.

Licensing of the facilities is completed by one Licensing Program Specialist in state office based on rules that govern child welfare standards. For in-state providers, state statutes and licensing rules require licensed foster care facilities/agencies submit fingerprints for criminal record checks for staff within fourteen dates of their employment for purposes of completing a criminal record check, and that applicants be screened for reports of child abuse and neglect, which is interpreted to mean the screening is to be done before the individual is hired. At the time of the annual licensing review, the Licensing Program Specialist reviews a sample of facility/agency personnel records to verify criminal record checks and screenings for reports of abuse and neglect are being completed. If deficiencies are found in these areas, they are addressed in the licensing study, and if there is an individual found without these checks, the facility is told they would need to be completed before the individual could continue to work. State law does not allow individuals with criminal offenses which caused harm to children, including those specified in ASFA and individuals on a central registry of child abuse and neglect to work in the foster care facilities/agencies. South Dakota Sex Offender Checks are also completed on all facility employee applicants prior to contact with children and all individuals residing in a family foster home; ages fifteen and older.

All documentation(s) and approvals are scanned into the File Directory under each respective license.

The Child Protection Division recruits, trains and licenses family foster homes, group homes and child placement agencies. Tribal agencies with title IV-E agreements with the state recruit, train and license foster homes on the reservation using tribal licensing standards. The review team found no concerns or erroneous payments due to licensing issues.

## **Judicial Determinations**

Title IV-E eligibility requirements include protections for children and families as an important aspect of eligibility criteria. The title IV-E protections related to judicial determinations were developed to ensure that children are placed in foster care as a last resort and that children achieve timely permanency. A removal pursuant to a court order must be the result of a judicial determination of "contrary to the welfare" and "reasonable efforts" as specified in §472(a)(2)(A) of the Act. The review of court orders in the South Dakota sample cases revealed that there have been continuous improvements in these areas by both the state and tribal courts. On 8/2014 South Dakota DSS finalized their "Guide for Court Report and Recommendation" for casework staff. The guide details and provides requirements and expectation for each stage of the court hearing process. Included are examples of language to be included in the court reports.

As a promising practice the agency identified the use of video training for guardians ad litem (GALs) featuring a former governor. It stresses how timely decision-making is crucial for children in child abuse and neglect cases. As an attorney (GAL) representing children in abuse and neglect cases, the GAL have the ability to improve the outcomes for children in the child welfare system. The content of the video training series is intended to satisfy the training requirement of UJS Presiding Judge policy (3-PJ-05), revised and effective February 1, 2010. Some presiding judges now require GALs to complete the training before appearing in their court. We encourage the division of Child Protection Services to continue to work in partnership with the Court Improvement Program to further strengthen the protections for children and families across the state.

## **Next Steps**

In the 2012 review SD had 2 error cases, 1 non error case with ineligible payments and 9 underpayment cases. The result of this most recent review demonstrates the positive impact the processes that SD have been implemented over the past few years for self-examination of its child welfare services program. The Region VIII office remains committed to facilitating the provision of any technical assistance needs that South Dakota may identify. The next primary eligibility review for the state will occur in three years.