

Summary of Comments on Federal Register Notice (77 FR 9883)
Requesting Tribal Comments on 45 CFR 1357

ACF published a notice in the Federal Register on February 21, 2012 requesting comment on whether we should revise the regulations at 45 CFR 1357 because they contain outdated requirements and do not reflect statutory changes since their publication. We hosted two conference calls in Washington, DC, four conference calls in ACF Regional Offices and took comments at one meeting of ACF Tribal grantees. In addition, the notice specified that the public could comment via the web or by mail. We received one comment via the web and gathered several other comments via the conference calls and the meeting.

Following are summaries of the comments grouped in the order that the regulatory provisions were listed in the Federal Register notice:

- 45 CFR 1357.50 Definition of Indian Tribe

No comments.

- 45 CFR 1357.50(f)(1)(ii) and (2) Limitation of waiver authority

Comment: Administrative costs under title IV-B, subpart 1 are capped at 10%. We would like the cap waived. Tribes have a negotiated indirect cost rate and ACF/CB should accept that.

- Child and Family Services Plan requirement that the title IV-B agencies coordinate and collaborate with the State Medicaid agency and, in consultation with pediatricians and others, develop a plan for the ongoing oversight and coordination of health care services for any child in a foster care placement in accordance with the Fostering Connections to Success and Increasing Adoptions Act of 2008.

Comment: One of the issues that we can see with this is that it's easy to say that when a tribe has a title IV-B agency to collaborate or work with the state Medicaid agency but there are going to be issues in some states. We are a little bit lucky in the State of Washington that they will work with us but that's not going to be the case with other tribes in other states. That is an implementation issue that is going to come up.

Comment: Is it sufficient for a Tribe to coordinate with its local Medicaid agency or does the law require the Tribe to coordinate directly with Medicaid? Is it sufficient that the Tribe have Medicaid for all children in the Tribe or is a "relationship" with Medicaid required?

- Child and Family Services Plan requirement for a description of the standards for the content and frequency of caseworker visits for children in foster care

No comments.

- Child and Family Services Plan requirement for a description of activities to reduce the length of time children under five years of age are without a permanent family

and to address the developmental needs of such children who receive benefits or services under titles IV-B/IV-E:

Comment: Without timely notification from States, Tribes may have difficulty locating kids in a timely fashion. Will permanency timeframes be changed to less than a year?

- Removal of assurance of a plan for training and using paid paraprofessional staff and using volunteers

No comments.

- Removal of assurance that day care facility standards relate to those of title XX.

No comments.

- **Other comments:**

Comment: Title IV-B is the only program that bases grant size on the population of a given tribe, 18 and under. All other programs that are administered are based on service area size and that is a concern. Some of the small tribes have 100-200 children under age 18 but within their service area there may be more like 1000 or so.

Comment: The title IV-B, subpart 2 grant formula should account for service area size rather than being based only on population size. It is inefficient for Tribes to prepare an APSR for so little money. Tribes would like to work with ACF to look at all of the title IV-B policies, think about legislative changes to improve impact, etc. of title IV-B generally.

Comment: If a Tribe does not spend all of its title IV-B funds in a given grant cycle, those funds should be divided up among the remaining Tribes who need additional funds.

Comment: ACF should accept negotiated indirect rates and allow waivers on both IV-B subparts 1 and 2 for Tribes.

Comment: For small Tribes who receive small amounts of money, consider expanding the child count to include the service area, not just enrolled members.

Comment: Tribes commented that for future consultations Tribes would like ACF to schedule time for the Tribes to meet beforehand to discuss their ideas and concerns with each other before addressing ACF.

Comment: It is necessary to bring these regulations up-to-date and in line with one another.