

**VIRGINIA TITLE IV-E
FOSTER CARE ELIGIBILITY REVIEW
August 23, 2003 – August 27, 2004
September 27, 2004**

I. INTRODUCTION

During the week of August 23, 2004 Administration for Children and Families' (ACF) staff from the Regional and Central Offices, a representative of Pennsylvania's Department of Public Welfare and staff of the Virginia Department of Social Services (DSS) conducted an eligibility review of Virginia's title IV-E foster care program in Richmond, Virginia.

Title IV-E foster care funds enable States to provide foster care for children who were or would have been eligible for assistance under a State's title IV-A plan, as in effect on July 16, 1996, but for their removal from the home. The Social Security Act includes requirements that define the circumstances under which a State may make foster care maintenance payments (section 472(a)), and mandate a child's placement in an approved or licensed facility (sections 472(b) and (c)).

The purpose of the title IV-E foster care eligibility review was (1) to determine if Virginia was in compliance with the child and provider eligibility requirements as outlined in CFR 1356.71 and Section 472 of the Act; and (2) to validate the basis of Virginia's financial claims to assure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

II. SCOPE OF THE REVIEW

The Virginia title IV-E foster care 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, 2003 to March 31, 2004. A computerized statistical sample of 100 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which was transmitted by the State agency to the Administration for Children and Families. The 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 for the entire period of the review.

During this subsequent primary review, 80 cases were reviewed. Fourteen cases were determined to be ineligible for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report. Since the number of error cases (11) was greater than four (a five percent error rate), Virginia is considered to not be in substantial compliance.

Pursuant to 45 CFR 1356.71(i), you are required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed by the State, in consultation with the ACF Regional Office staff, and must be submitted to the ACF Regional Office by December 30, 2004. Once the State has satisfactorily

completed the PIP, a secondary review of a sample of 150 title IV-E foster care cases will be conducted.

III. CASE RECORD SUMMARY

The following details the error cases and reasons for the error:

Case Number	Reason Case Was Not Eligible
11	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
14	There was no judicial determination that addressed reasonable efforts to finalize the permanency plan that was in effect. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
24	The foster family provider was not licensed or approved for the period the child was placed in the home. (472(a)(3),(b) & (c); 45 CFR 1355.20(a); 45 CFR 1356.71(d)(1)(v))
28	The child was not AFDC eligible because financial need was not established. (472(a)(1) &(4); 45 CFR 1356.71(d)(1)(v))
34	The child was not removed from the home of a specified relative; therefore, the child was not AFDC eligible. (472(a)(4)(A) & (B); 45 CFR 1356.71(d)(1)(v))
43	The child was not removed from the home of a specified relative; therefore, the child was not AFDC eligible. (472(a)(4)(A) & (B); 45 CFR 1356.71(d)(1)(v)) The State did not determine the child was AFDC eligible during the month the child was removed. (472(a)(1) &(4); 45 CFR 1356.71(d)(1)(v))
61	There was no judicial determination that addressed reasonable efforts to finalize the permanency plan that was in effect. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
73	There was no judicial determination that addressed reasonable efforts to finalize the permanency plan that was in effect. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))

Case Number	Reason Case Was Not Eligible
76	<p>The judicial determination that reasonable efforts to prevent removal was made more than 60 days from the date of the child's removal from the home. (472(a)(1); 45 CFR1356.21(c))</p> <p>The foster family provider was not licensed or approved for the period the child was placed in the home. (472(a)(3),(b) & (c); 45 CFR 1355.20(a); 45 CFR 1356.71(d)(1)(v))</p> <p>The criminal records check was not satisfactorily completed on the foster family provider. (471(a)(20); 475(1); 45 CFR 1356.30)</p>
77	<p>The child was not removed from the home of a specified relative; therefore, the child was not AFDC eligible. (472(a)(4)(A) & (B); 45 CFR 1356.71(d)(1)(v))</p>
OS-7	<p>The foster care facility was not licensed for the period the child was placed in the facility. (472(a)(3),(b) & (c); 45 CFR 1355.20 (a); 45 CFR 1356.71(d)(1)(v))</p> <p>The State did not document that safety considerations with respect to the staff were addressed. (471(a)(20); 475(1); 45 CFR 1356.30)</p>
58	<p>Foster care maintenance payments were claimed for a period when the child was in a detention facility. A detention facility is not a title IV-E eligible placement. (472(c)(2); 45 CFR 1355.20)</p>
70	<p>Foster care maintenance payments were claimed when the child was on a trial home visit. A trail home visit is outside the scope of the regulatory definition of a foster care placement; therefore, it is not a title IV-E eligible placement. (45 CFR 1355.20)</p>
78	<p>Foster care maintenance payments were claimed when the child was on a trial home visit. A trail home visit is outside the scope of the regulatory definition of a foster care placement; therefore, it is not a title IV-E eligible placement. (45 CFR 1355.20)</p>

IV. STRENGTHS

Several strengths were identified over the course of the title IV-E review. These include the following examples of good practice:

- The case record review found that determinations of contrary-to-welfare and reasonable efforts to prevent placement or reunify were made on a timely basis for 79 of the 80 sample cases.

- The initial eligibility determinations were completed in a timely manner in all cases except one. Re-determinations were also done timely.
- Several of the cases reviewed were voluntary placements. These cases had agreements that were well executed and signed timely. All of these cases had court orders that determined that remaining in placement was in the best interest of the child and the findings were rendered well within the 180-day time requirement.
- Generally, case documentation showed that permanency hearings were occurring more frequently than once every twelve months.
- The Online Automated Services Information System (OASIS) placement histories and face sheets that were included in certain local DSS records were very helpful in understanding the case situations.

V. AREAS OF CONCERN

Since Virginia was found not to be in substantial compliance with the regulations governing the title IV-E foster care maintenance program, the review identified some areas that need improvement. These issues include the following:

- Federal regulations at 45 CFR 1356.71 require States to include in the foster family home provider license file the licensing history and a copy of the provider license or letter of approval. The license/letter should include the provider name, starting and ending date of licensure, and some indication of a State agency sanction. At a minimum, this information should be available in the licensing file for every foster family home or child care facility in which the child resided during the period under review. Many of the foster homes approved by the local Department of Social Services did not contain copies of certificates of approval or letters of approval. In those cases where the license or approval letter was not available for the review, ACF accepted the agency's form that records foster home approval information. In addition, while ACF could determine that criminal records checks were done on foster parents, there was no documentation in the record for the majority of the cases that would allow staff to determine that these parents had not been convicted of any of the felonies enumerated in section 471(a)(20)(A)(i) and (ii) the Social Security Act.
- The State was required by 45 CFR 1354.71 (b)(2) to provide a complete payment history for each of the sample case records reviewed on-site. The complete payment history consists of all payments beginning with the most recent foster care placement episode and continuing through the period under review. All payments in the payment history were to include at least the invoice number or other identifier; the period covered by the invoice; the amount paid; the date of payment; the child's name and case number; and the provider's name and number. During the onsite review, many of the cases reviewed did not have full payment histories or the payment histories were very confusing because each locality has different payment codes, which were not always provided. Complete payment histories for the error cases were not provided to ACF by the end of the onsite review week which delayed the ability of staff to determine the amount of the disallowance for the error cases.

- In order to be eligible for title IV-E payments, there must be a judicial determination that reasonable efforts were made to finalize the child’s permanency plan that is in effect. The permanency plan goal may be: reunification, adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement. The judicial determination of reasonable efforts to finalize the permanency plan must be made no later than twelve months from the date that is the earlier of a judicial finding of abuse or neglect or 60 days from the date the child is removed from home and at least once every twelve months thereafter, while the child is in foster care. If a judicial determination is not made as prescribed, the child is ineligible. The determinations should be child specific and as meaningful as possible. In several cases, the judicial determination did not address the specific permanency plan goal that was in effect for the child. For instance, one order had the box checked that stated that the agency made reasonable efforts to reunify the child with his/her parents while the child’s permanency goal was, and had been for several years, permanent foster care. Similarly, the checked box in another court order stated that the agency had made reasonable efforts to reunify the child with his/her parent even though the child’s permanency goal was adoption. Case documentation in these cases and other cases showed that judicial findings for the period under review were issued on permanency plans that had changed by the agency by the agency several years prior to the findings.
- The review found three cases in which children were not “removed from” and “living with” the same specified relatives. In one case, the child was living with an aunt who was his legal custodian but the court order removed the child from his mother and AFDC eligibility was based on his mother’s home. In another case, a non-related caregiver had legal and physical custody of the child until the court ordered the transfer of custody to the local Department of Social Services. The child remained in the home of the non-relative who then became the child’s foster parent. In this case, the child was not “living with” and “removed from” a specified relative. A similar situation occurred in a case in which an aunt had custody of a child until the court ordered the transfer of custody to the local agency, with the applicable reasonable efforts and contrary to the welfare determinations, although the child remained in the aunt’s home. The aunt then became the approved foster parent for the child.

VI. OTHER IDENTIFIED ISSUES

While the review identified many areas of strength and some areas that need to be improved, it also revealed additional issues that the State should focus its attention. These include the following:

- In order for a State’s Statewide Automated Child Welfare Information System (SACWIS) to be considered fully implemented, the system must collect and manage information necessary to determine eligibility for the foster care, adoption assistance and independent living programs. While it is a very important step for the State to include eligibility determinations in OASIS, Virginia also needs to remember that its system needs to provide program functions for resource management, including automated procedures to assist in managing service providers, facilities, contracts, and recruitment activities associated with foster care and adoptive families such as licensing and certification

information. A fully implemented SACWIS is also required to accept and process the title IV-E payment for an eligible child placed in an eligible placement.

- While in the majority of the cases the court orders were easy to follow and were child specific, the review found that in some instances the orders did not reflect the specific circumstances of the child's case. The Virginia Court Improvement Program and the State Department of Social Services could work with the local judicial districts to improve this practice across the State so that it meets the regulations at 45 CFR 1356.21 (d).
- In addition, records from different localities often contained multiple copies of the same orders in no particular timeline or section of the record while other localities had very well organized records. It was sometimes very difficult for reviews to locate information while in other instances it was relatively easy. One case record format or the use of OASIS as the case record would be useful for future reviews.

VII. DISALLOWANCES

The review included a sample of 80 cases. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the six month AFCARS period of October 1, 2003 to March 31, 2004. Based upon the results of the review, Virginia has been determined not to be in substantial compliance since more than four cases were found to be in error. A disallowance is assessed for the total Federal Financial Participation (FFP) amount for the entire period of time that these cases were determined to be in error, including administrative costs. The administrative costs are not disallowed for error cases in the process of being licensed. Therefore, the disallowance for the maintenance is \$27,524 with \$102,875 in administrative costs for a total disallowance for the fourteen ineligible cases is \$130,339 (FFP). The ineligible cases consist of 11 error cases and 3 non-error cases with ineligible payments. Due to over \$19 million in deferred title IV-E administrative FFP for the quarters used in calculating the eligibility review disallowance, ACF reserves the right to readjust the amount of the disallowance for this review.

VIII. REVIEW TEAM

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