VERMONT DEPARTMENT OF HUMAN SERVICES
TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW
SEPTEMBER 16, 2002 TO SEPTEMBER 20, 2002

I. INTRODUCTION

During the week of September 16 – September 20, 2002, staff from the Regional and Central Offices of the Administration for Children and Families (ACF) and State of Vermont conducted an eligibility review of the State of Vermont's Title IV-E Foster Care program.

The purpose of the Title IV-E eligibility review was to validate the accuracy of Vermont's federal claims, to ensure that appropriate payments were made on behalf of eligible children, to eligible homes and institutions and at the allowable rates.

II. SCOPE OF THE REVIEW

The Vermont Title IV-E Foster Care review was conducted in Waterbury at the administrative office of Department of Social and Rehabilitative Services. It encompassed a sample of all Title IV-E foster care cases open during the period from October 1, 2001 through March 31, 2002. A computerized statistical random sample of 80 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data that were transmitted by the State Agency to ACF. The sampling frame consisted of cases of individual children who received at least one Title IV-E foster care payment during the six-month period noted above. For each case, the child's case file was reviewed for a determination of Title IV-E eligibility and to ensure that the foster care setting in which the child was placed was licensed for the entire period under the review, as applicable.

During this first *primary* review, 80 cases were reviewed. Of those, 26 cases were determined to be ineligible for either part or all of the review period for reasons identified in the Case Record Summary of this report. Since the number of ineligible cases was more than the allowable threshold of eight cases, Vermont is considered not to be in substantial compliance with the Title IV-E eligibility requirements.

Pursuant to Federal Regulations at 45 CFR Section 1356.71(I), Vermont is required to develop a Program Improvement Plan (PIP) designed to correct those areas needing improvement as identified in the enclosed report. The PIP should be developed jointly by State and federal staff and must be submitted to my office by 90 days from the date of this report. Following ACF's acceptance of the PIP, the State will have one year to implement the PIP before a *secondary* review is conducted.

III. STRENGTHS

- In preparing for this initial *primary* review, the State developed and began to initiate policies and practices as well as revise forms and procedures to ensure an accurate and complete IV-E eligibility determination system.

- The Court Improvement Project Coordinator has been collaborating with SRS staff to ensure that in accordance with Federal Regulations, the judicial determinations of Contrary to Welfare, Reasonable Efforts to prevent placement, and Reasonable Efforts to finalize the permanency plan are made within the specified timeframes and that these determinations are sufficiently documented in the appropriate Court Orders.

  Reviewers commented that the results of these efforts are already evident in the case records reviewed

- In all of the cases reviewed, it was clear that the State is performing criminal records and other safety checks of foster care providers. Except for two minor lapses, in all of the cases reviewed, the foster care provider's license was current.

IV. AREAS IN NEED OF IMPROVEMENT

Based on the findings of this review, the State needs to further develop and implement procedures to improve the following areas.

- <u>Finding</u>
  In the records under review, 14 cases were found to be in error because the financial need and/or deprivation of parental support for the child was not established.

  <u>IV-E Requirement</u>
  The Personal Responsibility and Work Opportunity Reconciliation Act (1996) replaced the Aid to Families with Dependent Children (AFDC) Program with the Temporary Assistance to Needy Families (TANF) but continued to link IV-E eligibility to the AFDC Program. States, therefore, must determine a child's IV-E eligibility based on AFDC policies and procedures - excluding any Section 1115 waiver standards, disregards, etc. - that were in effect on July 16, 1996.

  <u>Discussion</u>
  In determining IV-E eligibility under this requirement, VT mistakenly applied the policies and procedures of its 1996 AFDC Waiver Program. This resulted in incorrect determinations for children from households that were over-income based on the 1996 AFDC (non-waiver) Needs Standards.

Corrective Action Needed

The State must continue to develop and implement a IV-E eligibility determination process which accurately establishes that a child being removed is from a household that meets the correct AFDC eligibility criteria. Thus, at the time of removal and annually thereafter, the State must determine whether or not the child is needy (financial need) and dependent (deprived of parental support) based on the 1996 AFDC needs standards and procedures (excluding any waiver standards, disregards, etc.)

- Finding

  In the records reviewed, 8 cases were found to be in error because Court Orders did not have either timely or appropriately documented judicial determinations regarding Contrary to Welfare and Reasonable Efforts.

  IV-E Requirement

  If a child is removed by an Order of the Court (versus a Voluntary Agreement), the judicial determination regarding Contrary to the Welfare of the Child to remain at home must be child specific and documented in the first court order sanctioning removal of the child. Secondly, the judicial determination of Reasonable Efforts to prevent this removal (as appropriate) must be made and documented in a Court Order within 60 days of the removal. Thirdly, ASFA created a new Reasonable Efforts requirement to ensure that the State (Court and Child Welfare Agency) are giving close attention to the permanency needs of children who remain in care for 12 months or more. Thus, a judicial determination regarding Reasonable Efforts to finalize the permanency plan for the child must be made within 12 months and every 12 months thereafter.

  Discussion

  Several issues contributed to cases being found in error under this requirement:

  - The required judicial determinations were either not made or were not made in accordance with the federal timeframes.
  - According to VT Statutes, the Court may grant custody to SRS and with certain stipulations, allow the child to remain in the home with his/her parents. SRS Workers have the "discretion" to remove such children from their homes if the parent(s) fail to fulfill the stipulations set by the Court or there is risk to the child's safety. Since in such situations, the removal occurs without further sanctioning by the Courts, the State lacked the required judicial determinations of Contrary to Welfare and Reasonable Efforts for this removal.
  - The required judicial determinations were not sufficiently documented in Court Orders. The only acceptable documentation other than the Court Order is the Court transcript. A number of cases necessitated a

review of the Court transcript to determine if the federal requirements for these judicial determinations were met. This was a labor intensive process for all parties - Court staff, SRS staff, and reviewers.

- VT (not unlike most other states) incorporated the federal requirement for a judicial determination of Reasonable Efforts to finalize the permanency plan into the permanency hearing. However, there is the likelihood that such hearings may be delayed or continued. Such delays result in the State obtaining a judicial determination of Reasonable Efforts to finalize the permanency plan beyond the 12 months required by federal regulation.

Corrective Action Needed

The State must develop and implement practices and procedures to ensure complete and timely Court Orders for all removals. As noted under the section titled Strengths, the State has initiated procedures to do so.

In addition, the State must develop and implement practices and procedures to ensure complete and timely judicial determinations of Reasonable Efforts to finalize the permanency plan regardless of the timing of the Permanency Hearing.

- Finding

In the cases reviewed, 3 cases were found to be in error because youth in foster care who turned 18 were either not expected to graduate by age 19 and/or the State no longer had authority for care and placement of the youth.

IV-E Requirement

At State option, Title IV-E allows the continuation of foster care payments for youth, aged 18, who remain in foster care and for whom the State has care and placement responsibility if the youth is a full time student in a secondary school (or its equivalent) and is expected to graduate from by age 19.

Discussion

The State did not have a consistent procedure to clarify and document the educational status of a youth prior to his/her eighteenth birthday or to determine if the youth is likely to graduate before his/her nineteenth birthday. In addition, the State does not retain the legal authority for custody/responsibility for the care and placement of foster youth upon their eighteenth birthday.

Corrective Action Needed

The State should implement policy and procedures for determining and documenting youths' participation and likelihood of graduation from a secondary school (or its equivalent). The State also needs develop and to enter into a (voluntary) agreement with these youth so that the agency is able to exercise continued responsibility for the youth's care and placement after age 18.

V. CASE RECORD SUMMARY

The following details the ineligible cases, reasons for ineligibility, and the period of for each ineligible claim. The disallowance for each failed case encompasses the entire period of ineligibility for which IV-E FFP was claimed.

Sample No. 4
The child was determined ineligible from 07/27/01 – 03/31/02 because the State failed to obtain the judicial determination of contrary to welfare of the child to remain in the home in the first court order that sanctioned the removal of the child.

Total IV-E Maintenance $3,936 ($2,463 FFP)
Total IV-E Administration $2,718 ($1,358 FFP).

Sample No. 12
The child was determined to be ineligible from 08/09/01 – 03/05/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $2,077 ($1,303 FFP)
Total IV-E Administration $2,385 ($1,192 FFP)

Sample No. 13
The child was determined to be ineligible from 03/13/00 – 03/31/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $35,680 ($22,317 FFP)
Total IV-E Administration $7,072 ($3,536 FFP)

Sample No. 15
The provider was determined to ineligible from 12/01/01 - 03/31/02 because the family foster home was not fully licensed during the period noted.

Total IV-E Maintenance $2,546 ($1,605 FFP)
Total IV-E Administration - ACYF-CB-PI-02-08 delayed the effective date of the provision disallowing FFP for administrative costs regarding otherwise IV-E eligible children in unlicensed foster family homes pending the issuance of a Final Rule.

Sample No. 23
The child was determined to be ineligible from 12/29/00 –03/25/01 and 11/01/01 – 03/31/02 because the State did not establish that the child was removed a household that would have met the 1996 AFDC eligibility criteria for financial need and deprivation of parental support at the time of removal.

Total IV-E Maintenance $8,299 ($5,220 FFP)
Total IV-E Administration $2,512 ($1,256 FFP)

Sample No. 25
The child was determined to be ineligible from 02/01/01 – 03/31/02 because the State failed to obtain the judicial determination of reasonable efforts to finalize the permanency plan within 12 months of entry.

Total IV-E Maintenance $8,257 ($5,184 FFP)
Total IV-E Administration $4,374 ($2,187 FFP)

Sample No. 26
The child was determined to be ineligible from 05/12/00 – 03/31/02 because the State failed to obtain the judicial determinations of contrary to welfare of the child to remain in the home (in the first court order that sanctioned removal) and reasonable efforts to prevent removal (within 60 days of the removal).

Total IV-E Maintenance $8,554 ($5,359 FFP)
Total IV-E Administration $6,815 ($3,408 FFP)

Sample No. 27
The child was determined to be ineligible from 02/11/99 – 03/31/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $24,111 ($15,036 FFP)
Total IV-E Administration $11,715 ($5,858 FFP)

Sample No. 30
The child was determined to be ineligible from 04/03/01 – 03/31/02 because the State failed to obtain the judicial determination of contrary to welfare of the child to remain in the home in the first court order that sanctioned the removal of the child.

Total IV-E Maintenance $21,720 ($13,653 FFP)
Total IV-E Administration $3,854 ($1,927 FFP)

Sample No. 34
The child was determined to be ineligible from 10/27/91- 03/31/02 because the State failed to obtain the judicial determinations of contrary to welfare of the child to remain in the home (within six months of the removal) and reasonable efforts to prevent removal or reasonable efforts to reunify child and family. In addition, the child was also ineligible for the period 07/12/01 – 03/31/02 because the child reached 18 during period under review and was not expected to graduate before age 19. In addition, State failed to obtain responsibility for continued placement and care after child turned 18 years of age.

Total IV-E Maintenance $137,246 ($84,202 FFP)
Total IV-E Administration $36,488 ($18,244 FFP)

Sample No. 35 The child was determined to be ineligible from 12/20/01 – 03/31/02 because the State failed to obtain the judicial determinations of contrary to welfare to remain in the home (in the first court order that sanctioned the removal of the child) and reasonable efforts to prevent placement (within 60 days of the removal).

Total IV-E Maintenance $1,825 ($1,151 FFP)
Total IV-E Administration $997 ($498 FFP)

Sample No. 43
The child was determined to be ineligible from 10/17/01 – 03/31/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $810 ($511 FFP)
Total Administration $2,100 ($1,050 FFP)

Sample No. 45
The child was determined to be ineligible from 10/26/01 – 03/31/02 because the State failed to obtain the judicial determination of contrary to welfare to remain in the home in the first court order that sanctioned the removal of the child.

Total IV-E Maintenance $12,540 ($7,908 FFP)
Total IV-E Administration $1,733 ($866 FFP)

Sample No. 46
The child was determined to be ineligible from 08/17/01 – 03/31/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $16,281 ($10,239 FFP)
Total IV-E Administration $2,409 ($1,204 FFP)

Sample No. 47
The child was determined to be ineligible from 01/25/02 – 03/31/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $90 ($57 FFP)
Total IV-E Administration $664 ($332 FFP)

Sample No. 50
The child was determined to be ineligible from 01/01/02 – 03/31/02 because child reached 18 during period under review and was not expected to graduate before age 19. In addition, State failed to obtain responsibility for continued placement and care after child turned 18 years of age.

Total IV-E Maintenance $2,250 ($1,419 FFP)
Total IV-E Administration $997 ($499 FFP)

Sample No. 53
The provider was determined to be ineligible from 10/31/01-12/20/01 because the foster care setting was not fully licensed during the period noted.

Total IV-E Maintenance $796 ($502 FFP)
Total IV-E Administration - ACYF-CB-PI-02-08 delayed the effective date of the provision disallowing FFP for administrative costs regarding otherwise IV-E eligible children in unlicensed foster family homes pending the issuance of a Final Rule.

Sample No. 55
The child was determined to be ineligible for the period 08/18/01 – 03/31/02 because the child was removed a household that would not have met the 1996 AFDC eligibility criteria for financial need and deprivation of parental support at the time of removal.

Total IV-E Maintenance $24,590 ($15,500 FFP)
Total IV-E Administration $2,409 ($1,205 FFP).

Sample No. 57
The child was determined to be ineligible from 07/01/01 – 11/28/01 because child reached 18 during period under review and was not expected to graduate before age 19. In addition, State failed to obtain responsibility for continued placement and care after child turned 18 years of age.

Total IV-E Maintenance $5,285 ($3,311 FFP)
Total IV-E Administration $1,662 ($831 FFP).

Sample No. 59
The child was determined to be ineligible from 06/11/99 – 03/31/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $27,111 ($16,939 FFP)
Total IV-E Administration $9,910 ($4,955 FFP)

Sample No. 65
The child was determined to be ineligible from 09/20/99 – 03/31/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV–E Maintenance $25,785 ($16,077 FFP)
Total IV-E Administration $8,728 ($4,364 FFP)

Sample No. 69
The child was determined to be ineligible from 11/02/00 – 03/31/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $19,237 ($12,049 FFP)
Total IV-E Administration $5,225 ($2,613 FFP)

Sample No. 70
The child was determined to be ineligible from 01/07/02 – 03/31/02 because while in the custody of the State, the child was not removed from home and was never placed into foster care.

Total IV-E Maintenance $1,337 ($843 FFP)
Total IV-E Administration $997 ($499 FFP)

Sample No. 72
The child was determined to be ineligible from 08/09/01 – 11/05/01 because the State did not establish that the child was removed a household that would have met the 1996 AFDC eligibility criteria for financial need and deprivation of parental support at time of removal.

Total IV-E Maintenance $3,267 ($2,047 FFP)
Total IV-E Administration $984 ($492 FFP)

Sample No. 73
The child was determined to be ineligible from 09/19/99 – 02/04/02 because financial need of the child was not established since the child was removed a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance $8,916 ($5,579 FFP)
Total IV-E Administration $8,063 ($4,032 FFP)

Sample No. 75
The child was determined to be ineligible for the period 12/02/01 – 12/03/01 and 01/07/02 – 01/08/02 because for both foster care episodes, the State failed to obtain the judicial determinations of contrary to welfare to remain in the home (in the first court order that sanctioned the removal of the child) and reasonable efforts to prevent placement (within 60 days of the removal). In addition, the State did not determine if the child was removed a household that would have met the 1996 AFDC eligibility criteria for financial need and deprivation of parental support at the time of removal.

Total IV-E Maintenance $60 ($38 FFP)
Total IV-E Administration $0

VI. DISALLOWANCE

The dollar amount to be refunded to the Administration for Children and Families is $250,512 (FFP) for ineligible foster care payments and $62,406 (FFP) in related administrative costs.