Vermont Title IV-E
Foster Care Eligibility Review
Final Report
Review Period 4/1/2007 – 9/30/2007

Introduction

During the week of May 5, 2008, staff from the Children's Bureau's (CB) Regional (RO) and Central (CO) Offices of the Administration for Children and Families (ACF) and Vermont's Department for Children and Families (DCF) conducted a subsequent primary eligibility review of the State's title IV-E Federal foster care program. The review was conducted in Waterbury, Vermont, at the central office of the Family Services Division (FSD).

The purpose of the title IV-E foster care eligibility review was (1) to determine if Vermont was in compliance with the child eligibility and provider licensure requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (SSA), and (2) to validate the basis of Vermont's financial claims to ensure that appropriate payments were made on behalf of eligible children and to allowable homes and institutions.

Scope of the Review

The Vermont title IV-E foster care eligibility review encompassed a sample of all of the title IV-E foster care cases that received a foster care maintenance payment during the period of April 1, 2007 through September 30, 2007. A computerized statistical sample of 80 cases and two over-samples of 20 cases were drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submission which was transmitted by the State agency to CB for the period under review (PUR). Each child's title IV-E eligibility 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 childcare institution in which the child was placed had undergone the required criminal records and/or safety checks and was fully licensed or approved for the PUR.

During this subsequent primary review, 80 cases were reviewed. Two cases were determined to be in error 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 in Vermont did not exceed four, CB has determined the State to be in substantial compliance with the title IV-E Federal foster care program eligibility requirements. Thus, the next primary review will not be conducted until Federal Fiscal Year (FFY) 2011.

Strengths and Model Practices

- All of the cases reviewed were found to have the required judicial determinations of "contrary to the welfare of the child" to remain in the home, "reasonable efforts to prevent placement," and "reasonable efforts to finalize the permanency plan." In fact, the "contrary to the welfare of the child" and "reasonable efforts to prevent placement" statements were evident in a majority of judicial orders granted within 48 hours of the child's removal from the home.
- Permanency hearing orders clearly stated "reasonable efforts to finalize the permanency plan" and identified the permanency plan as well as the child's case plan with the case plan date.
- In general, the State's process for determination and redetermination of Aid to Families with Dependent Children (AFDC) eligibility is efficient. The eligibility determination process is well organized, identifies household members and income for comparison with relevant needs standards, and is accompanied by supporting documentation.
- Several cases were reviewed of children aged 18 with anticipated high school graduation dates before age 19. In addition to meeting the judicial and AFDC documentation requirements, the extended care agreement was provided that contained the child's age and the expected graduation date, making it easy to determine if the child met the title IV-E eligibility criteria.
- In general, review cases revealed that foster homes were either licensed or pending re-licensure. By State policy, foster homes continue to be licensed if they submit an application for re-licensure before their original license expires.
- Vermont conducts all of the criminal background checks for foster home and facility staff. These were consistently completed before the child was placed in the home, even in situations where the home was not yet licensed.

Areas in Need of Improvement

The purpose of the title IV-E foster care program is to provide financial assistance to States for maintaining children who meet the eligibility requirements for the AFDC program and cannot remain safely in their homes. The statute at section 472(a)(3)(A) of the SSA requires, among other things, that a child be living with and removed from the home of a specified relative at the time of the voluntary placement agreement or initiation of court proceedings. In one case found to be in error, eligibility was determined for a child whose guardian was not a specified relative. Documentation used to determine eligibility indicated that the guardian was a relative, but when further explored it was discovered that she was not a specified relative, which made the case ineligible for title IV-E payments. The child had not lived with a specified relative for four years prior to entering State care. While the AFDC determination process was not flawed in this case, the information used to identify the child's guardian as a specified relative was incorrect. This was verified with the Vermont Child Benefits Supervisor.

In order to claim title IV-E funding, the child must be placed in a foster home or child care facility that is fully licensed in accordance with the licensing standards established by the State,

and the State must document that the foster care provider meets established safety standards. The second case found to be in error involved a child placed in an emergency foster home that was not licensed. The emergency placement lasted six days, for which title IV-E funds were claimed. Although the child was placed back in this same home on a later date, title IV-E funds were not claimed for this later placement.

Although there were no further error cases, reviewers identified several additional concerns related to licensing and safety considerations. Federal regulations at 45 CFR 1356.30(f) require States to set procedures that address safety considerations with respect to the staff of the institution. The mechanism used to satisfy the safety requirement should be written into State policy, procedures or statutes, and incorporated into the licensing documentation. A couple of cases reviewed involved children placed in out-of-state facilities. While DCF obtained information from the receiving State to ensure that the facilities were licensed, it did not verify that safety considerations with regard to facility staff were addressed in accordance with the receiving State's policies. DCF should develop procedures to ensure that title IV-E requirements related to licensing and safety considerations are met regardless of where the child is placed. Therefore, when placing children out-of-state, we recommend that DCF routinely obtain copies of facility licenses, as well as the controlling policy, statute or regulation from the receiving State that specifies the relevant safety requirements, and documentation that supports that these requirements have been satisfied.

Another issue involved some foster homes with pending re-licensure status lasting several months. While Vermont policy allows for a continuation of the existing license if a timely renewal application is received, reviewers were concerned that placing children in foster homes with significant gaps in licensing periods is not good practice. In addition, in many cases reviewers identified reports in licensing records of complaints being filed against foster parents by foster children, neighbors, school personnel and DCF staff. While these incidents did not rise to the level that prohibited the home from being licensed, reviewers expressed concern that they might indicate an environment that is not conducive to the well-being of children placed in such a home.

There was also confusion about what the actual licensure dates were for foster homes. DCF considers the compliance date to be the date when all the safety checks are completed, and all other licensing requirements have been satisfied, and therefore the date the home is fully licensed. However, the letter from the State issuing the foster home license identifies the date of the letter as the licensing start date, instead of the compliance date. This resulted in reviewers having to search the foster home file for the compliance date to ensure that title IV-E funds were being claimed correctly. We recommend that the date stated on the letter issuing the license be consistent with the compliance date to avoid future confusion.

Reviewers noted several cases that involved frequent placement changes for the child. Some of these children were quite young. Placement stability was noted as a challenge in the 2007 Child and Family Services Review of Vermont's child welfare system.

In several cases reviewed, the initial court affidavit identifying the parties of the case was not in the title IV-E eligibility file. These affidavits provide clarification of the child's relationship

with the adult from whom the child was removed. We recommend that these affidavits be included in the title IV-E eligibility file along with the judicial determinations that are reviewed in the process of determining title IV-E eligibility.

Reviewers made the suggestion that judges consistently note the significant facts of the case on the court determination. Some court orders contained these facts and some did not. Another recommendation was that judges document on the court order the actual reasonable efforts that were made by the agency. While the court determinations reviewed met the title IV-E requirements, these suggestions would further strengthen future court orders.

Although the title IV-E determination and redetermination records were onsite for the review, the full case file for each of the sample cases was not available, as requested. As a consequence, while in the process of a case review, further documentation had to be tracked down to answer questions and additional information that may have enabled a more comprehensive review was not present. In preparation for the next title IV-E review in FFY 2011, discussion will occur between the State staff and the CBRO to ensure that the entire case file is available onsite for the title IV-E review process.

Case Record Summary

The following details the error cases, reasons for ineligibility, ineligible periods and amount for each ineligible claim. There were no improper payments.

Sample #	Case ID	Reason*	Period	Disallowance (FFP) Main.	Adm.
Error Cases:					
36	11631	1	3/08/05 - 5/05/08	$ 17,672	$ 5,485
64	9803	2	4/27/07 - 5/02/07	106	0
Total				**$ 17,778**	**$ 5,485**

* Ineligible Codes for Error Cases

1. Child not removed from home of specified relative according to requirements of 45 CFR 1356.21(k).

2. Provider not fully licensed according to requirements at 45 CFR 1355.20.

Disallowances

Pursuant to 45 CFR 1356.71(j), a total disallowance in the amount of $ 23,263 in Federal Financial Participation (FFP) is assessed for ineligible payments claimed for error and non-error cases.

The erroneous maintenance payments and administrative costs associated with the two error cases ($23,263 FFP) include all payments claimed on behalf of the child for the entire period of time that each case was determined to be ineligible for title IV-E payments. No future claims should be submitted on these error cases until it has been determined that all eligibility requirements are met.