

State of Vermont
Department for Children and Families Primary Review
Title IV-E Foster Care Eligibility Report of Findings for
April 1, 2010 – September 30, 2010

Introduction

During the week of June 6, 2011, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the State's title IV-E foster care program. The review was conducted in collaboration with the State of Vermont Department for Children and Families (DCF) and was completed by a review team comprised of representatives from Vermont DCF, CB Central and Regional Offices, and ACF Regional Grants Management. The purposes of the title IV-E foster care eligibility review were (1) to determine whether Vermont's title IV-E foster care program was 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 that appropriate payments were made on behalf of eligible children.

Scope of the Review

The primary review encompassed a sample of the State's foster care cases that received a title IV-E maintenance payment during the six-month period under review (PUR) of April 1, 2010 through September 31, 2010. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 72 cases from the original sample plus eight (8) oversample cases. Eight cases were excluded from the original sample because no title IV-E foster care maintenance payment was made 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)(1) and (2), and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A) 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 childcare institution as defined in §§472 (b) and (c) of the Act and 45 CFR 1355.20(a); and

- Safety requirements for the child’s foster care placement as required at 45 CFR 1356.30.

The case file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider’s file also was examined to ensure the foster family home or childcare institution where the child was placed during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming. A sample case was 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 was cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR and title IV-E maintenance was paid for the date of that unallowable activity. CB and the State agreed that the State would have thirty (30) days following the onsite review to submit additional documentation for a case that during the onsite review was identified as in error, in undetermined status, or not in error but with ineligible payments. Based on the supplemental documentation, the improper payment findings for sample cases 6, 60, 63 and 73 were changed to non-error cases.

Compliance Finding

The review team determined that 67 of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Thirteen (13) cases were determined in error for either part or all of the PUR. One (1) case was ineligible for Federal funding for a period of claiming outside the PUR. Accordingly, Federal funds claimed for title IV-E foster care maintenance payments, including related administrative costs, associated with the error cases and non-error case with ineligible payments are being disallowed. Because the number of cases in error is greater than four (4), Vermont DCF is found not to be in substantial compliance for the PUR.

Case Summary

The following chart records the error cases; non-error case with ineligible payments; reasons for the improper payments; improper payment amounts; and Federal provisions for which the State did not meet the compliance mandates.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
1	Non-compliance with AFDC eligibility under such State plan as in effect on July 16, 1996. Payments continued after the month in which the 18 year-old youth graduated high school. [45 CFR 1356.71(d)(1)(v)] Ineligible: 07/01/2010 – 09/30/2010	\$179 Maint. \$ 0 Admin.
7	No documentation of fingerprint-based background checks for foster parents. [§471(a)(20) of the Act; 45 CFR 1356.30] Ineligible: 12/03/2008 – 09/30/2010	\$11,481 Maint. \$8,569 Admin.

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
16	No documentation verifying safety considerations with respect to staff of an out-of-state childcare institution. [45 CFR 1356.30(f)] Ineligibility: 11/24/2008 – 10/06/2010	\$106,382 Maint. \$8,569 Admin.
19	Judicial determination of contrary to the welfare was not attained. [§472(a)(2)(A)(ii) of the Act; 45 CFR 1356.21(c)] Ineligible: Entire foster care episode Reported Disallowance Period: 01/22/2003 – 09/30/2010	\$48,512 Maint. \$31,329 Admin.
24	Child not in a foster care placement. [§472(b) & (c) of the Act; 45 CFR 1355.20(a)] Ineligible: 04/05/2010 – 04/16/2010; 04/21/2010 – 6/10/2010	\$1,219 Maint. \$0 Admin.
38	Maintenance payment made on behalf of a child on a trial home visit and, thus, was not in a foster care placement. [§472(b) & (c) of the Act; 45 CFR 1355.20(a)] Ineligible: 11/08/2009 – 06/16/2010	\$949 Maint. \$784 Admin.
	Judicial determinations of contrary to the welfare and reasonable efforts to prevent removal were not attained after the child re-entered care, following the trial home visit longer than six months in duration without court authorization. [45 CFR 1356.21 (e)] Ineligible: Entire foster care episode Reported Disallowance Period: 06/17/2010 – 09/30/2010	
41	Non-compliance with AFDC eligibility under such State plan as in effect on July 16, 1996. Youth over the age of 18 not expected to graduate before reaching the age of 19. [45 CFR 1356.71(d)(1)(v)] Ineligible: 07/03/2010 – 09/30/2010	\$2,983 Maint. \$784 Admin.
42	Judicial determination of reasonable efforts to finalize permanency plan not timely. [§472(a)(2)(A)(ii) of the Act; 45 CFR 1356.21(b)(2)] Ineligible: 07/01/2010 – 07/31/2010	\$836 Maint. \$392 Admin.
52	No documentation verifying safety considerations with respect to all staff of a childcare institution. [45 CFR 1356.30(f)] Ineligible: 05/20/2010 – 06/16/2010	\$2,831 Maint. \$392 Admin.
57	Deprivation of parental support to determine AFDC eligibility not documented. [§472(a)(3)(A) of the Act; 45 CFR 1356.71(d)(1)(v)] Ineligible: Entire foster care episode Reported Disallowance Period: 12/10/2009 – 09/30/2010	\$4,006 Maint. \$3,137 Admin.
62	Judicial determination of reasonable efforts to prevent removal not attained. [§472(a)(2)(A)(ii) of the Act; 45 CFR 1356.21 (b)(1)]; Ineligible: Entire foster care episode Reported Disallowance Period: 03/01/2010 – 09/30/2010	\$3,648 Maint. \$1,176 Admin.

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
67	Judicial determination of reasonable efforts to finalize permanency plan not timely. [§472(a)(2)(A)(ii) of the Act; 45 CFR 1356.21(b)(2)] Ineligible: 07/01/2010 – 07/31/2010	\$730 Maint. \$392 Admin.
OS 3	Judicial determination of reasonable efforts to finalize permanency plan not timely. [§472(a)(2)(A)(ii) of the Act; 45 CFR 1356.21(b)(2)] Ineligible: 04/01/2010 – 04/30/2010	\$2,420 Maint. \$1,176 Admin.
	Foster home not fully licensed during the child’s placement. [§472(b) & (c) of the Act; 45 CFR 1356.71(d)(1)(iv)] Ineligible: 06/01/2010 – 09/30/2010	

\$186,176 Maint.
\$56,700 Admin.
\$242,876 Total

Non-error Case with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
65	Title IV-E agency did not maintain responsibility for placement and care due to gap between expiration of the voluntary placement agreement and the court granting custody to the agency [§472(a)(2)(B) of the Act; 45 CFR 1356.71(d)(1)(iii)] Ineligible: 03/25/2010 – 03/31/2010	\$81 Maint. \$0 Admin.

Areas in Need of Improvement

The findings of this review indicate that the State needs to further develop and implement procedures to improve program performance in the following areas. For each issue, there is a discussion of the nature of the area needing improvement, the specific title IV-E requirement to which it relates, and the corrective action the State should undertake.

Issue #1: Lack of Judicial Determination Regarding Contrary to the Welfare. Two (2) cases were in error because the judicial requirement of “contrary to the welfare” was not satisfactorily met. In one error case, the initial order sanctioning removal did not include a finding of “contrary to the welfare” although a subsequent court order did make this determination. The State did not provide a court transcript documenting that the requisite finding was made at the time the court sanctioned the child’s removal from the home. Absent documentation that a finding of “contrary to the welfare” was made in the first court order sanctioning removal, the child is not eligible for the duration of the foster care episode. The second error case is discussed in detail under Issue #3.

Title IV-E Requirement: For a child who is judicially-removed and placed in foster care on or after March 27, 2000, Federal provisions at §472(a)(2)(A)(ii) of the Act and 45 CFR 1356.21(c) require a judicial determination to the effect that continuation in the home is contrary to the welfare, or that placement would be in the best interest of the child. Findings must be made on a case-by-case basis

and explicitly stated in the court order. If an acceptable court order containing the requisite judicial determination is not furnished, a transcript of the court proceeding is the only alternative to a court order to substantiate that the requirement is satisfactorily met. If the judicial determination of “contrary to the welfare” is not made in the first court ruling that sanctions (even temporarily) the removal of a child from home, the child is not eligible for title IV-E foster care maintenance payments for the duration of that stay in foster care.

Recommended Corrective Action: Vermont has four templates to use as guides to document a court-ordered removal of a child from the home, all of which include areas for the judge to record a finding of “contrary to the welfare” and the basis for that determination. The case in error dates back to 2003, prior to Vermont DCF and the courts working collaboratively together to develop a stronger understanding of how judges should enter a ruling on all of the procedural safeguards pertaining to the child’s removal and required for title IV-E eligibility. The DCF staff should ensure that the required judicial determinations have been documented as required under Federal regulation when making title IV-E eligibility determinations and claims for payment. Staff training will help ensure that workers make eligibility decisions based on the elements needed for compliance and to eliminate the authorization of payments prior to establishing compliance with requirements. In addition, CB suggests that the State put in place a quality assurance system to monitor the accuracy of eligibility determination and claiming processes.

Issue #2: Lack of Judicial Determination of Reasonable Efforts to Prevent Removal. Two (2) cases were found to be in error because the court orders in the case file did not contain a judicial determination that reasonable efforts had been made to prevent removal. The State did not provide any additional court orders or a transcript documenting that the required finding was made. If a judicial determination of “reasonable efforts to prevent removal” is not made within 60 days of the child’s removal from the home, the child is not eligible for title IV-E foster care maintenance payments for the duration of that stay in foster care. Further detail on one of these error cases is discussed under Issue #3.

Title IV-E Requirement: For a child who is judicially-removed and placed in foster care on or after March 27, 2000, Federal provisions at §472(a)(2)(A)(ii) of the Act and 45 CFR 1356.21(b)(1) required a judicial determination to the effect that reasonable efforts were made, or were not required to be made, prior to the placement of the child in foster care, to prevent or eliminate the need for removal. Findings must be made on a case-by-case basis and explicitly stated in the court order. If an acceptable court order containing the requisite judicial determination is not furnished, a transcript of the court proceeding is the only alternative to a court order to substantiate that the requirement is satisfactorily met. If the judicial determination of “reasonable efforts to prevent removal” is not made within the first 60 days after the child’s removal from the home, the child is not eligible for title IV-E foster care maintenance payments for the duration of the foster care episode.

Recommended Corrective Action: In error case #62, the child’s removal from the home was sanctioned by an “Emergency Care Order.” Standard practice in Vermont when this type of removal occurs is to go back into court and obtain a subsequent finding that reasonable efforts to prevent removal occurred, or were not required to be made. Either that did not occur in this case or the State was unable to furnish documentation that it occurred. The DCF staff should ensure that the required judicial determinations have been documented on these court orders when making title IV-E eligibility determinations. Staff training will help ensure that workers make eligibility decisions based on the elements needed for compliance and to eliminate the authorization of payments prior to

establishing compliance with requirements. In addition, CB suggests that the State put in place a quality assurance system to monitor the accuracy of eligibility determination and claiming processes.

Issue #3: *Judicial Determinations Not Obtained Upon Reentry Into Foster Care After a Trial Home Visit Exceeding Six Months.* One (1) case was found to be in error because the State did not obtain the appropriate judicial determinations when the child re-entered foster care after a trial home visit exceeding six months in duration. The child was returned to foster care after a trial home visit of just over seven months and there is no evidence the court sanctioned a trial home visit of that duration. Consequently, when the child came back into care DCF was required to obtain a judicial determination that it was contrary to the welfare of the child to remain in the home and that reasonable efforts had been made to prevent removal. This case also was ineligible because title IV-E maintenance payments were claimed for the period the child was living at home, an error discussed in detail under Issue #8.

Title IV-E Requirement: Federal provisions at 45 CFR 1356.21(e) mandate that a trial home visit may not exceed six months in duration, unless a longer visit is ordered by a court. If a trial home visit does extend beyond six months without court sanction, or exceeds the time period a court has deemed appropriate, a child's placement back into foster care must be considered a new foster care episode and title IV-E eligibility must be established anew. Under these circumstances, judicial determinations that it was contrary to the welfare of the child to remain in the home, and that reasonable efforts had been made to prevent removal, must be obtained or the child will not be title IV-E eligible during this new episode of placement.

Recommended Corrective Action: The accuracy and reliability of eligibility determinations are contingent on a thorough understanding of title IV-E rules and regulations. Staff training will help to ensure that workers make eligibility decisions based on all of the required elements for compliance. CB suggests that DCF put in place a system to review the title IV-E eligibility of every child re-entering care from a trial home visit before authorizing payments to ensure compliance with the requirements.

Issue #4: *Timeliness of Judicial Determinations Regarding Reasonable Efforts to Finalize a Permanency Plan.* Three (3) cases were found to be in error because the judicial requirement of "reasonable efforts to finalize a permanency plan" was not satisfactorily met. Vermont, like most States, incorporated the Federal requirement for a judicial determination of "reasonable efforts to finalize a permanency plan" into its court proceeding for the 12-month permanency hearing. However, if the permanency hearing is delayed, the delay results in the State obtaining a judicial determination beyond the 12 months required by Federal regulation. In two error cases, there was a gap in eligibility of one month in each case. It should be noted that the two cases are those of siblings whose permanency hearings were held at the same time. The judicial finding was due by June 30, 2010 but was obtained on August 26, 2010. In the third case, a one-month eligibility gap occurred because the judicial finding was due by March 31, 2010 but was not obtained until May 3, 2010.

Title IV-E Requirement: For a child who is judicially-removed and remains in foster care for 12 months or more, Federal provisions at §472(a)(2)(A) of the Act and 45 CFR 1356.21(b)(2) require the State to obtain a judicial determination of whether the State made "reasonable efforts

to finalize a permanency plan” for the child. The judicial finding must occur at regular 12-month intervals for the duration of the foster care episode and no later than 12 months from the month in which the prior determination is obtained. If the judicial determination of “reasonable efforts to finalize” is not made or is not timely, the child becomes ineligible from the beginning of the first month after it is due and remains ineligible until the judicial determination is made.

Recommended Corrective Action: DCF’s system automatically ceases payment authorization when a gap in eligibility exists due to a delayed court finding, a strength of Vermont’s system. In this instance, DCF reports that safeguards did not work as intended due to a data entry error. Staff training and oversight will help to ensure that workers enter accurate data into the system. CB also suggests that the State put in place a quality assurance system to monitor the accuracy of eligibility determination and claiming processes. In addition, the State is reminded that the requisite judicial determination need not be tied to a permanency or other court hearing. The judicial determination may be rendered by the court at any point during the 12-month period. The State should continue to develop and implement procedures to ensure timely judicial determinations of “reasonable efforts to finalize the permanency plan” regardless of the timing of the permanency hearing. The accuracy and reliability of eligibility determinations generally are increased through training of the judiciary and other court officials to correct delays in judicial findings, as well as to secure court orders that reflect title IV-E criteria on legal authority, best interests, and reasonable efforts.

Issue #5: Lack of Placement and Care Responsibility. One (1) non-error case was found to be ineligible for a period of claiming because DCF did not provide documentation showing that the agency had placement and care responsibility for the child during the entire PUR. The child entered care under a voluntary placement agreement with an expiration date. DCF was not granted legal custody of the child by the court until approximately one month after the expiration of the voluntary placement agreement. No evidence was presented to show that DCF had placement and care responsibility during the intervening time.

Title IV-E Requirement: Federal provisions at §472(a)(2)(B) of the Act and 45 CFR 1356.71(d)(1)(iii) require that the responsibility for placement and care of a child be with the State agency administering the title IV-E plan approved under §471 of the Act. For the title IV-E eligibility review, this responsibility must be for the entire period of the child’s placement during the PUR for which a title IV-E maintenance payment is made and must be clearly indicated in a court order or voluntary placement agreement. The term placement and care means that the State agency is legally accountable for the day-to-day care and protection of the child who has come into foster care through either a court order or a voluntary placement agreement. Placement and care responsibility allows the State agency to make placement decisions about the child, such as where the child is placed and the type of placement most appropriate for the child. It also ensures that the State provides the child with the mandated statutory and regulatory protections, including case plans, administrative reviews, permanency hearings, and updated health and education records. Although responsibility for placement and care is generally associated with custody, the agency need not be given legal custody of the child as legal custody is not a title IV-E requirement. However, granting of legal custody or legal care and control to the title IV-E agency is an indication that the agency has responsibility for the placement and care of the child.

Recommended Corrective Action: The State must take steps to ensure that DCF has placement and care responsibility for each child on whose behalf title IV-E foster care payments are made, and that this responsibility is set forth clearly in a court order or voluntary placement agreement. Staff training and oversight will help to ensure that workers make eligibility decisions based on the elements needed for compliance and to eliminate the authorization of payments prior to establishing compliance with the requirements. CB also suggests that the State put in place a quality assurance system to monitor the accuracy of eligibility determination and claiming processes.

Issue #6: *AFDC Eligibility for Youth Over the Age of 18.* Two (2) cases were found to be in error because the State did not adhere to its AFDC State Plan requirements for youth over the age of 18. Vermont's AFDC State Plan exercises an option that allows title IV-E payments to be made on behalf of youth age 18, who are full-time students in secondary school, and who may reasonably be expected to graduate before reaching age 19. In one error case, it was clearly documented that the youth was not expected to graduate before reaching the age of 20, so payments should not have been made on behalf of this youth after the age of 18. For youth who meet the requirements, eligibility ceases at the end of the month in which the youth leaves school, or when the youth turns 19, whichever occurs earlier. In the other error case, payments continued to be made for an additional month after the month in which the youth graduated.

Title IV-E Requirements: Federal regulations at 45 CFR 1356.71(d)(1)(v) require title IV-E agencies to adhere to the AFDC eligibility rules as in effect on July 16, 1996. The purpose of the title IV-E foster care program is to provide financial assistance to States to help care for children in foster care who meet the eligibility requirements for the AFDC program and cannot remain safely in their homes. Thus, a child's eligibility for title IV-E maintenance is, in part, predicated on the child's eligibility for AFDC. AFDC eligibility is generally limited to children under the age of 18. However, States may have elected to include in their AFDC State Plans eligibility coverage for youth over age 18 who are full-time students in a secondary school and who may reasonably be expected to graduate before reaching age 19. Under these circumstances, eligibility for title IV-E foster care ceases at the end of the month in which the child leaves school or when the child turns 19, whichever occurs earlier. Vermont has exercised this eligibility option.

Recommended Corrective Action: The DCF system automatically ceases payment authorization at the end of the month in which a youth age 18 leaves school, or when a youth reaches the age of 19. In the two error cases, it appears that the safeguard did not work as intended due to a data entry error that did not record the youth's graduation, or the fact that the youth was not expected to graduate until the age of 20. Staff training and oversight will help to ensure that workers enter accurate data into the system. CB suggests that DCF put in place a system to review the title IV-E eligibility of every child who reaches the age of 18 to ensure that they remain in full compliance with title IV-E requirements before authorizing payments. CB also suggests that the State put in place a quality assurance system to monitor the accuracy of eligibility determination and claiming processes.

Issue #7: *Lack of Documentation of AFDC Deprivation Requirements.* One (1) case was found to be in error because the State did not adequately document that the child was deprived of parental support during the month of the child's legal removal from the home. While the need

statement panel from the Economic Services Division indicated that the father was not residing in the home at the time of removal, conflicting information about the father's whereabouts was included in the affidavit supporting removal from the home. The State did not provide any additional documentation to clarify whether the child met the AFDC deprivation requirements.

Title IV-E Requirements: Federal provisions at §472(a)(3)(A) of the Act and 45 CFR 1356.71(d)(1)(v) require title IV-E agencies to adhere to AFDC eligibility rules as in effect in the State's AFDC plan on July 16, 1996. In accordance with these requirements, the State must document that the child is financially needy and deprived of parental support during the month of the child's legal removal from the home. The child must be eligible at the time of entry into foster care, and failure to document the child's initial eligibility for AFDC will render the child ineligible for title IV-E payments during the entire foster care episode.

Recommended Corrective Action: The State must clearly document the AFDC eligibility determination to specify how the child was determined to be in need and deprived of parental care and support. In making these eligibility determinations, the State should not rely solely on the need statement panel from the Economic Services Division, but should also review the affidavit supporting removal of the child from the home and other available case documentation to gain a better understanding of what the family situation was at the time of removal and to reconcile discrepancies in case information. The eligibility worksheet should provide a clear, evidence-based path to the eligibility decision.

Issue #8: *Child Not in a Foster Care Placement.* One (1) case was found to be in error because maintenance payments were made on behalf of a child who was on a trial home visit and not eligible for title IV-E at that time. One additional case was in error because payments were made on behalf of a child who was on runaway status for an extended period of time and then placed in a detention facility. The child was ineligible during both of these time periods.

Title IV-E Requirements: Federal provisions at §472(b) & (c) of the Act and 45 CFR 1355.20(a) mandate that foster care maintenance payments be made only on behalf of a child otherwise eligible and placed in a foster family home or childcare institution which meets the specifications set forth in regulation. A child on a trial home visit, residing with a parent, does not meet this requirement. In addition, Federal policy allows a State to continue to make maintenance payments to a licensed provider if a child runs away, as long as the brief absence does not exceed 14 days, and the child's placement continues with the same provider. Federal statute at §472(c) specifically prohibits detention facilities from being considered a foster care placement.

Recommended Corrective Action: The State must take steps to ensure children, on whose behalf title IV-E foster care payments are made, are placed in foster care settings that are within the scope of Federal mandates provided for at 45 CFR 1355.20(a). CB suggests DCF review the eligibility decisions in these cases to determine whether these errors were due to a lack of training or a data entry error. Staff training and oversight will help to ensure that workers enter accurate data into the system and base eligibility decisions on Federal policy establishing what constitutes an eligible placement. CB also suggests that the State put in place a quality assurance system to monitor the accuracy of eligibility determination and claiming processes.

Issue #9: Lapsed Foster Home Licenses. One (1) case was found to be in error due to a lapse in licensing. In the error case, the child was placed in a licensed out-of-State foster home. The license expired in May 2010 and the foster home was not re-licensed until the family moved in-State and was licensed by DCF in February 2011. This raises concern that the State is not properly exercising its responsibility for insuring that children are placed in fully licensed foster homes, as required by §472(b) & (c) of the Act and 45 CFR 1356.71(d)(1)(iv). CB also notes concern that while Vermont statute allows a home to remain fully licensed as long as an application for renewal is received prior to the expiration of the current license, onsite reviewers noted several instances where renewal applications were not acted upon in a timely manner. In the most egregious examples encountered, one renewal application took two years to approve, while another was still pending at the time of the review after two and a half years. In each case, the criminal background checks required for renewal had been completed timely, but approval of the applications themselves was delayed.

Title IV-E Requirements: Federal provisions at §472(b) & (c) of the Act and 45 CFR 1356.71(d)(1)(iv) require children to be placed in a foster family home or childcare institution licensed by the State in which it is located as meeting the standards established for such licensing. The regulations at 45 CFR 1355.20(a) further state that anything less than full licensure or approval is insufficient for meeting title IV-E eligibility requirements. Licenses or approvals, such as probationary or provisional, that are issued because the facility fails to satisfy all of the State's standards for full licensure or approval, render the children placed in such a facility ineligible for title IV-E funding.

Recommended Corrective Action: The State must take steps to ensure that children on whose behalf title IV-E foster care payments are made are placed in fully licensed foster homes. CB suggests DCF review its licensing and recordkeeping practices to ensure sufficient oversight of licensed homes. The agency should ensure that licensing procedures are being adhered to, gaps in licensing do not occur, requirements for renewal are being met on a consistent and timely basis, and licensing decisions are documented. Internal controls should be implemented to ensure that the required licensing has been completed and documented prior to initiating any title IV-E claims.

Issue #10: Lack of Criminal Background Checks for Foster Parents. One (1) case was found to be in error because the State was unable to document that the required criminal background checks for foster homes had been completed. In the error case, the required fingerprint-based criminal background checks were not completed for a foster family that had previously been licensed but failed to submit their application for renewal timely. Consequently, DCF was required to process that application as a new license, rather than a renewal, and fingerprint background checks should have been completed.

Title IV-E Requirements: Federal provisions at §471(a)(20) of the Act and 45 CFR 1356.30 require the State to provide documentation that criminal records checks have been conducted on all prospective foster parents before the child is placed. Fingerprint-based checks must be conducted for all prospective foster parents licensed on or after October 1, 2008. For title IV-E eligibility purposes, once the prospective foster family home is licensed, subsequent criminal records checks are not required as long as the home is continuously licensed. This is true even if the State requires the completion of a new background check at the time of license renewal. A foster family

home that is required to go through periodic licensure to remain valid under a governing licensure provision is not considered “prospective” for the purpose of the Federal criminal background check requirements. However, if a foster family home license expires and cannot be renewed pursuant to State requirements, the foster parent(s) must be considered “prospective” with any new application for licensure and a new criminal background check must be conducted in connection with the new license.

Recommended Corrective Action: When placing children in foster homes, the State must ensure that all required criminal background checks have been completed prior to placement. CB suggests that DCF put in place a system to ensure the required documentation is on file prior to initiating any title IV-E claims on behalf of a child. CB also suggests that the State put in place a quality assurance system to monitor the accuracy of eligibility determination and claiming processes.

Issue #11: Lack of Documentation of Safety Considerations for Staff of a Childcare Institution. Two (2) cases were found to be in error because the State could not provide documentation that the required safety considerations for staff of a childcare institution were completed prior to the period for which the title IV-E foster maintenance payment was made on behalf of the child. In one case, the child was placed in an out-of-state facility in Massachusetts. In the other case, the State could not provide documentation that the required safety considerations were completed for staff of an in-state childcare institution.

Title IV-E Requirements: Federal provisions at 45 CFR 1356.30(f) require that the State provide evidence that the safety considerations with respect to the staff of the childcare institution have been addressed in accordance with the requirements of the State in which the childcare institution is located. Documentation must verify that all of the governing safety requirements were met prior to making any title IV-E payments on behalf of the child. Documentation can include, but is not limited to, such official material as a checklist or monitoring report completed by the licensing authority; a letter or report signed by appropriate title IV-E agency staff or licensing staff that details the background check results; or electronic data maintained in the title IV-E agency’s automated information system that records the results of the evidence examined to determine compliance with the governing safety requirements. The documentation will be accepted based upon the degree that the documentation clearly specifies the safety measures completed, the date completed and the evidence reviewed (and by whom). A mere review of the title IV-E agency’s or childcare institution’s policy and regulation, however, is not sufficient to document compliance with the safety requirement. A statement by the title IV-E agency staff that simply declared “all background checks had been completed and persons cleared” also is not sufficient.

Recommended Corrective Action: CB suggests that DCF put in place a system to ensure that the required documentation is on file prior to initiating any title IV-E claims on behalf of a child placed in a childcare institution. Moreover, when placing a child in an out-of-state childcare institution, DCF must request the receiving State provide the receiving State’s licensing policy and policy on addressing safety considerations for staff of a childcare institution; a copy of the childcare institution’s license applicable for the duration of the child’s placement; and documentation that clearly specifies the safety measures completed, the date completed, the evidence reviewed, and who reviewed that evidence, in order to verify that safety considerations

have been addressed. CB also suggests that the State put in place a quality assurance system to monitor the accuracy of eligibility determination and claiming processes.

Strengths and Promising Practices

The following positive practices and processes of the title IV-E foster care eligibility program were observed during the review. These approaches seem to have led to improved program performance and successful program operations.

Automated Data System Interfaces: Vermont has an automated data system which facilitates timely and accurate AFDC eligibility decisions. The system is able to interface electronically with other State agencies to obtain information pertinent in determining financial need and deprivation for AFDC eligibility. Information on public benefits is received from the Economic Services Division and the Department of Labor reports wages and earnings. These electronic system interfaces eliminate duplicative data collection efforts by staff and increase the authenticity of data used for eligibility determinations.

Electronic Fingerprinting: Vermont uses a Live Scan fingerprint system which is an inkless, electronic fingerprint system in which digitized images are electronically transmitted to appropriate law enforcement agencies to conduct national criminal background checks. This system provides results very quickly, decreasing the length of time it takes to license a foster home. It allows DCF to conduct criminal records checks prior to placing a child in a foster home and prior to initiating title IV-E claims. The system DCF utilizes also provides fingerprint-based criminal records checks for the staff of childcare institutions in the State.

Automated Eligibility Determinations: The computer system utilized by Vermont's Child Benefit Unit is programmed to automatically shut off title IV-E claims when the child is no longer meeting title IV-E requirements. For example, the system identifies a gap in obtaining the required judicial determination of reasonable efforts to finalize and will cease claiming until a new judicial finding is recorded. This system is quite effective in preventing ineligible claims unless there is inaccurate data entry, which accounted for several of the errors identified by reviewers.

Disallowances

A disallowance in the amount of \$186,176 in maintenance payments and \$56,700 in related administrative costs of Federal financial participation (FFP) is assessed for title IV-E foster care payments claimed for the error cases. An additional amount of \$81 in maintenance payments of FFP is disallowed for payments claimed improperly for the non-error case. The total disallowance as a result of this review is \$242,957 in FFP. The State also must identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the PUR. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

Next Steps

Pursuant to 45 CFR 1356.71(i), Vermont is required to develop a Program Improvement Plan (PIP) designed to develop measurable, sustainable strategies that target the root cause of problems hindering the State from operating an accurate foster care eligibility program. The PIP period is not to exceed one (1) year. It will be developed by the State, in consultation with CB's Region I Child Welfare staff, and must be submitted to the Regional Office within the timeframes identified in the letter accompanying this report.