

# Washington Department of Social and Health Services Primary Review - Title IV-E Foster Care Eligibility Report of Findings for October 1, 2009 – March 31, 2010

## Introduction

During the week of November 1, 2010, 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 Washington Department of Social and Health Services and was completed by a review team comprised of representatives from the State agency, CB Central and Regional Offices, ACF Regional Grants Management and peer reviewers.

The purposes of the title IV-E foster care eligibility review were to (1) determine whether the Washington Department of Social and Health Service'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) 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 October 1, 2009 through March 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 69 cases from the original sample plus 11 oversample cases. Eleven (11) cases were excluded from the original sample and two (2) from the oversample 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 Social Security Act (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 child care 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 any 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 or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity. In addition, underpayments were identified for a sample case when title IV-E maintenance payment was not claimed by the State for an eligible child during the 2-year filing period specified in 45 CFR §95.7, unless the title IV-E agency elected not to claim the payment or the filing period had expired.

CB and the State agreed that the State would have a period of time following the onsite review to submit additional documentation for any cases that during the onsite review were identified as in error, in undetermined status, or not in error but with ineligible payments. Based on the supplemental documentation regarding safety considerations for an out-of-State foster home, the finding for sample case 64 was changed to a non-error case. Supplemental documentation regarding compliance with criminal background check requirements for an out-of-State placement was also provided for sample case 19 four weeks after the onsite review, changing the finding to a non-error case with no improper payments.

## **Compliance Finding**

The review team determined that all of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Six (6) non-error cases had ineligible or duplicate payments, but were not considered in determining the State’s substantial compliance with the Federal requirements. The findings in these cases are as follows: two (2) non-error cases were ineligible for a period outside the PUR for which payments were claimed (52, 74); four (4) non-error cases were found to have duplicate payments, one (1) during the PUR (4), and three outside the PUR (9, 18, 89). Accordingly, Federal funds claimed for title IV-E foster care maintenance payments associated with the non-error cases with ineligible payments are being disallowed. There are no unallowable title IV-E foster care administrative costs associated with the disallowed maintenance payments. In addition, eight (8) non-error cases were identified to have periods of eligibility for which the State did not claim allowable title IV-E maintenance

payments. The State may claim the eligible payments by filing an increasing adjustment on its quarterly report of expenditures (form CB-496) in the next quarter, but no later than 2 years after the calendar quarter in which the State made the expenditure.

Because the number of cases in error is fewer than four (4), the Washington Department of Social and Health Services is determined to be in substantial compliance with the reviewed title IV-E eligibility requirements for the PUR.

### Case Summary

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

#### Non-error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
4	Duplicate foster care maintenance payments were made for the same service dates. Payments were made for both Levels II and IV Foster Care Maintenance Supplement. (2 CFR Part 225, 45 CFR Part 92.22 & 45 CFR 1355.30(i)) <i>Payment dates: 07/01/09-07/05/09 and 07/06/09-07/31/09</i>	\$1,394.61 (\$804.97)
9	Duplicate foster care maintenance payments were made for the same service dates. Two payments were made for Level I Foster Care Maintenance Supplement. (2 CFR Part 225, 45 CFR Part 92.22 & 45 CFR 1355.30(i)) <i>Payment dates: 04/06/07-04/30/07</i>	\$249.01 (\$124.80)
18	Foster care maintenance payment was claimed for a child in an unlicensed relative placement. The child moved to a fully licensed placement on 6/3/08, yet maintenance was claimed for the entire month. (42 USC 672(a)(20) and 675(1) and 45 CFR 1356.30) <i>Ineligible payment: 06/01/08-06/02/08</i>	\$17.44 (\$8.99)
52	Foster care maintenance was made for the period after the 181 <sup>st</sup> day of a Voluntary Placement Agreement, prior to a judicial finding of best interests. The child is ineligible for the remainder of the out-of-home placement episode. [45 CFR 1356.21; 1356.60] <i>Ineligible payment: 08/17/10-9/30/2010 (available data at time of review – child continues to be ineligible while in current out of home placement episode)</i>	\$1,711.52 (\$987.89)
74	Foster care maintenance was claimed for transportation and travel costs while the child was in an unlicensed relative placement. (42 USC 672(a)(20) and 675(1) and 45	\$136.90 (\$79.02)

	CFR 1356.30). <i>Ineligible payments: 01/31/09, 02/28/09, 03/31/09, 04/31/09, 06/30/09, 07/06/09 and 07/30/09</i>	
89	Duplicate foster care maintenance payments were made to different providers for the same day. (2 CFR Part 225, 45 CFR Part 92.22 & 45 CFR 1355.30(i)) <i>Ineligible payment: 10/23/08</i>	\$31.13 (\$17.97)

**Total: \$3,540.61**  
(\$2,023.64 FFP)

### Underpayment Cases

<b>Sample Number</b>	<b>Improper Payment Reason &amp; Ineligibility Period</b>	<b>Improper Payments (FFP)</b>
3	The child was placed in a fully licensed foster home, but did not claim title IV-E foster care maintenance payments for the last day in the home. [§472(a) of the Act] <i>Eligible: 02/10/10</i>	\$13.92 (\$8.03)
29	The child placed in fully licensed foster home, but State did not correctly prorate the monthly charges as per State procedures (monthly rate divided by 30.42 days per month times the number of days). [§472(a) of the Act] <i>Eligible: 11/1/09-11/17/09</i>	\$85.51 (\$49.36)
30	State did not claim title IV-E maintenance for allowable travel and transportation costs for eligible child. [§472(a) of the Act] <i>Eligible: 02/27/08- 3/1/08</i>	\$183.60 (\$94.59)
37	The child was placed in a fully licensed foster home, but no title IV-E foster care maintenance claims were made for the eligible child. [§472(a) of the Act] <i>Eligible: 02/01/10-09/25/10</i>	\$23,899.36 (\$13,794.71)
67	The child was placed in a fully licensed foster home, but did not claim title IV-E foster care maintenance payments for support services due to SACWIS problems. [§472(a) of the Act] <i>Eligible: 05/31/09-06/30/09</i>	\$816.07 (\$471.04)
78	The child met all initial eligibility requirements. Once the child became ineligible for SSI as of 12/01/09, State oversight resulted in failure to change claiming to title IV-E maintenance. <i>Eligible: 12/01/09 – 10/31/10</i>	\$6,083.84 (\$3,511.59)

82	The child placed in fully licensed foster home, but the State claimed title IV-E foster care maintenance payments at an incorrect (lower) rate for Level III Supplement. [§472(a) of the Act; 45 CFR 1356.21(k)] <i>Eligible: 10/01/09-10/31/09</i>	\$82.10 (\$47.39)
84	The child was placed in a fully licensed foster home, but the State claimed title IV-E foster care maintenance payments at an incorrect (lower) rate for partial month. [§472(a) of the Act; 45 CFR 1356.21(k)] <i>Eligible: 01/10/10-01/25/10</i>	\$103.52 (\$57.75)

**Total: \$31,267.92**  
(\$18,034.46 FFP)

### Strengths and Promising Practices

The following positive practices and processes related to the determination of eligibility in the title IV-E foster care program were observed during the review. These approaches, some of which were developed by the State in response to concerns identified in previous reviews, appear to be closely associated with the improved program performance and successful program operations.

Judicial Determinations. Washington has in place a process to review and update court order templates that serve as guides to make sure all necessary components are included in written court orders. This practice will help to better address Federal title IV-E foster care eligibility requirements. The Children’s Administration has worked with the Attorney General’s office to develop templates, provide training, and implement processes that have resulted in significant progress in the timeliness of court hearings and the quality of court orders. Court orders had findings that were child-specific and case-specific. Reviewers noted that all of the shelter care hearings for cases in the sample met State timeframes. In all sample cases reviewed, a finding of “contrary to the welfare” to remain in the home was addressed as a finding in the first removal order. The current Shelter Care order template more clearly meets Federal requirements, and is more case-specific. This order more explicitly gives the State agency responsibility for placement and care for a child in an out-of-home placement, which was a concern during the previous review.

“Reasonable efforts to prevent removal” was most often addressed in the first court order removing the child, which resulted in timely findings for all cases in the review sample. Washington also met the requirement for a finding of “reasonable efforts to finalize the permanency plan” during the PUR for all cases in the sample.

Reviewers noted that permanency planning hearings were not only timely, but often early. There were no continuances on the cases reviewed. These hearings provided the basis for the court’s findings related to the efforts of the agency in achieving the permanency plan for the child.

Eligibility Determinations. Washington has conscientious eligibility specialists and title IV-E requirements are carefully applied to each case. Reviewers noted excellent documentation in case files on income, resources, and deprivation.

Leadership and staff of the Federal Funding Unit demonstrate a commitment to the title IV-E eligibility determination process, and dedication to continually improve on this process. Washington's ongoing monitoring of title IV-E eligibility is much improved since the 2007 title IV-E foster care eligibility review. The last review found that eligibility was reviewed only every 6 months. Now, eligibility is monitored continuously throughout the life of the case. The new SACWIS system automatically changes the claiming code when a child becomes ineligible, and the funding, eligibility, and licensing information systems are now linked, integrating the information and ensuring better eligibility decisions. However, there are several non-error cases with improper payments and work still needs to be done regarding improving accuracy in payments and claiming.

Licensing and safety requirements: Since the last review, Washington has made substantial progress in licensing foster care placements and monitoring compliance with safety requirements, particularly for residential care facilities. Foster family homes are fully licensed and renewed with no gaps in licenses, whereas in the previous review there were ineligible payments due to licensing issues. Washington has implemented a review process for residential care facilities utilizing a checklist that addresses required safety considerations and documents that criminal background check requirements are met for workers at a facility. Licensing files were well organized, complete, and current.

Criminal background checks and safety requirements were met in accordance with the background check requirements that covered the period of licensure for the prospective foster family home and for childcare institutions. The State has updated their Criminal Background Check clearance form to indicate specific clearance for FBI fingerprint based checks, State and local checks, and child abuse and neglect registries.

## **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 recommended corrective actions for the State to consider.

Issue #1: *Coding of AFCARS data element 59.* Eleven (11) cases were excluded from the original sample (and two (2) from the oversample) and were replaced with cases from the oversample. Documentation provided by the State confirmed that the case replacements were necessary because a title IV-E foster care maintenance payment was not made for a period during the PUR.

Title IV-E Requirement: The case sample and oversample drawn for review consist of cases of individual children with a "1" coded in AFCARS data element 59, "Sources of Federal Financial Support/Assistance for Child," for the six-month reporting period of the PUR. As provided for in Appendix A of 45 CFR §1355.40, the AFCARS data element 59 inquires whether title IV-E

foster care maintenance payments are paid on behalf of a child in foster care during the PUR. If title IV-E foster care maintenance payments are paid on behalf of the child, the data element should be coded "1." If title IV-E foster care maintenance payments are not being paid on behalf of the child, the data element should be coded "0."

Recommended Corrective Action: The validity of the sample and oversample depends on the accuracy with which the State agency completes the AFCARS data element 59. It is critical, therefore, that State agencies report data element 59 accurately. CB recommends that the State assure a common understanding among staff that the State should only indicate whether a child received a title IV-E foster care maintenance payment during the reporting period in answering foster care element 59.

Issue # 2: *Ensure that children in out-of-State placements are in fully licensed foster homes, and that safety and criminal background checks requirements are met.* There were eight non-error cases in the sample where the child was in an out-of-State placement. While the licenses were in the file, State staff needed to request additional documentation prior and during the review to demonstrate all criminal background check and safety requirements were fully met. To ensure the safety of all children in out-of-State placements, this information should be obtained and documented at the time of the child's placement, not just for purposes of a title IV-E review.

Title IV-E Requirement: The State agency must document that the child is placed in a licensed or approved foster family home, and provide evidence that safety considerations with respect to the caretakers have been met (45 CFR 1356.71 (d)(1)(iv) and 1356.30(f)). Acceptable documentation to satisfy the criminal records check requirement is evidence that contains the results of the criminal records check, which can include a letter from the receiving State documenting a criminal records check has been completed and that there are no negative findings (see Program Instruction ACYF-CB-PI-10-02). Documentation must also substantiate that the requirement is met for the duration of the child's placement for the PUR.

Recommended Corrective Action: Documentation as to the location, type of facility, license, and evidence of successful completion of required background checks should be readily available in the information system and case file for all children in care. Supervisors and caseworkers need to be aware of these requirements. Since Washington often uses home studies as a source of documentation, out-of-State home studies must have attached documentation of completion of all required background clearances and a copy of the out-of-State foster care license(s) for the period child is in the home. Ensure an understanding is developed with receiving States as to the importance of the provision of this information. Consider developing a form letter requesting this specific information from the receiving State and procedures for following-up on requests for the necessary information. Title IV-E maintenance payments should not be claimed until documentation of eligibility is obtained.

Issue # 3: *Ensure that there are no duplicate payments or underpayments.* For three non-error cases, duplicate foster care maintenance payments were made and claimed for title IV-E reimbursement for the same dates. In one case, payment was made to two different providers on the same date. In the second case, two payments were made to the same provider. In the third

case, two payments were made for different rates to the same provider. There were eight cases identified during this review where all requirements were met yet the State failed to claim title IV-E maintenance funds.

Title IV-E Requirement: 45 CFR 1355.30(i) and 45 CFR 92.22.

Recommended Corrective Action: Ensure that the automated payment system does not allow duplicate payments. Review the eight cases with underpayments to identify the cause(s) (computer or human error) and develop corrective action to ensure correct claiming for all eligible children.

### **Disallowances**

A disallowance in the amount of \$2,023.64 in FFP (\$3,540.61 gross) in maintenance payments is assessed for title IV-E foster care ineligible payments claimed improperly for the non-error cases (there were no error cases found). The State also must identify and repay any ineligible payments that occurred for the 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**

Since the State was found to be in substantial compliance no formal corrective action plan is required in follow-up to this review. As part of the Washington's ongoing efforts to improve its title IV-E foster care eligibility determination process, CB recommends Washington examine identified areas of concern and its recommended corrective actions. The Region X Office will continue to work with the State of Washington and is available to provide training and technical assistance to address any of the issues raised during this review.