WEST VIRGINIA TITLE IV-E
FOSTER CARE ELIGIBILITY REVIEW
September 8, 2003 - September 12, 2003

October 16, 2003

I. INTRODUCTION

During the week of September 8, 2003 Administration for Children and Families' (ACF) staff from the Regional and Central Offices, representatives of Pennsylvania's Department of Public Welfare and staff of the West Virginia Department of Health and Human Resources (DHHR) conducted an eligibility review of West Virginia's Title IV-E foster care program in Charleston, West Virginia.

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

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

II. SCOPE OF THE REVIEW

The West Virginia Title IV-E foster care review encompassed a sample of all the title IV-E foster care cases that received a foster care maintenance payment during the period of October 1, 2002 to March 31, 2003. A computerized statistical sample of 100 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which was transmitted by the State agency to the Administration for Children and Families. The child's case file was reviewed for the determination of title IV-E eligibility and the provider's file was reviewed to ensure that the foster home or child care institution in which the child was placed was licensed for the entire period of the review.

During this subsequent primary review, 80 cases were reviewed. Twenty-five 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 was greater than four (5 percent error rate), West Virginia is considered not to be in substantial compliance.

Pursuant to 45 CFR 1356.71(i), you are required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed by the State, in consultation with the ACF Regional Office staff, and must be submitted to the ACF Regional Office by January 16, 2004. Once the State has satisfactorily completed the PIP, a secondary review of a sample of 150 title IV-E foster care cases will be conducted.

III. CASE RECORD SUMMARY

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

Case Number	Reason Case Was Not Eligible
2	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
4	The provider was not licensed or approved for the six-month period under review.
15	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
21	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
24	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late. The child was not removed from a specified relative.
26	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
29	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.

Case Number	Reason Case Was Not Eligible
40	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late
45	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late
46	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late
47	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late. The provider was not licensed or approved for the six-month period under review.
52	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
55	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
59	The judicial determination that addressed reasonable efforts to finalize the permanency plan was 2 years late.

Case Number	Reason Case Was Not Eligible
60	The provider was not licensed or approved for the six-month period under review.
62	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
63	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late
66	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
67	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late.
69	The provider was not licensed or approved for the six-month period under review.

Case Number	Reason Case Was Not Eligible
70	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late. The child was 18 years or older and was not expected to graduate prior to the 19th birthday.
74	The child care facility was provisionally licensed for the six-month period under review. The facility was a secure facility.
75	The judicial determination that addressed reasonable efforts to finalize the permanency plan was late. The provider was not licensed or approved for the six-month period under review.
77	The child was placed by voluntary placement agreement and a judicial determination was not held within 180 days.

IV. STRENGTHS

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

- The case record review found that children's placements were generally very stable. Of the cases reviewed, 70 percent did not have any placement changes for the period under review. Only five percent of the cases reviewed had more than two placement changes during the review period.
- Determinations of contrary-to-welfare and reasonable efforts to prevent placement or reunify were made on a timely basis for 79 of the 80 sample cases.
- Criminal record checks were found for all foster homes in the cases reviewed. These checks were thorough and complete. In addition the WVDHHR policy for licensing the child care institutions in which children were placed indicated that safety considerations with respect to the staff/caretakers have been addressed.
- Fifty-five percent of the total number of placements for the cases reviewed were foster family homes approved by either the WVDHHR or licensed child-placing agencies. This shows a

concerted effort by the State to keep children in the least restrictive placements available that can appropriately meet their needs

- Licensing and approval information was generally up to date and complete. Foster home approval information was well documented with only five cases in the review having a lapse in provider approval.
- The initial eligibility determinations were completed in a timely manner. Documentation was available on the determination form or was in FACTS.
- The State and the court system appear to be working well together to see that most of the federal mandates are implemented appropriately. An example of this was an agreement for continued foster care to complete education after age 18 that was signed by the child and the agency and affirmed by the court.
- The review also found that there is a strong effort by the WVDHHR staff to move children through the foster care system to termination of parental rights and adoption in West Virginia. The WVDHHR is engaging the courts in permanency planning as evidenced by having 75 percent of the sample meet the permanency hearing requirements.

V. AREAS OF CONCERN

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

- Twenty out of the 80 cases reviewed did not have timely judicial determinations regarding reasonable efforts to finalize the child's permanency plan. WVDHHR must continue to strive to attain timely judicial determinations every twelve months. If this judicial determination is not made within the specified time frame, the child becomes ineligible from the end of the month in which the most recent judicial determination of reasonable efforts to finalize the permanency plan was due, but not made, and remains ineligible until such a judicial determination is made. During the review it was noticed that some cases did not have any recent judicial determinations and some with recent judicial orders did not include the appropriate language regarding a determination of reasonable efforts to finalize a permanency plan. It is clear that WVDHHR has a court process in place, but it is not working for all children in foster care. The reviewers noticed that more recent court orders contain the appropriate language so we would encourage West Virginia to continue its efforts to improve the court order content.

- The WVDHHR initial determination of eligibility for all AFDC elements and, specifically, deprivation, were very difficult to identify in the documentation provided for the review. For subsequent reviews, it would be helpful to include the initial eligibility determination forms as opposed to a summary form.
- The WVDHHR foster family homes were generally reviewed and approved on a timely basis. We accepted cases with provisional licenses because they are the equivalent of "initial" licenses in that the homes meet all licensing requirements, however because they are new they receive a provisional license. We recommend that these initial licenses be called initial to get away from using the term provisional since that term includes homes that do not meet all standards.

VI. DISALLOWANCES

The review included a sample of 80 cases. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the six month AFCARS period of October 1, 2002 to March 31, 2003. Based upon the results of the review, the State of West Virginia has been determined to not be in substantial compliance. A disallowance is assessed for the total Federal Financial Participation (FFP) amount for the entire period of time that these cases were determined to be in error, including administrative costs. The administrative costs are not disallowed for error cases in the process of being licensed. Therefore the total disallowance for the 25 error cases is $451,305 (FFP). The attached list of ineligible cases includes the sample number, the disallowed amounts for both maintenance payments and administration and the appropriate fiscal year.

VII. REVIEW TEAM

Federal Team	State Team
Jennifer Butler-Hembree	Tom Strawderman
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