

State of Wyoming
Department of Family Services
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for Period Under Review
April 1, 2012 – September 30, 2012

Introduction

During the week of April 15, 2013, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary eligibility review of Wyoming's title IV-E foster care program. The review was conducted in collaboration with the Wyoming Department of Family Services (DFS) and was completed by a review team comprised of representatives from DFS, CB Central Office and Region VIII staff, ACF Regional Grants Management staff, a peer reviewer from another State and a reviewer from a Region VIII tribe. The purposes of the title IV-E foster care eligibility review were (1) to determine whether Wyoming's title IV-E foster care program was in compliance with 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 Wyoming's financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

During the review, the review team examined a sample of Wyoming's foster care cases that received a title IV-E maintenance payment for a period during the six-month period under review (PUR) of April 1, 2012 – September 30, 2012. A computerized statistical sample of one hundred (100) cases (eighty cases plus twenty over sample 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, with seventy-two (72) cases from the original eighty (80) case sample and eight (8) cases from the oversample. Prior to the on-site review, eight (8) cases from the original sample were eliminated after it was determined that title IV-E payments were not made for a period during the PUR or services were not provided during the PUR.

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 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 §1356.7(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 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 child care 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 properly claimed 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 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 an allowable 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.

Initially, eleven (11) cases were determined to be in error for title IV-E maintenance payments, including related administrative costs associated with the error cases, because the State had not provided documentation that childcare institution employees had met safety requirements. The CB and the State agreed during the onsite review that the State would have two weeks following the onsite review to submit additional documentation for the cases that were identified as being in error. Based on the review of the supplemental documentation, the improper payment finding for seven (7) sample cases was changed to non-errors (samples # 12; 21; 27; 31; 72; OS6 and OS9).

Compliance Finding:

The review team determined that 76 of the 80 sample cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Four cases were determined as in error for either part or all of the PUR. Three sample cases were assigned an error rating because review of the documentation revealed incomplete employee safety check information for two childcare institutions during the PUR. A fourth sample case was assigned an error rating because the initial court order did not document the title IV-E agency's unencumbered placement and care authority, as is required by the Act and by Federal policy. The court orders that followed similarly encumbered the agency's placement and care authority throughout the life of the case. Finally, there is one non-error case identified as having an ineligible payment that occurred for a period prior to the PUR. Specifically, a title IV-E payment was made for one day in the month prior to obtaining the "contrary to the welfare" judicial determination. Accordingly, Federal funds claimed for title IV-E foster care maintenance payments, including related administrative costs, associated with the error cases and non-error cases with ineligible payments are being disallowed. Four cases in the review sample were identified as having underpayments during the PUR. Reimbursement for underpayments may be claimed by filing an increasing adjustment of Form CB-496 within the two year limitation as is described in 45 CFR §95.7.

The following charts record the error cases; 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.

Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
8	Incomplete employee safety check information for childcare institution [45 CFR §§1356.30(f)] Ineligible : 7/26/12-2/28/13	\$8,698 Maint.\$3,269 Admin.
57	Incomplete employee safety check information for childcare institution [45 CFR §§1356.30(f)] Ineligible: 4/25/11-4/18/13	\$7,491 Maint. \$10,513 Admin.
58	Incomplete employee safety check information for childcare institution [45 CFR §§1356.30(f)] Ineligible: 7/13/10- 10/28/12	\$30,791 Maint. \$11,191 Admin.
80	Court order does not document the title IV-E agency's unencumbered placement and care authority, as required by the Act and by Federal policy. [45 CFR §§1356.71(d)(1)(iii)] Ineligible: 2/7/11-9/6/12	\$22,009 Maint. \$8,114 Admin.

Total Maintenance: \$69,989

Total Administrative: \$33,087

Grand Total: \$102,076

Non-error Case with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
10	Foster care maintenance payment made for a period before the month the contrary to welfare judicial determination was obtained. Payment was prior to the PUR. [45 CFR § 1355.20.1356.21(b)(2) and 1356.22] Ineligible: 11/30/10	\$12 Maint. \$0 Admin.
Total		\$12

Underpayment Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
2	Foster care maintenance payment began the date the AFDC determination completed for a child who was eligible the entire month [§472(a) of the Act; CB Child Welfare Policy Manual (CWPM), §8.3A.15, Question 1] Eligible: 4/1/12-4/30/12	\$129 Maint.
3	Foster care maintenance payment began the date the AFDC determination completed for a child who was eligible the entire month [§472(a) of the Act; 45 CFR 1356.21; CWPM, §8.3A.15, Question 1] Eligible: 7/1/11-7/31/11	\$366 Maint.
69	Foster care maintenance payment began the date the AFDC determination completed for a child who was eligible the entire month [§472(a) of the Act; 45 CFR 1356.21; CWPM, §8.3A.15, Question 1] Eligible: 8/1/12-2/28/13	\$2324 Maint.
71	Foster care maintenance payment began the date the AFDC determination completed for a child who was eligible the entire month [§472(a) of the Act; 45 CFR 1356.21; (CWPM), §8.3A.15, Question 1] Eligible: 2/14/12-5/31/12	\$1,141 Maint.
Total:		\$3,960

Since the number of cases in error did not exceed the error threshold of four cases, it is determined that the Wyoming Department of Family Services is in substantial compliance for the period under review.

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.

Court Hearings and Court Orders

In the 2010 Primary Review Final Report, we explained that court orders in many of the cases appeared to be templates that did not clearly address the specific circumstance of the child. However, since the 2010 primary review, Wyoming has invested resources into improving its court hearings and court orders. The results were evident during the 2013 primary review. For example, permanency hearings with judicial findings of reasonable efforts to finalize the permanency plan are held regularly and are timely, if not early. Wyoming also demonstrated that it clearly had improved with regard to reasonable efforts to finalize the permanency plan judicial findings. Those findings were clear, child-specific and detailed. Where concurrent permanency plans were in place, the court addressed the specific efforts that the agency was making to finalize both permanency plans. This improvement in the quality of the court orders since the last primary review in 2010 likely is the result of ongoing collaboration between DFS and the title IV-E Eligibility Unit, the Court Improvement Program and the courts. Similarly, we note that the court orders were well supported by clear, detailed and comprehensive agency petitions and case notes.

Licensing and Safety Requirements for Foster Family Homes

During the review, it was determined that the agency's policies and close oversight by the State licensing authority ensured that the foster homes met all licensing requirements and safety regulations for foster family homes were met prior to children being placed in the foster family home. There were no gaps in licensure in the cases reviewed.

The criminal records checks were sufficiently documented for children in the sample who were in foster family homes. The documents included background checks from the Wyoming Division of Criminal Investigation and the Federal Bureau of Investigation.

Centralized Eligibility Unit:

Wyoming continues to centralize title IV-E eligibility determinations in a specialized unit. As we noted in 2010, the State agency centralized eligibility unit was put into place to manage the eligibility determination process by overseeing the tracking and monitoring of the title IV-E eligibility determination, documenting compliance, and conducting quality assurance activities. The centralization of the eligibility determination function has facilitated training on title IV-E eligibility requirements for caseworkers and licensing workers and a tracking system for eligibility events used by the unit. This enables staff in the unit to work with field offices, courts, the State licensing agency, and State agency fiscal officials to assure required actions and supporting paperwork are completed timely and that title IV-E claims are submitted primarily for those cases meeting all applicable

requirements. It also permits more accurate and consistent application of policy, as well as timely issue and emerging trend identification and problem-solving.

Areas in Need of Improvement

The findings of this review indicate 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: Safety Requirements for Child Care Institutions

Three cases were determined to be in error because the title IV-E agency did not provide documentation that employees working in childcare institutions where children in the sample were placed had completed safety requirements. These three error cases involved two separate child care institutions. The review revealed that two employees did not have local background checks in accordance with State requirements. Nonetheless, the title IV-E agency placed and claimed title IV-E funds for children who resided in those child care institutions during the PUR.

During the onsite review week, the title IV-E agency struggled to obtain documentation that the safety checks for the child care institution employees had been completed timely for all of the child care institutions at issue in the sample. Some of the documentation was provided subsequent to the onsite review week. The State explained that its custom has been to secure a letter from its title IV-E childcare institution licensing specialist that merely affirms that the licensing specialist has reviewed safety documentation for each child care institution. However, as is described below, such a letter is not sufficient to meet the Federal eligibility requirements.

Title IV-E Requirement: Federal law requires a title IV-E agency to conduct and document that it has addressed safety requirements for children who are placed in child care facilities. See §471(a)(20)(a) of the Act and 45 CFR §1356.30. Federal policy requires a title IV-E agency to provide documentation of safety checks completed according to the licensing agency's rules for each child care institution's caregiver employee that was working in the childcare institution during the PUR and while the child was placed in the child care institution. Documentation must clearly specify the safety measures completed, the date completed, the evidence reviewed (and by whom). See generally, the title IV-E Eligibility Review Guide; Chapter Four. The documentation must also verify that all of the governing safety requirements were met prior to the title IV-E maintenance payments being made on behalf of a child in the childcare institution during the PUR. A statement by the title IV-E agency staff that simply declares, as Wyoming presented during the review, that "all criminal records clearances had been completed and persons cleared" is not sufficient. As described above, the documentation must explicitly reflect the evidence that the title IV-E agency staff reviews.

Recommended Corrective Action: As we have explained above, as a condition of title IV-E eligibility, the title IV-E agency is responsible for maintaining and providing documentation that it has met the requisite safety requirements for the care-giving staff in its child care institutions. We therefore recommend that instead of including a letter from the licensing specialist that affirms his/her review of the employee safety checks, the State should include the specific documentation that underlies the licensing specialist's affirmation. Otherwise stated, each childcare institution's licensing file should include the specific names, date of hire checks, that have been completed on each employee that is required to undergo such checks, and the date

on which each check was completed. The documentation should be updated for each employee and/or institution as the checks are conducted in accordance with State requirements.

Issue #2: Children Placed in Unlicensed Foster Homes

The review revealed cases where children are placed in unlicensed homes for long periods of time. Although title IV-E dollars were not used to pay for the placements, Federal policy and §471(a)(20) of the Act require that the safety requirements for prospective foster parents be met prior to licensure. The issue of whether safety requirements are met prior to the foster family home's licensure is also a matter of title IV-E plan compliance. We also note that children should not linger in unlicensed foster family homes because of potential safety concerns that may become a liability for the State and jeopardize the child's well-being if a child suffers any harm.

Recommended Corrective Action: It is recommended that the State use the same standards of quality and protection for all foster homes regardless of whether title IV-E funds are claimed for children placed in these settings.

Issue #3: Information Systems Do Not Interface

The review revealed that under a variety of circumstances, DFS' information systems do not interface with each other properly. This caused the payment histories to be inconsistent and can contribute to inconsistent claiming of title IV-E funds. We note that because the systems do not communicate, it is possible that an eligibility worker could enter into the system that a child is no longer eligible for title IV-E. The message that the child's eligibility ended will not automatically transmit from the eligibility system to the agency's payment system could trigger a claim of title IV-E funds on behalf of an ineligible child.

Title IV-E Requirement: Federal Regulations at 45 CFR §1356.60 authorize Federal funding for the title IV-E agency's administrative expenditures necessary for the proper and efficient administration of the title IV-E plan. Allowable administration costs in this funding category include certain expenses associated with the initiation, implementation and operation of an automated data collection system. It is CB's expectation that the State's automation approach will be sufficient to provide an efficient, effective and economical method of exchanging information between various State information systems. The system interfaces should enable the State to coordinate services with other programs, eliminate paperwork and prevent duplicate data entry. The interfaces also should (1) allow for the automatic exchange of common or relevant data among systems, (2) accept and process updated or new case data and (3) identify potential duplicate payments. Effective technology improves the title IV-E agency's program administration and service delivery.

Recommended corrective action: We recommend that, to the extent practicable, the title IV-E agency design and implement systems that improve communication between the automated systems used in its daily business operations to, among other things, determine eligibility, pay providers and reconcile claims. The State should also review its payment systems to determine whether adequate financial controls and edits are in place and properly functioning to prevent payments for ineligible children or unallowable program costs. Since the State is in the process of developing new enhancements to its automated systems, an automated quality assurance module should be included to periodically review and track payments for accuracy and compliance with Federal requirements and State standards. This will ensure that title IV-E claiming is done accurately and timely and will likely provide more efficient and economical use

of funds for the State. The Regional Office is available to assist with technical assistance as Wyoming re-designs its systems.

Issue #4: Placement and Care Authority

One case was marked as in error because the court did not provide the title IV-E agency with unencumbered placement and care authority. Instead, the removal court order required the title IV-E agency to seek the approval of all of the attorneys of record prior to determining or changing the child's placement. Despite this encumbrance on its placement and care authority, the title IV-E agency claimed title IV-E on behalf of the child. The same language appeared in court orders throughout the duration of the child's foster care episode

Title IV-E Requirement: In order for a child to be eligible for title IV-E, the title IV-E agency must have placement and care authority for the child. See generally, §472(a)(2)(B) of the Act. This means that the agency must be able to make placement decisions and case planning decisions for the child without seeking approval of the court or any other party or entity. Placement and care authority empowers the agency to place or move the child as the agency deems necessary so that it may best serve the child's needs. When a court makes a finding that does not comport with the title IV-E eligibility requirements, the agency may not claim title IV-E funds for the child. In order for a child to be eligible for title IV-E payment, the title IV-E agency must maintain placement and care authority to place or move the child as the agency deems best serves the child's needs. See also 45 CFR §1356.71(d)(l)(iii).

Recommended Corrective Action: The title IV-E agency should work with its Court Improvement Program to ensure that all judges understand the title IV-E requirements around the agency's placement and care authority. Similarly, the agency should ensure that its eligibility unit fully understands the Federal requirements around placement and care so that should a court encumber the agency's placement and care authority, the title IV-E agency will not claim title IV-E on behalf of the child until the agency's placement and care authority is granted. The title IV-E agency also may contact the Regional Office for technical assistance on this issue.

Underpayments

As is detailed in the above chart, four cases were found to be underpayments in which the title IV-E agency could have claimed title IV-E funds on behalf of an eligible child, but did not do so. In each of the four cases, the title IV-E agency did not claim title IV-E funds for an eligible child until the date in the month the agency had completed the AFDC determination. However, each of those children was eligible under title IV-E for the entire month. Therefore, the agency did not maximize its ability to claim title IV-E Federal financial participation.

Title IV-E Requirement: Federal regulations at 45 CFR §1356.60 provide that title IV-E foster care maintenance payments may be claimed for allowable costs that are covered by the Federal definition of foster care maintenance found at §475(4) of the Act. Under §472 of the Act, title IV-E maintenance payments may be claimed from the first day of the foster care placement in the month in which all title IV-E eligibility criteria are met. The payment may be claimed for the entire month when an eligible child has resided in the foster care placement for the entire month. However, if the eligible child is placed on a date in the month other than the first of the

month, title IV-E funds may be claimed for the period beginning with the actual date of foster care placement.

Recommended Corrective Action: The State staff indicated that they will review these cases and other similar ones that were not part of the sample in order to ensure that the State is receiving full benefit of Federal financial participation for children served by the State foster care system.

Disallowances

A disallowance in the amount of \$68,989 in maintenance payments and \$33,087 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 \$12 FFP in maintenance payments is disallowed for title IV-E foster care payments claimed improperly for the non-error cases. The total disallowance as a result of this review is \$102,088 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

The State should continue to maintain system changes that have resulted in successful outcomes and focus on making improvements based on the changes recommended in this report to help achieve successful review performance in the future and effective program administration and service delivery. The Children's Bureau Regional Office will continue to monitor the state's improvement efforts regarding documentation of safety checks for care-giving staff in child care institutions and improvements of information systems that support the title IV-E eligibility process. The Regional Office remains committed to providing and facilitating any additional technical assistance needs Wyoming may identify. The next primary eligibility review will occur in three years.