

Final Report
Alabama Department of Human Resources
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
October 1, 2017 – March 31, 2018

Introduction

The Children's Bureau of the Administration for Children and Families conducted a primary review of the Alabama title IV-E foster care program. The title IV-E foster care review (IV-E Review) was conducted during the week of September 10, 2018, in collaboration with Alabama Department of Human Resources (DHR) and was completed by a review team comprised of representatives from Alabama DHR, Children's Bureau Central and Regional offices, Administration for Children & Families Regional Grants Management office and cross-state peer reviewers.

Key purposes of the IV-E Review are (1) to determine whether the Alabama title IV-E foster care program is 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 Alabama's financial claims to ensure appropriate payments are made on behalf of eligible children.

Scope of the Review

The IV-E Review encompassed a sample of Alabama's foster care cases in which a title IV-E maintenance payment was claimed for an activity that occurred in the six-month period under review (PUR) of October 01, 2017 through March 31, 2018. A computerized statistical sample of 80 cases (plus 20 oversample cases) was drawn from data Alabama submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 63 cases from the original sample plus 17 oversample cases. The state provided documentation to support excluding 17 cases from the original review sample and replacing them with cases from the oversample.

In accordance with federal provisions at 45 CFR 1356.71, Alabama DHR is reviewed against 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) and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR §1356.22;

- Responsibility for placement and care vested with Alabama 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 1356.71(d)(1)(iv); and
- Safety requirements for the child's foster care placement as required at §471(a)(20)(A) of the Act and 45 CFR §1356.30.

The case record of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider's record also was looked at to ensure the foster family home or child care institution where the child resided during the PUR was fully licensed and met safety requirements. Payments made on behalf of each child also were reviewed to verify expenditures were properly claimed under title IV-E and to identify underpayments eligible for claiming.

A sample case is assigned an error rating when the child is not eligible on the date of activity in the PUR for which title IV-E maintenance is claimed. A sample case is cited as non-error with ineligible payment when the child is not eligible on the activity date outside the PUR or the child is eligible in the PUR on the date of an unallowable activity and title IV-E maintenance is claimed for the unallowable activity in either situation. In addition, underpayments are identified for a sample case when Alabama unintentionally has not claimed an allowable title IV-E maintenance payment for an eligible child within the 2 year filing period specified in 45 CFR §95.7 and the filing period has not expired.

The Children's Bureau and Alabama DHR agreed the state would have two weeks following the onsite review to submit additional documentation for a case identified during the onsite review as in error, in "undetermined" status, or not in error but with ineligible payments. Based on the findings it was determined that Alabama DHR was in agreement with the determination of one error case and 4 non error cases with ineligible payments.

Compliance Finding

The review team has determined 79 of the 80 sample cases have met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. One case is determined as in error for not meeting eligibility requirements for periods of the child's foster care episode, including the PUR. Four non-error cases meet eligibility requirements for the PUR but are found to have periods in the child's foster care episode for which title IV-E maintenance payments are improperly claimed.

The Children's Bureau has determined the Alabama title IV-E foster care program is in substantial compliance for the PUR. Substantial compliance in a primary IV-E Review means the total number of error cases is four or fewer cases determined as not meeting eligibility requirements for the PUR. Supplemental findings for non-error cases with ineligible payments are not considered in determining Alabama's level of compliance with federal requirements.

Since Alabama is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

Case Summary

The following charts record improper payment cases comprised of the error case and non-error cases with ineligible payments; reasons for improper payments; improper payment amounts; and federal provisions for which Alabama does not meet compliance mandates. Calculation of improper payments is based on the federal financial participation (FFP) rates of maintenance payments at Alabama's Federal Medical Assistance Percentages (FMAP) for applicable year(s) for each sample case.

Error Case:

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2017 – March 31, 2018	Improper Payments (FFP)
#59	The child was placed in a foster home that was not fully licensed or approved. [§§472 (b) and (c) of the Act and 45 CFR §1355.20(a) Ineligible: 09/23/2016 - 03/31/2018	\$6,418 Maint. \$7,172 Admin.

Total: \$13,590

Non-error Cases with Ineligible Payments:

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2017 – March 31, 2018	Improper Payments (FFP)
#3	Duplicate payments were made for the same child, for the same dates and activities in two different family foster homes. The child was eligible under title IV-E for non-duplicative services. [Statutory Citation: § 475(4) of the Act; Regulatory Citation: 45 CFR § 1356.60(a)(1)(i)] Ineligible: 02/19/2018 - 02/28/2018	\$116 Maint. \$0 Admin.
#8	Duplicate payments were made for the same child, for the same dates and activities in two different family foster homes. The child was eligible under title IV-E for non-duplicative services. [Statutory Citation: § 475(4) of the Act; Regulatory Citation: 45 CFR § 1356.60(a)(1)(i)] Ineligible: 11/16/2017 – 11/30/2017	\$167 Maint. \$0 Admin.

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2017 – March 31, 2018	Improper Payments (FFP)
#19	Judicial determination of reasonable efforts to finalize permanency plan was not met for periods outside the PUR. The judicial finding was due by 06/30/2016 and was made 10/20/2017. [§472(a)(2)(A)(ii) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 07/01/2017 - 09/30/2017	\$1,040 Maint. \$1,184 Admin.
#55	Duplicate payments were made for the same child for the same dates and activities in two different family foster homes. The child was eligible under title IV-E for non-duplicative services. [Statutory Citation: § 475(4) of the Act; Regulatory Citation: 45 CFR § 1356.60(a)(1)(i)] Ineligible: 11/11/2017 – 11/16/2017	\$55 Maint. \$0 Admin.

Total: \$2,562

Areas Needing Improvement

Findings of this review indicate Alabama 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: *Placement in a licensed foster family home.* One case was identified as in error because the child was placed in a foster family home that was not licensed or approved. The child had been placed out-of-state through the Interstate Compact on the Placement of Children (ICPC).

Title IV-E Requirement: The title IV-E agency must document that the child's foster care placement is fully licensed or approved for the child's placement during the PUR, even when the placement is an out-of-state foster care setting. (See federal regulations at 45 CFR 1355.20, definition of: foster family home, and section 8.3A.8c of the Children's Bureau policy manual).

Recommended Corrective Action: The Children's Bureau recommends that Alabama continue to actively monitor ICPC placements to ensure that ICPC requests are submitted and completed timely and are within the standards and terms of the compact. In addition, Alabama must ensure it receives explicit evidence (1) that the child's foster care placement is fully licensed or approved and (2) that all required safety checks are in place in accordance with licensing standards where the foster care placement is located. (See the Title IV-E Foster Care Eligibility Review Guide, Chapter 4, Inter-Jurisdictional Placements). Furthermore, Alabama must ensure the child's foster care placement meets the licensing and safety requirements for the entire period title IV-E foster care maintenance payments are made on behalf of an eligible child in Alabama's legal custody, regardless of the jurisdiction where the foster care placement is located.

Issue #2: Timeliness of Judicial Determinations Regarding Reasonable Efforts to Finalize a Permanency Plan. One non-error case has ineligible payments because the judicial requirement of “reasonable efforts to finalize a permanency plan” was not satisfactorily met for the specified period. Alabama, like most states, incorporated the federal requirement for a judicial determination of “reasonable efforts to finalize a permanency plan” into its court proceedings 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.

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 has 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 month the judicial determination is made.

Recommended Corrective Action: 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 Children’s Bureau suggests the state put in place a quality assurance system to monitor accuracy of eligibility determinations and claiming processes.

Issue #3: Correct coding of AFCARS data element 59. During this review, 17 cases were excluded from the original sample and replaced with cases from the oversample. In the previous 2015 primary review, 13 cases were dropped from the sample as a result of the same issue. Discussions with state staff and an examination of case documentation confirmed elimination of these cases from the sample was necessary because a title IV-E maintenance payment was not made in the cases for an activity that occurred during the PUR. State agency officials indicated the cases were incorrectly coded for title IV-E maintenance instead of the correct funding source.

Title IV-E Requirement: The case sample and oversample drawn for the IV-E Review consist of cases of individual children with a “1, applies” coded in AFCARS data element 59, “Sources of Federal Financial Support/Assistance for Child”, for the six-month reporting period of the PUR. Appendix A of 45 CFR §1355.40 provides that AFCARS element 59 is coded as “1, applies” to indicate title IV-E foster care when title IV-E foster care maintenance assistance is the applicable source of income for the child’s care at any time during the six-month AFCARS period for a child meeting all title IV-E eligibility criteria. Element 59 is coded as “0, does not apply” when title IV-E foster care maintenance payments is not the applicable income source for the child’s care.

Recommended Corrective Action: Validity of the sample and oversample is dependent on the accuracy of the state title IV-E agency's reporting of AFCARS foster care data element 59 (FC59). Staff training and data monitoring should be conducted on an ongoing, regular basis to ensure the system accurately reflects the funding source for the child. For example, AFCARS data element 62 is used to report child support, data element 63 for Supplemental Security Income and data element 65 for other federal or non-federal funding sources.

Issue #4: Duplicate payments. During this review, it was determined that three non-error cases were found to have duplicate payments. The duplicate payments occurred when the state's fiscal system permitted claiming of two title IV-E maintenance payments for the same child, dates and activities involving two different family foster homes. Each child was eligible under title IV-E for non-duplicative services.

Title IV-E Requirement: Federal regulations at 45 CFR §1356.60(a)(1) & (2) permit federal matching funds for foster care maintenance costs when they are properly claimed for eligible children and their allowable costs. Foster care maintenance payments may not be claimed for the same activities of two providers for the same period behalf of a child. The state must document foster care maintenance payments claimed for title IV-E reimbursement are for allowable expenditures in accordance with 45 CFR 1356.60(a)(1)(i), are in amounts conforming to state established rates of payment for the type and level of care provided, and reflect non-duplicative amounts of the costs of daily maintenance.

Recommended Corrective Action: The state should explore the reason(s) for the duplicate payments and develop an action plan to ensure that the improper payments do not occur. The state should consider revising program to reject multiple payments for the same child, activity and activity dates in multiple homes. The state should develop and use automated quality assurance modules in their automated system to periodically review and track eligibility and payments for accuracy and compliance with federal requirements. State standards should be developed for this process.

Additional Concern

Fingerprint-based Criminal Record Checks

During the previous 2015 primary review, it was lauded that Alabama began conducting criminal record checks (CRC) with both Alabama Bureau of Investigations (ABI) and the Federal Bureau of Investigations (FBI) for foster parents in the mid- eighties, prior to the passage of the Adoption and Safe Families Act. Documentation of criminal history check is maintained through the State Office of Criminal History (SOCH). Once the screening process is complete, the SOCH issues either a suitability or unsuitability letter to the individual along with a copy of the CRC received from the state's Department of Public Safety. During further review of this document and discussion with SOCH staff while onsite the week of the 2018 IV-E Review, it was determined that the suitability letter was issued based on either a fingerprint-based check or a name search. The letter, as presented, was not a sufficient manner of reporting completion of the CRC due to the lack of language identifying whether or not the background screening of the

National Crime Information Databases (NCID) included a fingerprint-based check. Through the agency's work with the SOCH in this IV-E Review and the past ones, Alabama was able to provide sufficient documentation to conclude a fingerprint-based check was conducted for the sample children's foster care placements in the PUR. For title IV-E eligibility, the child's foster family home must comport with the safety requirements under § 471(a)(20) of the Act as applicable, 45 CFR § 1356.30, and ACYF-CB-PI-10-02. The state must clearly document that foster parents newly licensed on or after October 1, 2008 have undergone a fingerprint-based check of the NCID and the applicable safety requirements are met for the period for which the title IV-E foster care maintenance payments are made on behalf of the child residing in the foster family home during the PUR.

The state has proposed changes to their suitability letters to specify whether or not a fingerprint check has been completed and whether the foster parent had any disqualifying offenses to become a licensed foster parent. The state reported this change requires updates to the current contract of the agency overseeing the completion of the live-scan process. The CB suggests, moving forward, that the state also keep a running database of all background checks completed, including those through a fingerprint scan. The CB will work closely with the state to ensure its letter, or alternative documentation, complies with applicable federal statutory and regulatory provisions.

Program Strengths and Promising Practices

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

Underpayments: Alabama has significantly improved its practices with regards to the claiming of IV-E maintenance dollars. In the 2012 and subsequent 2015 primary reviews there were a total of 40 recorded underpayments. In this present review, no underpayments were identified. The state reported that since the turnaround time for determining a child's IV-E eligibility has been reduced to less than one week from the submission date of a referral from a county office, the frequency of underpayments has diminished. There also are staff members that now have been assigned to identify cases for retroactive claiming of federal payments.

Judicial Findings: The majority of court orders contained explicit findings with thorough details supporting the judicial determinations regarding contrary to the welfare and agency efforts to prevent removal and to finalize permanency plans. Court orders also adequately documented the agency's responsibility for the care and placement of the child throughout the PUR.

The Alabama DHR, Court Improvement Program and Administrative Office of the Courts have continued to collaborate to help ensure court proceedings occur timely and that title IV-E requirements are being met. For example, an interface in the state's automated data system (FACTS) has been developed between the courts and the agency that provides court hearing dates to the agency when the court enters this information into its automated files.

Alabama has continued its practice of conducting frequent permanency hearings, often every six months and before the due date. The court's routine review of the agency's case plan for the child and family and progress toward achieving plan goals assists the state in meeting title IV-E requirements for a judicial finding of reasonable efforts to finalize a child's permanency plan. As noted, only one sample case had ineligible payments tied to the judicial finding.

Eligibility Determinations: With regard to eligibility determinations, the review team noted that all cases in the sample met AFDC-related requirements for title IV-E eligibility and the determination of eligibility was consistently documented.

The state's eligibility determination process is automated through FACTS based on the information entered in the system by the county staff and system interfaces. Budgets for determining AFDC eligibility are completed in FACTS and documentation in the form of narrative reports are used to verify these requirements. The FACTS has an electronic "file cabinet" that is used by caseworkers to scan documents to verify the child's family and financial circumstances and judicial findings. This electronic file cabinet enables eligibility workers to access information and increases the accuracy and timeliness of eligibility decisions. In some instances, however, the state had to provide additional documents to demonstrate eligibility was based on the correct month. The DHR is advised to make sure the eligibility month is clearly specified on its FACTS narrative form used to document the eligibility determination. Reviewers also noted that some of the pertinent court orders were not available in the FACTS file, but these were available in the paper case file.

The state has a process in place to regularly monitor residential facilities within the state for compliance with staff criminal history and safety requirements. The monitoring process reviews individual personnel records and safety check information for individual employees and documents whether the requirements for the employees have been met. The financial node in FACTS interacts with the provider modules to communicate licensing data on foster care providers. The licensing and safety requirements were met for the residential placements of children in the review sample.

Disallowances

A disallowance in the amount of \$ 6,418 in maintenance payments and \$7,172 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for the error case. Additional amounts of \$1,378 in maintenance payments and \$1,184 in related administrative costs of FFP are disallowed for title IV-E foster care payments that are claimed improperly for the non-error cases. The total disallowance as a result of this IV-E review is \$16,152 in FFP.

Alabama also must identify and repay any ineligible payments for error and non-error cases that occur for periods subsequent to the PUR. No future claims can be submitted on these cases until it is determined all eligibility requirements are met.

Next Steps

As part of the state's ongoing efforts to improve its title IV-E foster care eligibility determination process, the Children's Bureau recommends Alabama examine identified program deficiencies and develop measurable, sustainable strategies that target root causes of issues and concerns hindering the state from operating an accurate foster care eligibility program. Appropriate corrective action must be taken in instances of noncompliance with federal laws, regulations and policies. The Children's Bureau Region 4 staff is available to assist the state in identifying corrective action and obtaining support available through our national network of training and technical assistance centers to help the state address issues and concerns raised during this IV-E Review.