

**ADMINISTRATION FOR CHILDREN AND FAMILIES
REGION III**

**TITLE IV-E ELIGIBILITY REVIEW
DISTRICT OF COLUMBIA**

INTRODUCTION

From August 11-15, 2003, the Administration for Children and Families (ACF) staff from the Central and Region III offices and staff of the District of Columbia's Child and Family Services Agency (CFSA) conducted an eligibility review of the District's title IV-E program.

The purpose of the review was (1) to determine if the District of Columbia was in compliance with the child and provider eligibility requirements as outlined in 45 CFR 1356.71 and Section 472 of the Social Security Act; and to validate the basis of the District's financial claims that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

The District was reviewed against the following requirements of title IV-E of the Social Security Act:

- (a) The eligibility of the children on whose behalf the foster care maintenance payments are made (Section 472(a) (1)-(4)) to include:
- Judicial determinations regarding reasonable efforts and contrary to the welfare in accordance with 45 CFR 1356.21(b) (1) and (2), and (c), respectively;
 - Voluntary placement agreements as set forth in 45 CFR 1356.22;
 - Responsibility for placement and care vested with State agency as stipulated in Section 472(a)(2) and 45 CFR 1356.71(d)(1)(iii);
 - Placement in a licensed foster family home or child care institution as defined in Sections 472(a)(3), (b), and (c); and
 - Eligibility for Aid to Families with Dependent Children (AFDC) under the State Plan as was in effect on July 16, 1996 as required by Section 472(a)(1) and (4) and 45 CFR 1356.71(d)(1)(v).
- (b) Allowable payments made to foster care providers who comport with Sections 471(a) (10), 471(a) (20), and (c) and 45 CFR 1356.30.

SCOPE OF THE REVIEW

The usual procedure in selecting an AFCARS sample for an eligibility review is to first establish a file containing all cases that are coded as a "1" for AFCARS data element #59, IV-E foster care. A code of "1" indicates that the child received at least one IV-E foster care maintenance payment during the six month AFCARS period. A "0" indicates that no payment(s) was received. The percentage of total IV-E cases coded "1" should be close to a State's penetration rate. The District of Columbia percentage of such cases was

about 13 percent, indicating that data element #59 was coded incorrectly. There was not sufficient time for the District to try to amend its AFCARS file to correct this problem, therefore it was decided to expand the number of cases usually selected (80 plus an oversample of 20) to 104, plus an additional 26, to comprise the sample. This sample of 130 cases was transmitted to the District on June 17, 2003. On July 15, 2003, the District informed us that they ran out of cases without meeting the target of 80 valid cases. An additional 69 cases were sent to the District on July 15, 2003. The original oversample of 26 cases was not utilized by the District until the additional 69 cases were exhausted. This fact did not become evident until the review was underway. However, it was decided that this did not bias the sampling process in any way. Immediate steps should be taken to ensure that case data is properly entered into AFCARS, reflecting the receipt of IV-E maintenance payments, and that the percentage of cases coded as IV-E eligible is consistent with the District's penetration rate.

The case file was reviewed for the determination of title IV-E eligibility and to ensure that the foster home or child care institution in which the child was placed was licensed or approved for the period of the review. During this initial primary review, 80 cases were reviewed. Of these, 54 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 exceeded eight, ACF has determined the District of Columbia not to be in substantial compliance. Pursuant to 45 CFR 1356.71(i), the District is 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 District, in consultation with Regional Office staff, and must be submitted to the Regional Office within 90 days of receipt of this report. Once the District has satisfactorily completed the PIP, not to exceed one year, a secondary review of a sample of 150 title IV-E foster care cases will be conducted.

CASE RECORD SUMMARY

The following details the error cases, reasons for the error, period of ineligibility, and erroneous payments. Note that the calculation of erroneous payments is based on the Federal Financial Participation (FFP) rates of the administrative and maintenance costs at the Federal Medical Assistance Percentages (FMAP) for the applicable year(s) for each sample case.

SAMPLE NUMBER	CASE ERROR AND PERIOD OF INELIGIBILITY	ERRONEOUS PAYMENTS (FFP)
1	No judicial determination re reasonable efforts to finalize permanency plan Ineligible: 4/24/01—11/14/02	\$9,279
2	No court order re contrary to welfare/reasonable efforts ; no license Ineligible:9/27/90—3/31/03	\$90,430

3	No license/criminal records check Ineligible: 10/1-2/02; 11/6/02—3/31/03	\$7,059
4	No court order removing child from home; child adopted 8/9/01 Ineligible: 6/9/94—3/31/03	\$43,781
5	Child left foster care 8/7/02 Ineligible: 8/8/02—11/30/02	\$4,247
7	Child left foster care 11/11/99 Ineligible: 11/12/99—3/31/03	\$9,785
9	No license/criminal records check Ineligible: 9/11/01—3/31/03	\$3,951
10	No license prior to 11/11/02 Ineligible: 7/20/95—11/10/02	\$79,022
12	No court order re contrary to welfare/reasonable efforts; no license/criminal records check Ineligible: 6/22/98—3/31/03	\$35,378
13	No license Ineligible: 2/21/01—3/31/03	\$13,487
14	No license/criminal records check Ineligible: 10/15/96—3/31/03	\$32,266
15	Judicial determination re reasonable efforts to finalize permanency plan due 6/15/02, heard 10/30/02; no license 11/5/02—1/27/03 and no license/criminal records check 3/24/03—3/31/03. Ineligible: 7/1/02—10/29/02, 11/5/02—1/27/03, 3/24/03—3/31/03	\$4,265
16	No judicial determination re reasonable efforts to finalize permanency plan until 10/25/02 Ineligible: 4/1/01—10/24/02	\$11,635
17	No judicial determination re reasonable efforts to finalize permanency plan Ineligible: 4/1/01—3/31/03	\$19,842
18	No license, however, in process of being licensed Ineligible: 6/27/00—3/31/03 for maintenance payments; administrative costs allowed	\$14,190
19	No license/criminal records check Ineligible: 7/19/00—3/31/03	\$17,986
20	Child found ineligible initially; no license/criminal records check Ineligible: 10/31/00—3/31/03	\$29,283
22	No license/criminal records check Ineligible: 9/4/02—10/25/02	\$1,570
23	No court order re contrary to welfare/reasonable efforts Ineligible: 7/8/99—3/31/03	\$16,817

24	No judicial determination re reasonable efforts to finalize permanency plan prior to 11/5/02; no license Ineligible: 1/6/02—3/31/03	\$16,570
25	No license/criminal records check Ineligible: 7/10/98—3/31/03	\$25,404
26	Child ineligible due to age; no license/criminal record check Ineligible: 1/16/02—10/31/02	\$16,962
30	No judicial determination re reasonable efforts to finalize permanency plan prior to 10/17/02; no license prior to 3/21/03. Ineligible: 3/6/97—3/20/03	\$35,706
33	Child placed in kinship care; home not licensed Ineligible: 6/20/00—3/31/03	\$17,665
35	No court order re contrary to welfare/reasonable efforts; kinship care; home not licensed Ineligible 12/6/89—3/31/03	\$58,379
36	No license/criminal records check Ineligible: 11/9/00—11/30/02	\$13,435
38	Child found ineligible initially Ineligible: 7/13/95—3/31/03	\$72,278
39	No license after 11/30/02 Ineligible: 12/1/02—3/31/03	\$3,366
40	Judicial determination re reasonable efforts to finalize permanency plan due 12/15/02, heard 1/10/03; no license for period 10/12/02—3/16/03 Ineligible: 10/12/02—3/16/03	\$6,434
41	No court order re reasonable efforts; no license/criminal records check Ineligible: 5/13/92—3/31/03	\$48,308
44	No judicial determination of reasonable efforts to finalize permanency plan Ineligible: 4/1/01—3/31/03	\$33,587
45	No license Ineligible: 10/1/98—1/21/03	\$27,829
46	No judicial determination re reasonable efforts to finalize permanency plan; no license Ineligible: 4/1/01—3/16/03	\$28,803
48	No license/criminal records check Ineligible: 10/19/02—3/31/03	\$3,183
49	No court order extending voluntary placement agreement Ineligible: 12/2/96—3/31/03	\$80,127
50	No license/criminal records check Ineligible: 1/30/03—3/31/03	\$2,031

53	No license/criminal records check Ineligible: 4/30/01—3/31/03	\$30,869
54	No license/criminal records check Ineligible: 12/28/01—3/31/03	\$14,798
55	Child determined to be initially ineligible due to no court order re contrary to welfare or reasonable efforts; however court order dated 9/17/97 found during review with requisite language. AFDC eligibility should be reconstructed. Ineligible: 3/26/97—3/31/03	\$46,553
56	Although a Permanency Review Hearing was held on 7/19/02, Judge did not rule on reasonable efforts. No judicial determination re reasonable efforts to finalize permanency plan prior to 11/15/02 Ineligible: 4/1/01—11/14/02	\$16,289
58	No license/criminal records check Ineligible: 12/12/02—3/31/03	\$3,400
59	No license/criminal records check Ineligible: 12/6/99—2/27/03	\$45,781
60	No court order re reasonable efforts Ineligible: 4/8/00—3/31/03	\$17,815
62	No court order re reasonable efforts; no license Ineligible: 2/12/87—3/31/03	\$163,736
64	No license Ineligible: 3/28/01—12/16/02	\$25,125
65	No court order re reasonable efforts to finalize permanency plan; no license/criminal records check Ineligible: 6/21/02—3/31/03	\$7,884
68	No license/criminal records check Ineligible: 3/29/02—3/31/03	\$14,174
69	No license/criminal records check Ineligible: 9/27/02—12/12/02	\$1,366
71	Judicial determination re reasonable efforts to finalize permanency plan due 7/7/02, not done until 10/24/02; no license/criminal records check Ineligible: 10/15/01—3/31/03	\$16,210
72	No license/criminal records check Ineligible: 2/10/01—1/30/03	\$26,449
73	No court order removing child Ineligible: 4/1/95—3/31/03	\$38,072
74	Kinship care, not licensed Ineligible: 2/7/02—2/20/03	\$6,904
78	Child turned 19 on 11/9/02; no license/criminal records check Ineligible: 8/23/02—3/31/03	\$6,008

79	Child went to legal guardianship Ineligible: 3/7/03—3/31/03	\$396
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GRAND TOTAL: \$ 1,416,169

Attached to this review report is a spreadsheet which breaks out the erroneous payment (FFP) by maintenance payments and administrative costs for each of the error cases.

AREAS IN NEED OF IMPROVEMENT

Licensing, 45 CFR 1356.71(d)(1)(iv), 1355.20

Of the 80 case records reviewed during the course of the review, 56 cases (70 percent) were identified as error cases. While many cases had multiple errors, a check of the on-site instruments revealed that an overwhelming number (36) of these errors were related to licensing. Facilities were either not licensed during the period under review (PUR) or the District has been unable to provide acceptable documentation substantiating that they were licensed. This is an error case if title IV-E funds were claimed with the period of ineligibility computed retroactively to the date of placement in the facility. In this connection, as per Program Instruction ACYF-CB-PI-02-08, dated October 2, 2002, it should be noted that administrative costs associated with an otherwise title IV-E eligible child placed in an unlicensed foster family home are allowable while the home is in the process of being licensed. However interim or probationary licenses issued pending satisfaction of all licensing standards are not eligible for title IV-E reimbursements.

Safety (Criminal Records Check), 45 CFR 1356.30

Analogous to licensing, for the purpose of our review, is safety. There are safety requirements including criminal background checks that must have been made on the foster home parents or staff of child care facilities. There were 27 cases where this was not done or was not documented. Where children were placed and the safety requirements were not met, title IV-E funds cannot be claimed.

Reasonable Efforts to Make and Finalize a Permanency Plan, 45 CFR 1356.21(b)(2)

Thirteen cases were in error because there was no permanency hearing regarding reasonable efforts. A judicial determination that reasonable efforts were made to finalize the child's permanency plan must be made no later than 12 months from the date on which the child is considered to have entered foster care and at least once every 12 months thereafter, while the child is in foster care. If a judicial determination is not made within this time frame, the child is ineligible at the end of the 12th month from the date the child entered foster care or the end of the month in which the subsequent judicial determination was due. States were given until March 27, 2001 to comply with this requirement. Ineligibility for IV-E was computed from April 1, 2001 until the judicial determination requirement was met.

Aside from the above three areas that are descriptive of the principal errors identified in the onsite instrument, there were other areas which the agency needs to review to be certain that Federal requirements are being adhered to. Among these are the following:

AFDC Eligibility, 45 CFR 1356.71(d)(1)(v)

Aid to Families with Dependent Children (AFDC) forms were sketchy. It was not always clear if the information provided was reflective of the case. Then there was what appeared to be a disconnect between AFDC eligibility in six case records where the child was determined to be IV-E ineligible but the Agency's MIS (FACES) continued to make payments on behalf of that particular child. Additionally, six cases were found which should have been closed in FACES when the child turned 19, was adopted, entered kinship care, or for whom guardianship was established. It was also noted that many redeterminations were retroactively redetermined. Redetermining eligibility on a timelier basis could act as a preventive for FACES continuing to make payments to ineligible cases.

Contrary to Welfare/Reasonable Efforts, 45 CFR 1356.21(c) & (b)(1)

While the language of the court order need not be precise, it must be clear that remaining in the home would be contrary to the child's welfare, safety, or best interest. For a child who entered care prior to March 27, 2000, if the removal order does not contain the judicial determination regarding "contrary to the welfare", the requisite finding may be in a subsequent order resulting from court proceedings that are initiated no later than six months from the date the child is removed from the home. Similarly, although the court order does not have to have the precise language that reasonable efforts were made to prevent removal or to reunify the child and family, the order must contain language to the effect that reasonable efforts were made or were not required. Four case records had no language to suggest contrary to the welfare nor was there any indication that reasonable efforts were made to either prevent removal or to reunify the child. Four case records had contrary to welfare but no reasonable efforts. Two case records did not have a court order for the removal of the child. These cases should be studied to determine if the absence of the requisite language in the court orders is an historical problem or one continuing up until the present.

STRENGTHS

Stability of placements was noted throughout the various jurisdictions where children are placed during the period under review. This appeared to be true regardless of the type of placement; foster family home, group home, or home of a relative.

Casework was evident in many of the narratives recorded in the case record. Often the record revealed caseworkers' positive involvement with their families; whether it be counseling, referrals for outside assistance, or assisting the child in care to be in touch with siblings outside of the home.

Apparently for the period under review the agency was in a licensing transition. This is evident when one reviews subsequent data provided regarding the new comprehensive licensing schemes that have been developed as a result of the passage of the Child and Family Services Agency Establishment Amendment Act of 2000. This legislation has enabled the CFSA to issue the District's first ever regulations for the licensing of foster

homes, independent living programs , youth shelters, runaway shelters, emergency care facilities and youth group homes.

The court process is also experiencing positive changes. The District of Columbia Family Court Act of 2001, for example, created a Family Court to hear abuse and neglect cases. This statute adopts a “one family/one judge” model and one of the most significant provisions addresses the qualifications and training requirements for judges and magistrate judges assigned to the D.C. Family Court. In this regard it should be noted that, although the District appears to have not implemented the requirement for a permanency hearing around reasonable efforts in a timely manner, during the case record review we noted several cases with Judges holding permanency hearings more frequently than required.

It is encouraging that efforts are under way to resume eligibility determinations through FACES. A combination of factors regarding the availability of the eligibility redetermination module in FACES and data input, or the lack thereof, contributed to some of the eligibility determination errors identified in the review. One of the changes that should facilitate the process is the modification of the FACES IV-E eligibility determination screens to allow the IV-E unit staff to more easily enter missing case information or modify erroneous information needed for IV-E determinations.

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 6-month AFCARS period of October 1, 2002 to March 31, 2003. Based upon the results of the review, the District has been determined to be not in substantial compliance. Fifty-four (54) cases were determined not to be eligible for funding under title IV-E foster care. Therefore, a disallowance in the amount of \$ 1,416,169 in Federal Financial Participation is assessed for the entire period of time that these cases were determined to be in error.

Maintenance payment and administrative cost disallowances were computed backwards from March 31, 2003. However, any costs incurred on error cases after the review period are unallowable. The Federal share funds paid to the District on these ineligible cases should be returned on the IV-E-1 report and the District should cease claiming costs until these cases are determined eligible.

For several cases, the Agency did not provide the complete payment history back to the beginning of the period of ineligibility as follows:

<u>Case Number</u>	<u>Period of Ineligibility</u>
23	7/8/99—9/30/99
35	12/6/89—7/31/93
41	5/13/92—6/30/92
62	2/12/87—9/30/90

CFSA must provide payment data for these specific periods and make the appropriate adjustments applicable to any erroneous payments (FFP), including associated administrative costs, on the title IV-E Foster Care and Adoption Assistance Financial Report (Form ACF-IV-E-1).

Attachments:

Unallowable Costs Chart

Olivia Golden letter dated September 8, 2003