

# **Idaho Department of Health and Welfare Title IV-E Foster Care Eligibility Review**

## **Report of Findings for October 1, 2016 – March 31, 2017**

### **Introduction**

The Children's Bureau of the Administration for Children and Families (ACF) conducted a primary review of Idaho's title IV-E foster care program. The title IV-E foster care review (IV-E Review) was conducted in collaboration with Idaho during the week of January 8, 2018, and was completed by a review team comprised of representatives from the Idaho Division of Family and Community Services (DFCS), the Idaho Court Improvement Project, the Coeur d'Alene Tribe, the Children's Bureau (CB) Central and Region 10 offices, the ACF Region 10 Office of Grants Management, and cross-state peer reviewers from Washington and Oregon.

The key purposes of the IV-E Review are: (1) to determine whether the Idaho 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 Idaho's financial claims to ensure appropriate payments are made on behalf of eligible children.

### **Scope of the Review**

The IV-E Review encompasses a sample of Idaho's foster care cases in which a title IV-E maintenance payment is claimed for an activity that occurs in the six-month period under review (PUR) of October 1, 2016 through March 31, 2017. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from data Idaho submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 78 cases from the original sample plus 2 over sample cases. Two (2) cases were excluded from the original sample because no title IV-E foster care maintenance payment was made for a period of activity that occurred during the PUR. Idaho 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, Idaho is reviewed against the 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 the 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 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 is reviewed to verify title IV-E eligibility. The foster care provider’s record also is looked at to ensure the foster family home or child care institution where the child has resided during the PUR is fully licensed and meets safety requirements. Payments made on behalf of each child also are reviewed to verify expenditures are 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 the state 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 Idaho agreed the state would have two (2) weeks following the onsite review to submit additional documentation for a case during the onsite review identified as in error, in “undetermined” status, or not in error but with ineligible payments. While supplemental documentation submitted by the state for sample case #12 supported changing a finding to document that there was a “contrary to the welfare” finding in the first court order, this did not impact the improper payment finding as the case did not meet another title IV-E eligibility requirement.

## **Compliance Finding**

The review team has determined 77 of the 80 sample cases have met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. Three (3) cases are determined as in error for not meeting eligibility requirements either for periods only during the PUR or for a child’s entire foster care episode. Three (3) non-error cases meet eligibility requirements for the PUR but are found to have periods in a child’s foster care episode for which title IV-E maintenance payments are improperly claimed.

The Children’s Bureau has determined the Idaho 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 the state’s level of compliance with federal requirements. Since Idaho is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

In addition to the above six (6) cases that are established as having ineligible payments, four (4) non-error cases have periods of eligibility for which the state has not claimed allowable title IV-E maintenance payments.

## Case Summary

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

### Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2016 – March 31, 2017	Improper Payments (FFP)
12	Requirement for removal from specified relative not met. The child was living with and judicially removed from an unrelated legal guardian. [ <i>§472(a)(3)(a) of the Act; 45 CFR §1356.21(k) &amp; §233.90(c)(1)(v)</i> ]  Ineligible: Entire FC episode Reported Disallowance Period: 07/11/2016 – 05/31/2017	\$52,465 Maint. \$5,702 Admin.
41	Requirement for judicial determination of contrary to the welfare finding in the first court order sanctioning removal not met. [ <i>§472(a)(2)(A) of the Act; 45 CFR §1356.21(c)</i> ]  Requirement for judicial determination within 60 days of reasonable efforts to prevent removal not met. [ <i>§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(1)</i> ]  Ineligible: Entire FC episode Reported Disallowance Period: 05/01/2015 - 05/03/2017	\$63,062 Maint. \$11,244 Admin.
49	Foster care (FC) maintenance payment made while child placed in a fully licensed foster family home that moved out of state and it was not fully licensed in the state in which it was located. [ <i>§472(b) and (c) of the Act; 45 CFR §1355.20(a)(2) &amp; §1356.71(d)(l)(iv)</i> ]  Ineligible: 11/17/2016 – present	\$902 Maint. \$1,044 Admin.

Total Maintenance FFP: \$116,429  
 Total Administrative FFP: \$17,990  
**Total FFP: \$134,419**

## Non-Error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2016 – March 31, 2017	Improper Payments (FFP)
46	FC maintenance payments claimed for unallowable case management services. This expenditure is outside the scope of allowable title IV-E program costs. [45 CFR 1356.60(a)(1)(i)]  Ineligible: 06/01/2017 – 10/31/2017	\$4,696 Maint.
57	FC maintenance payment made for period prior to month of judicial finding of reasonable efforts to prevent removal. The child was removed on 04/23/2013 with a judicial finding of contrary to the welfare; however, the reasonable efforts to prevent removal requirement was met on 05/20/2013; therefore, the child is eligible as of the first day of the month this requirement is met. [45 CFR §1356.21(b)(1) and 45 CFR §1356.60(a)(1)(i)]  Ineligible: 04/27/2013 - 04/30/2013	\$81 Maint.
77	FC maintenance payment made twice for an eligible child for the same period of time. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i)]  Ineligible: 06/01/2016 – 08/31/2016	\$703 Maint.

**Total Maintenance FFP: \$5,480**

## Underpayment Cases

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2016 – March 31, 2017	Improper Payments (FFP)
28	FC maintenance payment was not claimed for allowable costs of personal incidentals (crib and mattress) for an eligible child. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i); CB Child Welfare Policy Manual (CWPM) 8.3.B.1, Question 9]  Eligible: 07/14/2017	\$170 Maint.
31	FC maintenance payment was not claimed for allowable costs of personal incidentals (fees to participate in sports activities) for an eligible child. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i); CWPM 8.3.B.1, Question 9]  Eligible: 06/05/2017	\$25 Maint.

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2016 – March 31, 2017	Improper Payments (FFP)
47	FC maintenance payment was not claimed for allowable costs of personal incidentals (car seat) for an eligible child. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i); CWPM 8.3.B.1, Question 9]  Eligible: 02/23/2017	\$29 Maint.
72	Foster care maintenance payment was not claimed for allowable costs of personal incidentals (school uniform) for an eligible child. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i); CWPM 8.3.B.1, Question 9]  Eligible: 08/23/2017	\$114 Maint.

**Total Maintenance FFP: \$338**

### Areas Needing Improvement

Findings of this review indicate Idaho 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:** *Judicial determinations of contrary to a child’s welfare to remain in the home and reasonable efforts to prevent removal.* In one error case (sample #41), there was no finding of contrary to welfare to remain in the home in the first court order sanctioning removal, and no finding within 60 days of reasonable efforts to prevent removal. In another case (sample #12), while the written court order did not include the contrary to the welfare finding, confirmation that a judicial determination was made was documented in the audio transcript of the hearing. In both of these cases, the child was initially removed from the home via a detention order and subsequently ordered to enter foster care without returning home. Idaho calls these orders “expansion orders”. In one non-error case (sample #57), the title IV-E was claimed before the month of the reasonable efforts finding.

**Title IV-E Requirement:** For removals on or after 3/27/2000, the judicial determination regarding contrary to welfare must be made in the first court ruling that sanctions, even temporarily, the child’s removal from home [45 CFR 1356.21(c)]. If the judicial determination is not made in the first court ruling pertaining to removal from home, this eligibility requirement is not met and the child is ineligible under title IV-E for the entire removal episode. A judicial determination of reasonable efforts to prevent removal is due within 60 days of removal [45 CFR §1356.21(b)(1)]. Title IV-E may not be claimed until the month this requirement is met for an otherwise-eligible child.

**Recommended Corrective Action:** The DCFS should continue its strong collaboration with the Idaho Court Improvement Project (CIP) and develop procedures to ensure that all written court orders, such as detention orders, clearly document the judicial finding as stated in the hearing. In one case, the judicial finding of “contrary to welfare” was made in a verbal order sanctioning the

removal of a child but documentation of that finding was not clearly expressed in the written order and reviewers verified the finding was made only by listening to the official transcript recording. In the error case, the ruling was not affirmatively cited in the hearing or in the written order. Processes are needed to ensure consistent documentation of an explicit judicial finding regarding “contrary to the welfare” in detention orders. Additional training for eligibility staff may be needed to ensure correct determinations for title IV-E eligibility for a child initially removed by a detention order.

**Issue #2:** *Ensure Foster Care Providers are fully licensed.* For one (1) error case (sample # 49), foster care maintenance payments were made for a child placed in a home that lost its fully-licensed status when the foster family moved out-of-state and the new state in which the foster home resided refused to license the home. The Idaho DFCS must clearly document that the child’s foster care placement is fully licensed or approved in order for the child to be eligible under title IV-E.

**Title IV-E Requirement:** Federal provisions at §472(b) and (c) of the Act and 45 CFR §1355.20 permit FFP for the costs of foster care maintenance for otherwise eligible children placed in licensed or approved foster family homes or childcare institutions. These provisions require that the child’s foster care setting be fully licensed or approved in accordance with the state’s licensing standards where the foster family home is located and before title IV-E foster care maintenance payments are claimed on behalf of a child placed in the foster family home or childcare institution, as required in §471(a)(20)(A) of the Act and 45 CFR §1356.30. For the IV-E Review, the state must provide sufficient information to support its claims of FFP for a child.

**Recommended Corrective Action:** Idaho should continue to ensure that staff is fully trained and understands that all state licensing criteria for the child’s foster care setting must be met prior to claiming title IV-E maintenance payments on behalf of a child. The Children’s Bureau recommends the state ensures that any changes to a child’s location and living arrangements are properly documented in the information system (iCARE) and any updates are completed in a timely manner. The DCFS should also develop procedures to ensure that critical information obtained during the Interstate Compact on the Placement of Children (ICPC) process, such as a child’s move or status of a foster home license, is accurately and timely documented in (iCARE) and available to the social worker and eligibility staff. Particular attention should be given to processes to ensure that the location of the child at any point in time is readily available.

**Issue 3:** *Underpayments.* For four (4) non-error cases, foster care maintenance payments were not claimed for allowable costs of personal incidentals for an eligible child. Sufficient documentation was available to determine these expenses were allowable.

**Title IV-E Requirement:** Consistent with the federal provision at 45 CFR 1356.60(a)(1)(i), title IV-E foster care maintenance assistance payments may be claimed for the cost of providing certain expenditures covered within the federal definition of foster care maintenance at section 475(4) of the Act. The Child Welfare Policy Manual at section 8.3.B.1 provides additional guidance around qualifying expenditures covered under the title IV-E program.

**Recommended Corrective Action:** The state must review its payment systems to determine whether adequate financial controls and edits are in place and properly functioning to ensure payments for allowable program costs for eligible children. A quality assurance process should be implemented to periodically review and track payments for accuracy and compliance with federal requirements and state standards and to prevent underpayments.

### **Program Strengths and Promising Practices**

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

**Effective Automated Data System:** This review process was conducted almost entirely by utilizing Idaho’s information system iCARE. The iCARE system provided reviewers access to all information the state needed to correctly determine child eligibility, particularly for the majority of cases in the IV-E Review sample. The system has an automated process for determining title IV-E eligibility that facilitates timely eligibility decisions and tracks eligibility throughout a child’s foster care episode. Also, iCARE has the capacity to maintain all foster family licensing information, including licenses and criminal background check documentation for in-state and out-of-state foster family homes; all legal documents and court orders pertaining to the case; placement and case histories; and payment history and documentation. The only information not available online was documentation for licensing and criminal history checks for child care institutions located in the State of Idaho. Reviewers found the system intuitive and easy to use and most were able to quickly locate needed information and documents.

**Strong Quality Assurance and Continuous Quality Improvement.** Idaho’s Child Welfare Funding Team has a clear commitment to quality assurance (QA). There is an ongoing QA process to help ensure correct and timely eligibility and payment decisions and correct improper payments. Also, as part of their ongoing QA process, the team’s supervisor regularly reaches out to the Children Bureau’s Region 10 staff for policy clarifications to ensure Idaho’s practice is in-line with current federal requirements. Reviewers noted the practice of regular and ongoing quality assurance checks in the detailed eligibility narratives entered in iCARE.

**Strong Collaboration between the Court Improvement Project (CIP) and the Division of Family and Community Services (FCS).** The Idaho CIP and DFCS have worked together to provide training, develop court order templates, and implement processes that have resulted in timely court hearings and improved quality of court orders. Reviewers noted that court orders were case specific and that shelter care hearings for cases in the sample met state timeframes. All but one removal order had a finding of “contrary to the welfare” to remain in the home. Idaho met the timeframe for a finding of “reasonable efforts to prevent removal” within 60 days in all but one case. The requirement for a finding of “reasonable efforts to finalize the permanency plan” within 12 months was met for all cases in the sample during the PUR.

Timely hearings and fewer continuances contribute to timely decisions that can result in shorter periods children need to wait before their permanency goals are accomplished. Idaho also has worked closely with the Juvenile Court to ensure initial court orders for children coming into care via the juvenile court system have necessary findings that meet title IV-E requirements.

**Foster Home Licensing and Safety Requirements.** Foster family homes are regularly licensed and renewed with no gaps in licenses. Licensing information is accurately documented online in iCARE. Idaho utilizes a specialized criminal records check unit to ensure completion of all records check requirements for foster parents and staff in child care institutions, and documentation regarding the completion of criminal background checks is readily available in iCARE. Idaho has an annual review process for residential care facilities. No cases were found in error related to safety considerations for residential care facilities or foster family homes. One case (#49) is in error due to the foster family home being not fully licensed upon moving to another state in which the receiving state refused to license the home. Agency staff are looking into the cause of this administrative mistake and are taking steps to prevent additional occurrences.

### **Disallowances**

A disallowance in the amount of \$116,429 in maintenance payments and \$17,990 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for error cases. Additional amounts of \$5,480 in maintenance payments of FFP are disallowed for title IV-E foster care payments that are claimed improperly for non-error cases. The total disallowance as a result of this IV-E review is \$139,899 in FFP.

Idaho 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 Idaho 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 10 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.