

<b>ACF</b>  <b>Administration for Children and Families</b>	<b>U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES</b> <b>Administration on Children, Youth and Families</b>	
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	<b>4. Key Words:</b> Title IV-E Foster Care Eligibility Review Guide	

### **INFORMATION MEMORANDUM**

**To:** State and Territorial Agencies Administering or Supervising the Administration of Titles IV-B and IV-E of the Social Security Act

**Subject:** *Title IV-E Foster Care Eligibility Review Guide*

**Legal and Related References:** Title IV-E of the Social Security Act and 45 CFR 1356

**Purpose:** The purpose of this information memorandum (IM) is to transmit to State agencies the *Title IV-E Foster Care Eligibility Review Guide (Review Guide)* for their use prior to and during the title IV-E foster care eligibility reviews.

**Information:** This *Review Guide* can be used by Federal and State staff to assist States in complying with applicable statutory and regulatory provisions (42 U.S.C. 672 and 45 CFR 1356.71, respectively). It contains suggestions and guidance on planning, conducting, and completing a foster care eligibility review. It is intended to complement, not supplant, applicable statutory and regulatory provisions.

We have modified the on-site review instrument and the accompanying instructions and have included them in this *Review Guide*. The information memorandum issued on June 13, 2000 (ACYF-CB-IM-00-09), transmitting the on-site review instrument and the accompanying instructions, is now withdrawn and superseded by this IM.

**Inquiries to:** ACF Regional Offices

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James A. Harrell  
Acting Commissioner  
Administration on Children, Youth and Families

Attachment: [\*Title IV-E Foster Care Eligibility Review Guide\*](#)

# **Title IV-E Foster Care Eligibility Review Guide**

**Administration for Children and Families  
Administration on Children, Youth and Families  
Children's Bureau**

**Washington, D.C.**

**November 2001**

# Preface

This Title IV-E Foster Care Eligibility Review Guide (Guide) provides a consistent and uniform approach for Federal and State staff to use in complying with requirements set forth in 42 U.S.C. 672 and 45 CFR 1356.71. The Guide contains suggestions and guidance on planning, conducting, and completing a foster care eligibility review. It is intended to complement, not supplant, applicable statutory and regulatory provisions. In the event of conflict or inconsistency between this Guide and the statute or regulations, the latter govern.

This Guide applies solely to title IV-E foster care eligibility reviews. It does not apply to other types of reviews or checks on eligibility, such as those that may be conducted by the Office of the Inspector General or that arise out of the Administration for Children and Families (ACF) Regional Office (RO) reviews of title IV-E claims filed by State agencies.

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# **Chapter 1**

## **Framework for the Title IV-E Foster Care Eligibility Reviews**

### **Purpose of the Reviews**

Title IV-E foster care funds enable States to provide foster care for children who were or would have been eligible for assistance from Aid to Families With Dependent Children (AFDC) under the State's approved title IV-A plan (as in effect on July 16, 1996), but for their removal from home. The Social Security Act (the Act) includes requirements that define the circumstances under which the 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 periodic title IV-E foster care eligibility reviews assist in the validation of the accuracy of a State's claim for reimbursement of payments made on behalf of eligible children placed in eligible homes and institutions. The validations are made most effectively by an examination of the case records of the child and provider and payment documentation. Payment eligibility is also monitored and reviewed by audits conducted by the Office of the Inspector General and the ACF RO when conducting a claims review.

These periodic reviews:

- Help determine whether Federal funds have been spent on behalf of eligible children, in eligible placements, in accordance with Federal statute, regulation, and policy;
- Provide a link to the joint planning, technical assistance, and program improvement processes that exist between the ACF RO and the States; and
- Provide timely and specific feedback to States that can directly impact the proper and efficient administration and implementation of their title IV-E foster care maintenance payments programs.

### **Review Process**

The title IV-E foster care eligibility review is a collaborative effort between the Federal and State governments and is conducted by review teams composed of both Federal and State staff. The review is conducted on-site, typically in the State capital where the child welfare central office is located. An alternative location may be negotiated between the ACF RO and the State, if warranted.

The review process begins with a *primary review* of foster care cases to ensure that children for whom title IV-E foster care maintenance payments are made meet the eligibility requirements at section 472(a) of the Act and the implementing regulations at 45 CFR 1356.21. However, the first title IV-E foster care eligibility review conducted in a State following the passage of the final rule in the *Federal Register* on January 25, 2000 is an *initial primary review*, and it affords States an opportunity to implement the various requirements in the regulations. States determined to be in *substantial compliance* based on the primary review will be reviewed at *3-year intervals*. States that are determined not to be in substantial compliance will develop and implement a *Program Improvement Plan* (PIP) designed to correct the areas of non-compliance, and a *secondary review* will be conducted following the completion of the implementation of the PIP. Under these circumstances, the State will undergo its next primary review 3 years from the date of the secondary review.

During the *primary review*, the review team examines 80 cases. If the State is determined to be in substantial compliance, a disallowance is assessed for each error case. The disallowance covers the **entire period of time** that the eligibility criteria were not met (i.e. that the case was in error). If five or more cases are in error, the State is determined **not** to be in substantial compliance and is required to develop a PIP. During the *initial primary review*, nine or more cases must be in error before a State is determined **not** to be in substantial compliance. The State will have a maximum of one year in which to implement and complete the provisions of the plan unless State legislation is required. In such instances, an extension may be granted, with the ACF and the State negotiating the terms and length of the extension, not to exceed the last day of the first legislative session after the date of the PIP.

After the *secondary review*, if the State is in substantial compliance, a disallowance is assessed on the basis of the error cases that were found during the review. However, if the State is determined **not** to be in compliance, the disallowance is assessed on the basis of the State's total population of children in title IV-E foster care for the 6-month review period.

## **Requirements Subject to Review**

States will be reviewed against the requirements of title IV-E of the Act regarding:

- The eligibility of the children on whose behalf the foster care maintenance payments are made (section 472(a)(1)-(4), (e), (f), and (g) of the Act) to include:
  - Judicial determinations regarding *reasonable efforts* and *contrary to the welfare* in accordance with 45 CFR 1356.21(b) and (c), respectively;
  - Voluntary placement agreements in accordance with section 472(e), (f), and (g) of the Act and 45 CFR 1356.22;

- Responsibility for placement and care vested with the State agency in accordance with section 472(a)(2) of the Act and 45 CFR 1356.71(d)(iii);
  - Placement in a licensed foster family home or child care institution as defined in sections 472(b) and (c) of the Act and 45 CFR 1355.20(a); and
  - Eligibility for AFDC under the State plan that was in effect on July 16, 1996, in accordance with section 472(a)(4) of the Act and 45 CFR 1356.71(d)(1)(v).
- Allowable payments made to foster care providers that comport with sections 471(a)(10), 471(a)(20), and 472(b) and (c) of the Act and 45 CFR 1356.30. During the title IV-E foster care eligibility review, the provider’s license is examined to determine that the provider is an appropriate type of facility, the license is valid for the duration of the child’s placement, and the safety requirements at 45 CFR 1356.30 have been met.

The reviewers will use the “On-Site Review Instrument and Instructions.” See Appendix I.

## Sampling Guidance

The sample of cases to be read for the review will be drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data that are transmitted by the State agency to the ACF Central Office (CO). The sample, drawn by ACF statistical staff, will consist of cases of individual children who received at least one title IV-E foster care maintenance payment during the 6-month reporting period reflected in the State’s most recent AFCARS data submission. The “most recent AFCARS data submission” is usually the reporting period that ends at least three to five months prior to the date of the on-site review. The AFCARS data are submitted to CO within 45 days following the end of the reporting period and are not available for use until 30 business days later. An additional one to two months should be allowed for the sample to be drawn and the case records made available for review on site.

- For the **initial primary review only**, a sample of 80 cases (plus at least a 10 percent oversample of eight cases) will be selected from the AFCARS using a probability sampling methodology. If data are not available or are deficient, an alternative data source, consistent with the latest AFCARS 6-month reporting period (the period under review), will be selected by the ACF in conjunction with the State agency.
- For subsequent *primary reviews*, a sample of 80 cases (plus at least a 10 percent oversample of eight cases) will be selected from AFCARS data using a probability sampling methodology. An alternate data source may not be substituted for the AFCARS for sample selection purposes after the initial primary review.



- For the *secondary review*, a sample of 150 cases (plus at least a 10 percent oversample of 15 cases) will be drawn from the most recent AFCARS submission using a probability sampling methodology. An alternate data source may not be substituted for the AFCARS for sample selection purposes.

The validity of the sample depends on the accuracy with which the State completes the AFCARS data element #59, *Title IV-E Foster Care*. The AFCARS data element #59 inquires whether or not title IV-E foster care maintenance payments are being paid on behalf of a child in foster care. If title IV-E foster care maintenance payments are being paid on behalf of the child, the data element should be coded “1.” If title IV-E foster care maintenance payments are not being paid on behalf of the child, the data element should be coded “0.”

The sampling frame will consist of all cases (children) with a “1” coded in AFCARS field #59 for the period under review. It is critical, therefore, that States report data element #59 accurately. It is the responsibility of the State to verify, prior to the review being conducted, that each child coded as a “1” in data element #59 has actually received a title IV-E foster care maintenance payment during the review period. If a child has not received a title IV-E foster care maintenance payment during the review period, the child’s case cannot be included in the sample.

For each of the sample and oversample case records, the State must provide the ACF RO with the **complete payment history prior to** the on-site review (45 CFR 1356.71(b)(2)). The complete payment history consists of all payments beginning with the most recent foster care placement episode and continuing through the period under review. All payments in the payment history should include the following:

- The invoice number or other identifier;
- The period covered by invoice;
- The amount paid;
- The date of payment;
- The child’s name and case number; and
- The provider’s name and number.

Sample cases should not be replaced with an oversample case because of difficulties in performing the review or because of problems in obtaining the necessary information about the case. If the missing case file or information documenting the child’s or provider’s eligibility cannot be located, that case will be considered to be in error and a disallowance will be taken. An oversample case cannot be used as a substitute for an

adoption case that is closed (Child Welfare Policy Manual Section 5.2)<sup>1</sup>. Therefore, cases from the oversample will be substituted and reviewed for an original sample case only when the case is included in the sample erroneously.

Some examples of erroneous original sample cases that may be substituted for by oversample cases are the following:

- There has been no title IV-E payment made for a case during the review period;
- The child was not in care during the review period; and
- Documentation exists to show that the title IV-E payment was made in error and subsequently rescinded prior to the sample being drawn.

Any instructions to the State by the ACF CO statistician regarding sampling instructions or special review requirements will be provided in writing, either electronically or in hard copy. The ACF RO should receive copies of all correspondence related to sampling and participate in all conference calls between the ACF CO statistician and the State staff, if warranted.

## **Standards of Compliance**

**Substantial Compliance** – For the *initial primary review*, if the total number of error cases is eight or fewer, the State will be considered to be in substantial compliance. For *primary reviews* held subsequent to the initial primary review, the total number of error cases must be four or fewer. For the *secondary review* (if required), substantial compliance means either the case error rate or dollar error rate is 10 percent or less.

**Noncompliance** – “Noncompliance” means not in substantial compliance. For the *initial primary review* (of the sample of 80 cases), if nine or more of the title IV-E cases reviewed are determined to be in error, the State is not in substantial compliance. For *primary reviews* held subsequent to the initial primary review, if five or more cases are determined to be in error, the State is not in substantial compliance. For *secondary reviews* (if required), noncompliance means both the case error rate **and** the dollar error rate exceed 10 percent.

## **Disallowances**

For States that are found to be in substantial compliance following either a primary or secondary (if any) review, a disallowance will be assessed on the basis of payments associated with error cases for all title IV-E payments made during the entire period that

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<sup>1</sup> The Child Welfare Policy Manual may be accessed at [www.acf.hhs.gov/programs/cb/cwpm/](http://www.acf.hhs.gov/programs/cb/cwpm/).

these cases are in error. The disallowance will also include the administrative costs associated with each error case.

For States found not to be in substantial compliance during a primary review, a disallowance will be assessed on the basis of payments and administrative costs associated with error cases for all title IV-E foster care maintenance payments made during the entire period that these cases are in error. If the State is found to be noncompliant following a secondary review, an extrapolated disallowance will be assessed for the period under review on the basis of the universe of claims paid during the period under review. The universe of claims paid refers to the Federal share of allowable title IV-E foster care maintenance payments and administrative costs for the period of the time that a case is in error. The extrapolated disallowance is equal to the lower limit of a 90 percent confidence interval for the population's total dollars in error for the amount of time corresponding to the AFCARS reporting period.

## Steps in the Review Process

The following general steps in the review process include both Federal and State roles, and some joint Federal/State responsibilities.

- 1. Determine the dates for the review:** The ACF RO determines the dates for the review in collaboration with State officials. Reviews must be conducted within the time frames specified in the regulations governing the frequency of State reviews. See 45 CFR 1356.71(h)(4). The State must be notified of the review date. See "Sample State Notification Letter," Appendix II.
- 2. Identify the review team:** This involves identifying Federal and State members of the review team. The State determines which State staff will participate on the review team. The ACF RO determines which Federal Regional staff will participate on the review team. At least one ACF CO Federal representative will participate on the review team. See "The Review Team," Chapter 2.
- 3. Select the sample:** On the basis of the review to be conducted (that is, either primary or secondary), 80 or 150 case records (plus at least a 10 percent oversample) are selected by the ACF CO from the State's most recent AFCARS submission transmitted by the State agency to the ACF CO. The ACF CO statistician works directly with the State to determine the sample.
- 4. Arrange the on-site review logistics:** The ACF RO, in collaboration with the State, plans logistical arrangements for the review, including hotel accommodations and transportation for review team members and space for meetings and review activities. One large room is preferable for the on-site review to enable Team Leaders to provide technical assistance to reviewers, thereby increasing consistency in the review process and findings.

5. **Organize sample cases for review:** Before the on-site review, the State assembles the sample cases in accordance with the list of random numbers provided by the ACF CO statistician. Both the ACF CO and RO will work with the State to resolve issues regarding the selection and preparation of cases prior to the on-site review.
6. **Provide orientation and/or training for review team members:** This is provided by the ACF CO or RO on site. See “Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review,” Appendix III, and “Recommended Topics for Discussion by the Title IV-E Eligibility Review Team Before Reviewing Records,” Appendix IV.
7. **Conduct the on-site review in the State:** The on-site review is conducted in the State capital or other location as negotiated between the ACF RO and the State. The review is completed in five working days by the Federal and State review team. Entrance and exit conferences are held with appropriate State officials and the review team.
8. **Complete and disseminate the final report:** The ACF RO prepares and disseminates the final report of the review, which includes the written determination regarding compliance, within 30 calendar days of the completion of the on-site review. The ACF RO can negotiate with the State regarding an opportunity for submitting additional documentation to correct an error case. However, the 30-day deadline for completing the report must be met. See “Final Report,” Chapter 5. The final report is signed and issued by the Regional Administrator/Hub Director.
9. **Develop the PIP:** The State, in collaboration with the ACF RO, develops a PIP that covers any areas of noncompliance and submits it to the ACF RO for approval within 90 calendar days of receiving the written notice of noncompliance. See “Program Improvement Plans,” Chapter 6.
10. **Withhold Federal funds:** The amount of funds to be disallowed will be determined by the extent to which the State complies with child or provider title IV-E eligibility provisions:
  - States determined to be in substantial compliance during the primary or secondary review will have disallowances determined on the basis of individual cases reviewed and found to be in error. The amount of the disallowance will be computed on the basis of payments and administrative costs associated with ineligible cases for the entire period that each case has been in error.
  - States found to be in noncompliance during the primary review will have disallowances determined on the basis of individual cases reviewed and found to be in error and will enter into a PIP and

undergo a secondary review of 150 cases. If **both** the case and dollar error rates of a secondary review **exceed** 10 percent, an additional disallowance will be determined on the basis of extrapolation from the sample to the universe of claims paid for the duration of the AFCARS reporting period. If neither the case error rate nor dollar error rate exceeds 10 percent, the amount of disallowance will be computed on the basis of payments and administrative costs associated with error cases for the entire period these cases have been determined to be in error with no extrapolated disallowance.

11. **Conduct subsequent reviews:** Once States have been determined to be in substantial compliance following the completion of a primary or, where applicable, a secondary review, reviews will be conducted at 3-year intervals.
12. **Schedule the secondary review, if necessary:** At the completion of the PIP, the State must undergo a *secondary review* where 150 cases are reviewed. In most instances, the period of review will be the most recent AFCARS report period following the date of completion of the PIP. This will afford States an opportunity to make changes in accordance with the PIP and come into substantial compliance. The actual on-site review will be held once the submitted AFCARS data are available for use and a sample can be selected. Data must be submitted within 45 days following the end of the reporting period and are not available for use until 30 business days later. An additional one to two months should be allowed for the sample to be drawn and the case records made available for review on site.

## **Chapter 2**

# **The Review Team**

### **Composition of the Review Team**

A team of individuals, including the following members, conducts the reviews:

- ACF CO and ACF RO staff; and
- State central office and local office staff.

A designated ACF RO staff person leads the review team. If possible, the review teams should always consist of an equal number of Federal and State staff as negotiated between the ACF RO and the State agency. From 8 to 12 team members have proven to be an ideal number. It may, at times, be advantageous to have a greater number of State staff, if there is not an equal number of Federal staff or the State agency wants to have a greater representation. The team also may include cross-ACF Regional or cross-State representatives at the option of the State to be reviewed.

### **Functions of the Review Team**

Membership on the review team involves a significant commitment of time and effort. All team members are expected to:

- Participate in any scheduled orientation or training sessions prior to or during the review;
- Remain present at the review site(s) for the duration of the on-site review, including participation in all scheduled review activities from the entrance conference through the exit conference;
- Conduct all assigned activities associated with the review of case records, including completion of the review instruments;
- Participate in a debriefing to discuss the strengths and areas in need of improvement noted during the review;
- Remain available for consultation following the review, if needed, in order to clarify or supplement information recorded on the instruments; and
- As designated by the Team Leader, perform quality control functions as needed.

## Leadership of the Review Team

The Team Leader for the review will be a Federal staff member from the ACF RO who is the State liaison and who consults with the ACF CO in planning the review. The Team Leader serves as the official spokesperson for the ACF while on site and will be responsible for ensuring completion of all tasks. The major responsibilities of the Team Leader and any staff assisting the Team Leader include the following:

- Serve as the liaison with State leadership in planning review activities;
- Ensure that the sample data are sent to the State on a timely basis and that the sample and payment history are available in time to plan the on-site review;
- Plan the details of the on-site review with the ACF CO and State representatives, including arranging conference calls as needed and transmitting review instructions and procedures to State liaisons;
- Provide leadership for entrance and exit conferences at the beginning and conclusion of the on-site review;
- Coordinate the development of the written notification regarding substantial compliance to the State;
- Coordinate the development, revision, circulation, and release of the final report of the review with the ACF CO;
- Provide guidance, as needed, to designated State staff toward development of the PIP, when a PIP is necessary;
- Designate someone on the team to perform *quality control* of the checklists, in order to identify missing information and inconsistencies in completing the checklists. See “Suggested On-Site Quality Control Tasks for the Administration for Children and Families Regional Office Team Leaders,” Appendix V;
- Ensure at least a 10 percent *quality control review* of all cases read. See “Suggested On-Site Quality Control Tasks for the Administration for Children and Families Regional Office Team Leaders,” Appendix V;
- Participate in review activities by reading case records;
- Maintain a log indicating who read the case, the result of the case review, and a description of the errors. See “Title IV-E Eligibility Reviews Table of Completed Case Records and Description of Errors,” Appendix VI; and
- Maintain a list of missing documentation that the State could provide that would change an error case to an accurate case. If adequate documentation is provided

during the on-site review, apply it to the appropriate case record and adjust the checklist accordingly, in consultation with the case reviewer.



## **Chapter 3**

# **On-Site Reviews**

### **Advance Preparation for the On-Site Review**

The ACF CO Team Leader for Monitoring serves as the contact point for questions and concerns prior to the on-site review.

#### **ACF CO Responsibilities**

- Develop a national review schedule based on information provided by the ACF ROs with input from States;
- Identify the ACF CO review team member(s) and ensure that each team member is available for the entire review period;
- Provide the ACF CO reviewer(s) with training and preparation to participate as reviewers or in an ACF CO leadership role;
- Consult with the ACF RO and the State on the sample and issues needing particular attention in the review;
- Provide from the AFCARS data a listing of random numbers that will be used to identify the sample of cases to be reviewed on-site, and work with the ACF RO to provide the sample to the State, no less than 30 days prior to the actual on-site review; and
- Coordinate the transportation and lodging of the ACF CO team member(s).

#### **ACF RO Responsibilities**

- Inform State officials as early as possible (preferably 60 days prior to the initiation of drawing the sample) that the review is scheduled. See “Sample State Notification Letter,” Appendix II;
- Assign an overall review team leader and identify other ACF RO staff to serve on the review team;
- Consult with the ACF CO and State staff about the review team size and composition, including representatives from other ACF ROs or States, if appropriate;

- Coordinate with the ACF CO to obtain the random sample of foster care cases to be reviewed on-site from the AFCARS;
- Arrange for and lead conference calls among the ACF CO, the ACF RO, and the State, as needed, to discuss issues that may need clarification prior to the on-site review, e.g., sampling, case payment history, and licensing;
- Coordinate the orientation and training of review team members;
- Develop the agenda for and lead the entrance and exit conferences in collaboration with the State;
- Request advance copies of information from the State agency, ensure that all Federal team members have copies of materials, and become familiar with materials, e.g., policy on eligibility determinations, case record format, criminal background check processes, safety requirements, and case payment histories. The ACF RO team leader must be familiar with the State's AFDC plan as it was in effect on July 16, 1996; and
- Designate one or more team members to perform quality control functions during the on-site review in order to ensure consistency, objectivity, and accuracy in reviewing cases.

### **State Agency Responsibilities**

- Assign a State coordinator for the review to act as the liaison with the ACF RO in making arrangements for the review;
- Ensure that all State reviewers are oriented to the review process;
- If AFCARS data are not available to select the sample cases to be reviewed, determine an alternate source of information for those cases, subject to approval by the ACF RO (for initial primary review only);
- Consult with the ACF RO staff on logistical arrangements for the review, including the identification of locations for entrance and exit conferences;
- Ensure that all sample case files are available and ready for review; and
- Provide information in advance of the review requested by the Federal Team Leader, e.g., policy on eligibility determinations, payment histories, case record format, and safety requirements.

### **Case Selection and Review**

#### **Sample of Cases Reviewed**

The ACF CO statistician randomly selects the sample of foster care cases to be reviewed on site from the most recent AFCARS data and transmits the sample via e-mail to the State. Cases selected for the sample must have a related title IV-E foster care maintenance payment during the 6-month period under review.

### **Preparation of Case Records for Review**

Case records must be as organized and up to date as possible. Furthermore, the State must provide any records maintained separately, i.e., provider records and/or eligibility records. The following list provides some guidelines:

- Court orders must be available for review. If they are not in the case file, the case is determined to be in error until an acceptable court order is provided.
- The foster family home provider license file must contain, at a minimum, the licensing history and a copy of the provider license or letter of approval for the period under review. The license/letter should include the provider name, starting and ending date of licensure, and some indication of a State agency sanction. The licensing record also must contain documentation that a criminal records check has been conducted and that the parent has not been convicted of any of the felonies enumerated in section 471(20)(A)(i) and (ii) of the Act. For those States that have opted out of the criminal records check requirement, the licensing record must contain documentation that verifies that safety considerations with respect to the provider have been addressed.
- The child care institution license file must contain, at a minimum, the licensing history and a copy of the provider license or letter of approval for the period under review. The license/letter should include the institution name, starting and ending date of licensure, and an indication of the State agency sanction. The licensing record must contain documentation verifying that safety considerations with respect to the staff of the institution have been addressed.
- For the initial determination of the child's financial need and deprivation, the child's eligibility file should contain documentation verifying that financial need was evaluated and indicating the reason that the child was deprived of parental support or care.

- At annual intervals, there should be documentation that financial need and deprivation were redetermined. At redetermination, a child in foster care is considered his/her own assistance unit and financial need is determined based on income and resources available to the child. Deprivation is redetermined by looking at the home from which the child was removed for evidence that the child continues to be deprived of parental support or care.

## **Electronic Files**

If electronic files are used, the State agency must provide training to the review team members to acquaint the team with the State data child welfare system, as well as provide staff to be available to assist reviewers in obtaining documentation that supports the child's eligibility. The electronic files must provide evidence of the child's removal as a result of judicial determinations of contrary to the welfare and reasonable efforts or via a voluntary placement agreement; responsibility for placement and care vested with State agency; placement in a licensed foster family home or child care institution; eligibility for AFDC under the State plan as it was in effect on July 16, 1996; and verification of safety requirements for children placed in foster care.

## **Eligibility Checklist and Instructions**

The eligibility checklist and instructions used for the review will be provided to the team by the ACF RO (at least 100 copies for the primary review). Copies of the instruments are available through the Children's Bureau Web site at [www.acf.hhs.gov/programs/cb](http://www.acf.hhs.gov/programs/cb). See "On-Site Review Instrument and Instructions," Appendix I; see also "Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program," Appendix VII.

## **On-Site Review Activities**

It is preferable to conduct the review in one large room rather than several small rooms to allow for effective interaction among the team members. The room should be accessible to the review team at all times and secure to protect the confidentiality of the case records. Team members are expected to be flexible about their working hours in order to complete the review of all cases in the allotted five working days.

The *State agency* schedules the following activities for the on-site review:

- An entrance conference for Federal staff to meet with the review team members to discuss the structure and agenda of the week's activities and provide opportunities to raise and clarify issues pertinent to the review. This usually requires approximately one hour.

- An orientation of the review team members at the start of the review to the checklist, the orientation questions, the case record format, and the functions of the team. The ACF CO staff typically conducts the orientation to the checklist. The State staff are responsible for providing information in response to the orientation questions. From one to three hours should be set aside to complete these activities. See “Recommended Topics for Discussion by the Title IV-E Eligibility Review Team Before Reviewing Records,” Appendix IV.
- A meeting of the entire review team at the end of the review week to compile a summary of error cases, if appropriate, to discuss the model practices and areas in need of improvement that were revealed during the review, and to prepare for the exit conference. About one to two hours should be allotted for this activity.
- An exit conference for Federal staff to meet with the senior State agency staff to provide an overview of tentative findings of the review, to discuss next steps, and to raise and clarify issues related to the review or the findings. It is usually sufficient to allow one hour to complete the exit conference. The entire review team should be present for the exit conference.

## **Chapter 4**

# **Eligibility Requirements**

States will be reviewed against the requirements of title IV-E of the Act regarding (1) the eligibility of the children on whose behalf the foster care maintenance payments are made, and (2) the eligibility of foster care providers. The case record of the child must contain the following documentation to verify the child's eligibility: evidence of removal as a result of judicial determinations of contrary to the welfare and reasonable efforts or via a voluntary placement agreement; responsibility for placement and care vested with the State agency; eligibility for AFDC under the State plan as it was in effect on July 16, 1996; placement in a licensed or approved foster family home or child care institution; and verification of safety requirements for children placed in foster care.

### **Contrary to the Welfare**

A child's removal from the home must be the result of a judicial determination to the effect that continuation in the home would be contrary to the child's welfare, or that placement in foster care would be in the best interest of the child (unless removal is pursuant to a voluntary placement agreement). The contrary to the welfare finding must be made in the first court order that sanctions the child's removal from home. If not, the child is ineligible for foster care maintenance payments for the duration of that stay in foster care. Acceptable documentation is a court order containing a judicial determination regarding contrary to the welfare or a transcript of the court proceedings reflecting this determination.

### **Reasonable Efforts**

The State agency must obtain a judicial determination that it has made reasonable efforts to (1) maintain the family unit and prevent the unnecessary removal of a child from home, as long as the child's safety is ensured, and (2) make and finalize a permanency plan in a timely manner. Acceptable documentation is a court order containing a judicial determination documenting the reasonable efforts that were made by the State agency or a transcript of the court proceedings reflecting this determination. When a child is removed from home, the judicial determination as to whether reasonable efforts were made, or were not required to prevent the removal, must be made no later than 60 days from the date the child is removed from the home (45 CFR 1356.21(b)(1)(i)).

A judicial determination regarding reasonable efforts to finalize the permanency plan (45 CFR 1356.21(b)(2)) must be made within 12 months of 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 regarding reasonable efforts to finalize a permanency plan is not made within this timeframe, the child is ineligible at the end of the 12th month from the date the child was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due, and the child remains ineligible until such a judicial determination is made. Reasonable efforts requirements do not apply to children who enter foster care as a result of a voluntary placement agreement.

The effective date of this provision is March 27, 2001, in order to allow States a transition period to fulfill the reasonable efforts to finalize requirements for children who were already in foster care for 12 months or longer at the time the final rule was published. For a child who enters care on or before March 27, 2000, the judicial determination of reasonable efforts to finalize must be made no later than March 27, 2001, because such child will have been in care for 12 months or longer. If the judicial determination of reasonable efforts to finalize is not made by March 27, 2001, the child becomes ineligible for title IV-E foster care maintenance payments from April 1, 2001, until such time that a judicial determination of reasonable efforts to finalize is made. The reasonable efforts to finalize requirement can be satisfied by a judicial determination that reasonable efforts were made to reunify the child and family. Although the permanency hearing may serve as the mechanism for obtaining the judicial determination of reasonable efforts to finalize, there is no requirement that the judicial determination be made at the permanency hearing. The court may make such a judicial determination without a formal hearing.

For a child who enters care after March 27, 2000, the judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date the child is considered to have entered foster care. The date the child is considered to have entered foster care is defined as the earlier of the date of the first judicial finding of child abuse and/or neglect; or, the date that is 60 calendar days after the date on which the child is removed from home. A State may assign an earlier date, such as the date of the child's removal from home. This definition applies irrespective of how the child enters foster care. Its purpose is to set the timing for certain case review system requirements, including the permanency hearing, and the judicial determination of reasonable efforts to finalize the permanency plan.

The title IV-E foster care eligibility review instrument requires the State to document the date the child is considered to have entered foster care for each sample case under review. The timing for securing the initial judicial determination of reasonable efforts to finalize is no later than 12 months from the date the child is considered to have entered foster care. The State has the discretion to fix the timing for the subsequent judicial determinations of reasonable efforts to finalize. Subsequent judicial determinations of reasonable efforts to finalize may occur either at regular 12-month intervals from the date the child is considered to have entered foster care or no later than 12 months from the

date the prior determination actually was obtained. If the judicial determination of reasonable efforts to finalize is not made, however, the child becomes ineligible from the time the finding was due and remains ineligible until such a judicial determination is made.

States are encouraged to adopt and set forth in State policy one methodology for obtaining the subsequent judicial determinations of reasonable efforts to finalize in order to ensure consistent application across the entire title IV-E caseload.

The title IV-E foster care eligibility review members examine a case record to discern if a reasonable efforts to finalize judicial determination was due during the 6-month period under review consistent with the date the child is considered to have entered foster care.

## **Voluntary Placements**

A child who is removed from home under a voluntary placement agreement, and who has remained in voluntary placement for a period in excess of 180 days, is only eligible for foster care maintenance payments made in the first 180 days of foster care unless a judicial determination indicating that continued voluntary placement is in the best interests of the child is made within the child's first 180 days in foster care. The voluntary placement agreement must be signed by the parent(s) and State agency authorities.

## **Responsibility for Placement and Care Vested With the State Agency**

The title IV-E agency (or another public agency, including an Indian tribe, with which the title IV-E agency has a written agreement which is in effect) must have responsibility for placement and care of the child. A copy of all existing agreements should be made available to the Federal team leader prior to the on-site review.

## **AFDC Eligibility (as of July 16, 1996)**

The State must document that the child was financially needy and deprived of parental support at the time of the child's removal from home, using criteria in effect in its July 16, 1996, title IV-A State plan. Acceptable documentation supports the State's evaluation of financial need and deprivation by virtue of death of a parent, absence of a parent, mental or physical incapacity of a parent to the extent that the parent cannot support the needs of the child, or the unemployment of the principal wage earner.



## **Placement in a Licensed Foster Family Home or Child Care Institution**

The child must be placed in a facility that meets the standards for full licensure or approval that are established by the State. An eligible facility may be a family foster home, group home, private child care institution, or public child care institution which accommodates 25 or fewer children. Children placed in detention facilities, forestry camps, training schools, or other facilities operated primarily for the detention of children determined to be delinquent are not eligible for title IV-E foster care maintenance payments. The documentation of full licensure can be satisfied by the certificate of licensure/approval or a letter of approval. Full licensure must be met by all providers, including those licensed/approved by a child placing agency, effective September 28, 2000. The license must show that the foster family home or child care institution is licensed for the duration of the child's placement during the period under review.

## **Safety Requirements for Children Placed in Foster Care**

Unless the State opts out of the criminal records check provision, the State must provide documentation that criminal records checks have been conducted with respect to prospective foster and adoptive parents. Acceptable documentation to satisfy this eligibility requirement is evidence that a criminal records check was completed satisfactorily (such as copies of the results of the criminal records check). If the State opts out of the criminal records check requirement, the licensing record for each foster or adoptive home must contain documentation verifying that safety considerations have been addressed.

For child care institutions, the licensing file must contain documentation verifying that safety considerations with respect to the staff of the institution have been addressed.

For further information on the title IV-E foster care eligibility requirements, refer to 45 CFR 1356.21 and 45 CFR 1356.71.

## **Chapter 5**

# **Final Report**

### **Purpose of the Final Report**

The primary purpose of the final report is to document for the State the determination of substantial compliance or noncompliance. It also provides a listing of each error case with an explanation of the error and a compilation of the agency's strengths and areas in need of improvement. The State should use the information in the final report to develop a PIP, if necessary.

### **Preparation of the Final Report**

The ACF RO will develop the cover letter and final report to be signed and disseminated by the ACF Regional Administrator. See "Sample Transmittal Letter Including Notice of Disallowance," Appendix VIII, and "Model Report Title IV-E Foster Care Eligibility Review," Appendix IX. The ACF RO will analyze the results of the cases reviewed and make a determination about substantial compliance. Issues addressed in the report should be relevant to the scope of the review and the determination of substantial compliance or noncompliance. Any other issues revealed during the review should be addressed in the report as comments or observations.

The completed final report to the State should include:

- A Transmittal Letter that transmits the report and includes a statement about substantial compliance; the notification of the disallowance, if applicable; and the date by which a PIP must be submitted to the ACF RO, if applicable. See "Sample Transmittal Letter Including Notice of Disallowance," Appendix VIII.
- An Introduction that provides an overview of the background and purposes of the review; the type of review (initial primary, primary, or secondary); and location, dates, and descriptions of the review activities, including the AFCARS sample period of review involved and review team representatives.
- A Scope of the Review that describes the manner in which the review was conducted and provides a summary of the review findings, including the number of case records reviewed, the number of records in error, the case error rate and/or dollar error rate, and, if appropriate, the disallowance amount.

- The Case Record Summary that provides a summary of the results of the review, including the sample size, the number of eligible cases, the number of error cases, and the total amount of dollars and administrative costs associated with the error cases. An analysis of the error cases also should be included in this section that identifies each error case by sample number, along with an explanation of the error and the statutory/regulatory citation that supports the determination that the case was in error.
- A section on Areas in Need of Improvement that describes weaknesses or deficiencies discovered during the review. Recommendations made in this area should be related primarily to needed program improvements and focus on areas of noncompliance resulting from the title IV-E foster care eligibility review.
- A section on Strengths and Model Practices that describes strengths or model practices discovered during the review.
- A Disallowance section that indicates if a disallowance is warranted. If funds are to be disallowed, the disallowance notification, with instructions for State appeals (45 CFR Part 16), will be a part of the cover letter of the report. The State agency will be liable for interest on the amount of funds disallowed by the Department, in accordance with the provisions of 45 CFR 30.13.

## **Dissemination of the Final Report**

The ACF RO will provide the final report to the appropriate officials at the State agency, with copies to the State review coordinator and two copies to the Children's Bureau Associate Commissioner, within 30 calendar days of completing the on-site review.

## **Chapter 6**

# **Program Improvement Plans**

### **Criteria for Developing a PIP**

The State must develop a PIP when the review findings indicate that the total number of ineligible cases is nine or more for an initial primary review, or five or more in primary reviews subsequent to the initial primary review. The PIP must be developed by State staff in consultation with Federal staff, as necessary, and identify the areas in which the State's program is not in substantial compliance. The PIP may not extend beyond one year unless State legislative action is required to implement needed corrective action. In such instances, an extension may be granted, with the ACF and the State negotiating the terms and duration of the extension that shall not exceed the last day of the first legislative session after the date of the PIP.

### **Content of the PIP**

The format of the PIP may vary, but it must include the following components:

- Specific goals;
- Action steps required to correct each identified weakness or deficiency; and
- A date by which each of the action steps is to be completed.

### **Preparation of the PIP**

Responsibility for developing the PIP will rest with the State child welfare agency in collaboration with the ACF RO. The State must submit its PIP to the ACF RO for approval within 90 calendar days from the date the State receives written notice from the ACF RO that it is not operating in substantial compliance. This deadline may be extended an additional 30 calendar days (as determined by the ACF RO) when the State agency submits additional documentation to the ACF RO in support of cases determined to be in error as a result of the on-site eligibility review. However, States are encouraged to submit any additional documentation for this purpose as soon after the on-site review as possible.

There is no regulatory requirement governing the time frame for PIP approval by the ACF RO; however, in order to ensure timeliness in the implementation of the PIP, the ACF RO should notify the State of approval or disapproval within 30 days from the receipt of the PIP. Accordingly, the State should have 30 days from the date it receives notice from the ACF RO that the PIP has not been approved to revise and resubmit the

PIP for approval. If, following negotiation and assistance from the ACF RO, the State agency does not submit an approvable PIP within the required time frame, the ACF RO will initiate a secondary review. Also, if a State chooses not to submit a PIP, the ACF RO will initiate a secondary review.

The ACF RO will intermittently review, in conjunction with the State agency, the State's progress in completing the prescribed action steps in accordance with the time frames identified in the PIP.

## **Technical Assistance**

The ACF RO will work with the States to determine needed technical assistance, which will be provided to the extent available in order to assist States in implementing the PIP.

# Glossary

<b>Case Error Rate</b>	The case error rate is the number of cases in error divided by the number of cases reviewed.
<b>Dollar Error Rate</b>	The dollar error rate is determined by dividing the dollars associated with the cases in error by the total dollar value of the payments associated with the case records that are reviewed.
<b>Error Case</b>	A case is determined to be in error when a review of the child's or the provider's record indicates that a title IV-E eligibility criterion was not met at the time of the child's removal or at any time during the review period.
<b>Initial Primary Review</b>	The initial primary review is the first title IV-E foster care eligibility review conducted in a State following the publication of the final rule in the <i>Federal Register</i> on January 25, 2000. A sample of 80 foster care cases is reviewed. These cases, plus at least a 10 percent oversample, are selected from the AFCARS utilizing a probability sampling methodology. If data are not available, or are deficient, an alternative data source, consistent with an AFCARS 6-month reporting period, may be selected by the ACF RO in conjunction with the State agency.
<b>Most Recent Foster Care Placement Episode</b>	If a child has had multiple placements in foster care, the most recent foster care placement episode begins with the date that the child entered foster care prior to the period under review and continues through the end of the period under review or the child's discharge, whichever is earlier. If a child has remained in foster care since his or her original placement, the duration of this placement is considered the most recent episode.
<b>Noncompliance</b>	If a State is noncompliant, it is not in substantial compliance. For the initial primary review, nine or more of the title IV-E cases reviewed must be determined to be in error. For primary reviews held subsequent to the initial primary reviews, the case error rate is reduced from nine or more to five or more. For States found not to be in substantial compliance during the primary reviews, a disallowance will be assessed on the basis of payments

associated with error cases for the total of the title IV-E foster care maintenance payments made during the entire period that these cases are in error. Administrative costs associated with the error cases will be disallowed.

For secondary reviews, noncompliance means both the case error rate and the dollar error rate exceed 10 percent. An extrapolated disallowance will be assessed for the 6-month period of the review.

### **Primary Review**

The primary review is the first review in the title IV-E foster care eligibility review process. A sample of 80 foster care cases is reviewed. These cases, plus at least a 10 percent oversample, are selected from AFCARS data utilizing a probability sampling methodology. No alternate data source may be substituted for the AFCARS for sampling selection.

### **Program Improvement Plan (PIP)**

The PIP is a plan developed by the State child welfare agency, in collaboration with the ACF RO, that when implemented, is intended to correct the areas determined not to be in substantial compliance. The State must submit its PIP to the ACF RO for approval within 90 calendar days from the date the State receives written notice from the ACF RO that it is not operating in substantial compliance. This deadline may be extended an additional 30 calendar days when the State agency submits additional documentation to the ACF RO for approval in support of cases determined to be in error as a result of the on-site eligibility review.

### **Secondary Review**

A secondary review is conducted using the AFCARS data from the report period which immediately follows the completion of the PIP. A sample of 150 cases is reviewed in a secondary review. These cases, plus at least a 10 percent oversample of 15 cases, are drawn from the State's most recent AFCARS data. The sample is selected from AFCARS data utilizing a probability sampling methodology. No alternate data source may be substituted for the AFCARS for sample selection.

### **Secondary Review Extrapolation**

When both the case error rate and dollar error rate of a secondary review exceed 10 percent, a disallowance will be based on extrapolation from the sample to the universe of

claims paid for the duration of the AFCARS reporting period under review. The extrapolated disallowance is equal to the lower limit of a 90 percent confidence interval for the population's total dollars in error for the amount of time corresponding to the AFCARS reporting period.

### **Substantial Compliance**

For the initial primary review, if the total number of error cases does not exceed eight, the State will be considered to be in substantial compliance. For primary reviews held subsequent to the initial primary review, the total number of error cases cannot exceed four. For the secondary review, substantial compliance means that either the case error rate or dollar error rate does not exceed 10 percent.

A disallowance will be assessed on the basis of payments associated with error cases for the total of the title IV-E payments made during the entire period that these cases are in error for both primary and secondary reviews. Administrative costs associated with the cases in error will be disallowed.

### **Three-Year Cycle of Reviews**

States that are determined to be in substantial compliance must undergo a subsequent review after 3 years. The cycle begins at the completion of the primary review. States that are not in substantial compliance also must undergo a subsequent review after 3 years. The cycle begins at the completion of the secondary review.

### **Universe of Claims Paid**

The universe of claims paid is the Federal share of allowable title IV-E foster care maintenance payments and administrative costs for the period of the time that a case is in error. All title IV-E funds expended during the quarter(s) the case is in error will be subject to disallowance, including funds for related administrative costs.

## **Appendices**



<b>Appendix I:</b>	On-Site Review Instrument and Instructions
<b>Appendix II:</b>	Sample State Notification Letter
<b>Appendix III:</b>	Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review
<b>Appendix IV:</b>	Recommended Topics for Discussion by the Title IV-E Eligibility Review Team Before Reviewing Records
<b>Appendix V:</b>	Suggested On-Site Quality Control Tasks for the Administration for Children and Families Regional Office Team Leaders
<b>Appendix VI:</b>	Title IV-E Eligibility Reviews Table of Completed Case Records and Description of Errors
<b>Appendix VII:</b>	Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program
<b>Appendix VIII:</b>	Sample Transmittal Letter Including Notice of Disallowance
<b>Appendix IX:</b>	Model Report Title IV-E Foster Care Eligibility Review

**Title IV-E Foster Care Eligibility  
On-site Review  
Instrument and Instructions**

**Administration for Children and Families  
Administration on Children, Youth and Families  
Children's Bureau**

**Washington, D.C.**

**May 2003**

## **Purpose and Scope**

The title IV-E foster care eligibility reviews:

- ◆ Determine whether Federal funds were claimed for eligible children and providers.
- ◆ Identify duplicate payments, overpayments, underpayments, and erroneous payments.
- ◆ Help State agencies identify training, technical assistance and other strategies for program improvement.
- ◆ Evaluate State agency compliance with Federal requirements related to:
  - “Contrary to the welfare” and “reasonable efforts” judicial determinations
  - Voluntary placement agreements
  - State agency responsibility for placement and care
  - Placement in a licensed foster family home or child care institution
  - Criminal records check and safety considerations for foster care providers
  - AFDC eligibility (as of July 16, 1996)
- ◆ Do not assess State agency compliance with title IV-E State plan requirements related to:
  - Circumstances in which reasonable efforts are not required
  - Development and implementation of case plan
  - Case review system, including 6-month periodic reviews and permanency hearings
  - Termination of parental rights
  - Conformity with licensing standards (except safety requirements)

Reviewers must:

- ◆ Examine child and provider case records to determine that, for sample cases, the eligibility decision of the State agency was supported by appropriate documentation.
- ◆ Look at placement, legal and payment histories, court orders, and other relevant case material to gather information necessary to determine State agency compliance with Federal eligibility requirements.

Electronic files may constitute acceptable forms of documentation-- to the extent the State agency uses the files to substantiate title IV-E eligibility determination and the Federal review team leader determines the files satisfy the eligibility criterion under review.

- ◆ Complete an eligibility review checklist for each sample case in which at least one title IV-E foster care maintenance payment was made during the period under review (PUR). If the child exits and subsequently re-enters foster care during the PUR, a checklist is completed for each foster care episode.

The PUR is the six (6) month sampling period from which the cases for the on-site review are selected. Some eligibility requirements included in the review checklist require the reviewer to ascertain dates that precede the PUR. These items are identified in the instructions for completing the review checklist.

Request that the Federal review team leader replace a sample case with an over sample case when it is discovered that a title IV-E payment was not made for the original sample case during the PUR.

- ◆ Record in the *Comments* section of the review checklist: explanatory notes, observations about the State agency's strengths and areas needing improvement in the title IV-E program, and related information concerning the sample case. A supplemental sheet is included for additional comments and notes. Descriptions of errors and periods of ineligibility during and outside the PUR are recorded on the *Ineligibility Chart* that is attached to the review checklist.

Reviewer comments and notes must be written legibly and must clearly identify the specific review question being discussed.

- ◆ Determine whether there are ineligible title IV-E payments for the child or provider and whether the case is a non-error or error case.

An ineligible payment occurs whenever a title IV-E eligibility criterion is not met and title IV-E funds were claimed for foster care maintenance payments. A claims disallowance that includes related administrative costs is assessed for all ineligible payments.

For title IV-E review purposes, an error case occurs when the ineligible payment is for a period (1) in which an eligibility criterion related to the child's entry into foster care is not met (e.g., contrary to the welfare judicial determination, AFDC initial eligibility) or (2) in which an eligibility criterion is not met during the PUR.

Title IV-E funds cannot be claimed before all child and provider eligibility requirements are met or after eligibility ceases. If eligibility is attained within a portion of the month, title IV-E funds may be claimed retroactive to the first day of the month. In the case where a child is placed on a date other than the first of the month, title IV-E funds may be claimed from the date of the foster care placement.

## On-site Review Instrument and Instructions

NON-ERROR CASE: \_\_\_\_\_

ERROR CASE: \_\_\_\_\_

(May 2003)

Child Ineligible Payments: YES \_\_\_\_\_ NO \_\_\_\_\_  
Provider Ineligible Payments: YES \_\_\_\_\_ NO \_\_\_\_\_

**Each question must be answered.** If the question is not applicable, check the *N/A* column and indicate in the *Comments* section the reason the question does not apply to the sample case. A question where the *N/A* block is shaded must be answered *YES* or *NO*. Review the instructions that follow each section for an explanation of each question and how to answer it. This form may be annotated with additional information regarding eligibility, as necessary. Boxes outlined in bold indicate *potential* case errors.

["X" prefix indicates information obtained for this field is confidential and will not be disclosed for any purposes outside the review].

Sample review period: \_\_\_\_/\_\_\_\_/\_\_\_\_ - \_\_\_\_/\_\_\_\_/\_\_\_\_

1. State Abbreviation and Random Sample Selection Number: \_\_\_\_
2. Case ID: \_\_\_\_\_
3. County or Local Office: \_\_\_\_\_
4. Review Date (MM/DD/YY): \_\_\_\_\_
5. Reviewed By: \_\_\_\_\_

X1. Child's name:				
6. Child's date of birth				
7. Child's age as of first day of sample review period: _____				
8. Date child was removed from home: (MM/DD/YY) ____/____/____				
9. Date child entered foster care: (MM/DD/YY): ____/____/____				
10. Was child's removal the result of a judicial determination?				
11. Date of court order removing child from the home (MM/DD/YY): _____				
11(a). Does the removal order address <i>Contrary to the Welfare</i> ?				
<b>Or</b>				
11(b). If the child entered foster care prior to March 27, 2000, is there a court order or removal petition filed within 6 months of removal that results in a judicial finding of <i>Contrary to the Welfare</i> ?				
11(b)(1). Date of removal petition or court order (MM/DD/YY): _____				
12. Is there a court order that addresses <i>Reasonable Efforts to Prevent Removal</i> or <i>Reasonable Efforts to Reunify Child and Family</i> ?				
12(a). Date of court order re: reasonable efforts to prevent removal (MM/DD/YY): _____				
12(b). Date of court order re: reasonable efforts to reunify (MM/DD/YY): _____				

Comments:

constructive removal, i.e., paper removal. (Constructive removals apply to removals occurring after 03-27-00 for a specific category of children under limited circumstances). The removal date is related to a child's initial eligibility for title IV-E (Questions 17-20) and is tied to the judicial determinations of contrary to the welfare (or best interest) (Question 11) and reasonable efforts to prevent removal (Question 12).

9. Date child entered foster care: Record the date the child is considered to have entered foster care, that is, *the earlier of a judicial finding of abuse or neglect or 60 days from the date the child is physically or constructively removed from home*. The State agency may use an earlier date, such as the date the child is physically removed from home. This date is related to maintaining a child's eligibility for title IV-E funding. The State agency is required to use the date the child is considered to have entered foster care in determining when to obtain the initial judicial determination that it made reasonable efforts to finalize a permanency plan (Question 16).

C. REMOVAL PURSUANT TO A COURT ORDER [Statutory Citation: Section 472(a)(1), 471(a)(15)(B)(i)  
Regulatory Citation: 45 CFR 1356.21(c)]

10. Was child's removal the result of a judicial determination? Removal of the child from home must be pursuant to a judicial determination or a voluntary placement agreement. *The judicial determination must be made in a valid court order*. The case record or reviewer's analysis of the record may not be used as a substitute for a valid court order. The court must make the requisite judicial determination. The reviewer's responsibility is to confirm that a judicial determination was made.

If the child was not removed pursuant to a court order, enter "no" and proceed to Question 13. Questions 11 and 12 are "N/A".

11. Date of court order removing child from the home: Record the date of the court order that removes the child from the home. The date of the court order is required, since Federal financial participation (FFP) cannot begin until the first day of the month in which all eligibility requirements are satisfied, including a judicial determination that remaining at home is contrary to the welfare of the child.

**Contrary to the welfare:** The precise language "contrary to the welfare" does not have to be included in the removal court order, but the order must include language *to the effect that* remaining in the home would be contrary to the child's welfare, safety, or best interest. Indicate "yes" or "no."

**For a child who enters 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 (the petition filed) no later than 6 months from the date the child is removed from home, consistent with Departmental Appeals Board Decision Number 1508 (DAB 1508). The Departmental Appeals Board, through DAB 1508, ruled that a petition to the court stating the reason for the State agency's request for the child's removal from home, followed by a court order granting custody to the State agency, is sufficient to meet the contrary to the welfare requirement. The petition must be filed within 6 months of the child's removal from home; however, the resultant court finding may occur later and must substantiate the removal petition.

**For a child who enters care on or after March 27, 2000:** The judicial determination regarding "contrary to the welfare" must be made in the *first* order that sanctions the child's removal from home, even if the order is an emergency "pick-up" order. The *first* order is the order that stems from the court hearing related to the removal. The determination must be child-specific and may not merely reference State statutes governing removals. The reviewer's analysis of the case record or State agency's report and recommendation may not be used as a substitute for the appropriate judicial finding. The court's review and approval of the State agency's report and recommendation are not sufficient. The court must make the actual finding. *Affidavits* attesting that the judicial determination occurred at a previous hearing and *nunc pro tunc* ("now for then") court orders are not acceptable documentation in support of a "contrary to the welfare" judicial determination. When a *nunc pro tunc* order or affidavit is presented to meet the "contrary to the welfare" requirement, the reviewer must verify the judicial determination was made at the

**Comments:**

time of the original court proceeding and within the prescribed timeframe. A transcript of the court proceeding is the only acceptable alternative to a court order to substantiate that the judicial determination requirement was met satisfactorily.

- 11a. Does the removal order address *Contrary to the Welfare*? The response to this question is “N/A”, if the child’s removal occurred prior to March 27, 2000 and the removal order does not include the required judicial finding. Under these conditions, proceed to Question 11b. If the child’s removal occurred **on or after March 27, 2000** and the response to this question is “no”, the child is ineligible for title IV-E for the entire foster care episode and the case is an error case.
- 11b. If the child entered foster care prior to March 27, 2000, is there a court order or removal petition filed within 6 months of removal that results in a judicial finding of *Contrary to the Welfare*? This question should be answered only if the child’s removal occurred **prior to March 27, 2000**. A “contrary to the welfare” judicial finding issued within 6 months of removal may satisfy this requirement in those instances where a removal petition was not filed. If more than 6 months have elapsed and there is no court order or petition filed for a court-ordered removal, the response to this question is “no”. A “no” response means the child is ineligible for title IV-E for this entire stay in foster care and the case is an error case from the date of the child’s removal.
- 11b.1. Date of removal petition or court order: Record the filing date of the State agency’s petition to the court to remove the child from home. This date is recorded for a child who entered care prior or subsequent to March 27, 2000 (Questions 11(a) and 11(b)) and is related to a child’s initial eligibility for title IV-E (Questions 17-20). If a removal petition was not filed, indicate the date of the court order that included the requisite “contrary to the welfare” judicial finding.

12. Is there a court order that addresses reasonable efforts to prevent removal or to reunify child and family? The precise language “reasonable efforts” does not have to be included in the court order, but the order must contain language *to the effect that* reasonable efforts were made or were not required. Question 12 assesses the State agency’s performance in obtaining the requisite judicial determination. It does not review the State agency’s provision of services to prevent a child’s removal or return the child home.

**For a child who enters care prior to March 27, 2000:** The judicial determination that reasonable efforts were made to prevent removal *or* that reasonable efforts were made to reunify the child and family satisfies the reasonable efforts requirement. *Record the date of the judicial determination in either Question 12a or 12b.* If both determinations were made, record the date of each determination in Questions 12a and 12b, respectively. The child is not title IV-E eligible until the requisite judicial determination is made.

**For a child who enters care on or after March 27, 2000:** The judicial determination that reasonable efforts to prevent removal were made (or were not required) must be made no later than 60 days from the date of the child’s removal from home. The judicial determination must be child-specific and may not merely reference State statutes pertaining to removals. The reviewer’s analysis of the case record or State agency’s report and recommendation may not be used as a substitute for the appropriate judicial finding. The court’s review and approval of the State agency’s report and recommendation are not sufficient. The court must make the actual finding. *Affidavits* attesting that the judicial determination occurred at a previous hearing and *nunc pro tunc* court orders are not acceptable documentation in support of a “reasonable efforts” judicial determination. When a *nunc pro tunc* order or affidavit is presented to meet the “reasonable efforts” requirement, the reviewer must verify the judicial determination was made at the time of the original court proceeding and within the prescribed time frame. A transcript of the court proceeding is the only acceptable alternative to a court order to substantiate that the judicial determination requirement was met satisfactorily. Record the date of the judicial determination in Question 12a. *Question 12b does not apply.*

If a reasonable efforts judicial determination was not made within the required time frames, the child is ineligible for title IV-E for the entire foster care episode and the case is an error case. Record error payment data on the attached ineligibility chart.

**Comments:**



			NA
13. Was the child's removal pursuant to a voluntary placement agreement?			
14. Was the voluntary placement agreement signed by the parent or legal guardian <i>and</i> the agency representative(s)?			
14(a). Date voluntary placement agreement was signed by all parties (MM/DD/YY): _____			
15. Is there a judicial determination regarding the child's <i>Best Interest</i> within 180 days of the date of placement?			
15(a). Date of judicial determination (MM/DD/YY): _____			
15(b). Was the judicial determination timely?			
15(c). If NO, were title IV-E funds claimed for the period of ineligibility?			
<b>E. ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan )</b> (Applicable to Court-ordered Removals Only)			
16. Has the child been in foster care 12 months or more prior to the <b>end</b> of the period under review? (Question 9) If NO, a judicial determination regarding reasonable efforts to finalize the permanency plan is <i>not</i> due.			
16(a). If Question 16 is <i>Yes</i> , what is the date the most recent judicial determination regarding reasonable efforts to finalize the permanency plan was made <b>prior</b> to the period under review? (MM/DD/YY): _____ (Refer to additional comments in the instructions)			
16(b). What is the date that the initial <i>or</i> subsequent judicial determination was due? (MM/DD/YY): _____			
16(c). Date that the 16(b) judicial determination was made: (MM/DD/YY) _____			
16(d). Was the judicial determination timely?			
16(e). If NO, were title IV-E funds claimed for the period of ineligibility?			

Comments:

- 14a. Record the date that the voluntary placement agreement was signed by all parties. If the signings occurred on different dates, record the date of the final signature. The date that the voluntary placement agreement is signed is required because FFP cannot begin until the first day of the month in which all eligibility requirements are satisfied. In the case of a child who is voluntarily placed into care, satisfying all eligibility requirements includes a voluntary placement agreement that is signed by the parent or legal guardian and the agency representative.
15. Is there a judicial determination regarding the child's best interest within 180 days of the date of placement? The State can claim FFP for up to 180 days for a child who is removed pursuant to a voluntary placement agreement in accordance with its State plan. If more than 180 days have elapsed since the date of the child's placement in foster care, there must be a judicial determination to the effect that this placement is in the best interests of the child. If more than 180 days have elapsed and there has been no such determination, the child's eligibility for FFP ceases on the 181<sup>st</sup> day. Title IV-E eligibility ceases also in those cases where the State agency petitions the court on or after the 181<sup>st</sup> day, but within six months of removal, and obtains a judicial removal because the State failed to meet the timeliness requirement for continued FFP. Under these conditions, the nature of the child's removal from the home cannot be changed from voluntary to court-ordered placement to claim FFP.
- 15a. Date of judicial determination: Record the date of the judicial determination regarding the child's best interest. If fewer than 180 days have elapsed since the child's date of placement and the PUR and the judicial determination has not been obtained, check "N/A."
- 15b. Was the judicial determination timely? The requisite judicial determination must have occurred within 180 days of the date of the child's foster care placement via a voluntary placement agreement. Otherwise, the child is not title IV-E eligible.
- 15c. If NO, were title IV-E funds claimed for the period of ineligibility? If the response to question 15 or 15b is "no" and the response to 15c is "yes", this is an error case. Record the periods of ineligible payments on the attached ineligibility chart.

E. ONGOING JUDICIAL ACTIVITY [Statutory Citation: Section 472(a)(1), 471(a)(15)(B)(ii) and (C);  
Regulatory Citation: 45 CFR 1356.21(b)(2)]

Question 16, for the purposes of this eligibility review, does not apply to children whose entry into foster care was the result of a voluntary placement agreement. If the sample case is a voluntary placement case, indicate "N/A" and proceed to Question 17.

In order for a child to be eligible for title IV-E payments, there must be a judicial determination that reasonable efforts were made to finalize the child's permanency plan that is in effect. The permanency plan goal may be: reunification, adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement. The judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date on which the child is considered to have entered foster care (Question 9) and at least once every 12 months thereafter, while the child is in foster care. *If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within this time frame, the child is ineligible at the end of the 12th month from the date the child was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due.* The child remains ineligible until such a judicial determination is made. This requirement may also be satisfied by a judicial determination, within the required time frame, that reasonable efforts were made to reunify child and family.

Disallowances will be taken for any case that does not meet the judicial requirement after March 27, 2001. Ineligibility for title IV-E payments is from April 1, 2001 until the judicial determination requirement is met, as well for any subsequent period this requirement is not satisfied.

**For a child who enters foster care prior to March 27, 2000:** A judicial determination that reasonable efforts were made to finalize the child's permanency plan must have occurred by March 27, 2001. The reviewer is not required to verify the State agency's compliance with the March 27, 2001 implementation date as a separate eligibility review issue. The reviewer is required to verify

**Comments**

whether or not the judicial determination requirement is satisfactorily met during the twelve-month period that encompasses the PUR. If the judicial determination requirement is not met, then the reviewer must go back to the date on which the requirement was met or March 27, 2001, whichever is later, to establish the period of ineligibility.

Question 16 assesses the State agency's performance in obtaining the requisite judicial determination. It does not examine the State agency's efforts to develop and finalize a permanency plan. The required judicial determinations regarding reasonable efforts must be child-specific and may not merely reference State statutes pertaining to removals. There is no requirement that the judicial determination be made at the permanency hearing, although the permanency hearing may serve as the mechanism for obtaining the judicial finding. The reviewer's analysis of the case record or State agency's report and recommendation may not be used as a substitute for the appropriate judicial finding. The court's review and approval of the State agency's report and recommendation are not sufficient to meet the judicial determination requirement. The court must make the actual finding. *Affidavits* attesting that the judicial determination occurred at a previous hearing and *nunc pro tunc* court orders are not acceptable documentation in support of a "reasonable efforts" judicial determination. When a *nunc pro tunc* order or affidavit is presented to meet the "reasonable efforts" requirement, the reviewer must verify the judicial determination was made at the time of the original court proceeding and within the prescribed time frame. A transcript of the court proceeding is the only acceptable alternative to a court order to substantiate that the judicial determination requirement was met satisfactorily.

16. Has the child been in care 12 months or more prior to the end of the period under review? Determine if 12 months have elapsed from the date in Question 9 and the last day of the PUR. If 12 months have not elapsed, a judicial determination regarding reasonable efforts to finalize the permanency plan is not due. Indicate "no" and proceed to Question 17.
  - 16a. If 16 is Yes, what is the date that the most recent judicial determination regarding reasonable efforts to finalize the permanency plan was made prior to the beginning of the period under review? Record the date that the judicial determination addressing reasonable efforts to finalize the permanency plan was made. If the due date for the initial judicial determination fell within the PUR, indicate "N/A" and continue with Question 16b. Or, if the due date for any judicial determination was prior to the PUR but the required determination was not made, indicate "N/A" and continue with Question 16b.
  - 16b. What is the date that the initial or subsequent judicial determination was due? Record the due date for the initial judicial determination that must have been made during the PUR. Otherwise, record the due date for the judicial determination that must have been made within 12 months from the date recorded in Question 16a. If 12 months have not elapsed since the date referenced in Question 16a or elapsed after the PUR, indicate "N/A".
  - 16c. Date that the 16b judicial determination was made. Indicate the date the judicial determination regarding reasonable efforts to finalize the permanency plan was made. If the judicial determination was due but was not made, indicate this in the space provided and continue with Question 16d.
  - 16d. Was the judicial determination timely? A judicial determination is not considered timely if the determination was not made or the court order that addressed reasonable efforts to finalize the permanency plan was dated after the due date. The date of the last judicial determination is used to determine the date the next one is due.
  - 16e. If No, were title IV-E funds claimed for the period of ineligibility? If the judicial determination was not timely, indicate whether title IV-E payments were made for the period of ineligibility. Record ineligible payment data on the attached ineligibility chart.

The case is ineligible at the end of the 12th month from the date the child was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due. The case remains ineligible until a judicial determination that addresses reasonable efforts to finalize the permanency plan is made. *This is an error case if a title IV-E payment was claimed for the ineligible period and the judicial determination was: 1) due prior to or during the PUR, but was not made during the PUR, or 2) due prior to or during the PUR and was made during the PUR, but was not timely.*

Comments:

F. AFDC ELIGIBILITY				N/A
17. Date child last lived with the specified relative prior to current foster care episode (MM/DD/YY): _____ (Question 8)				
18. Was the child living with the specified relative at Question 17 within 6 months of the initiation of court proceedings or the voluntary placement agreement?				
19. Was the child living with and removed from the same specified relative?				
20. Did the State determine that the child was AFDC-eligible during the month the voluntary placement agreement was signed or removal petition was filed? AFDC eligibility month (MM/YY): _____				
20(a). Was financial need established?				
20(b). Was deprivation of parental support or care established?				
21. If NO, were title IV-E funds claimed for the period of ineligibility?				
22. Was the child's eligibility redetermined? Date of redetermination, if applicable (MM/DD/YY): _____				

#### Instructions:

F. AFDC (Aid to Families with Dependent Children) ELIGIBILITY [Statutory Citation: Section 472(a)(1) and (4);  
Regulatory Citation: 45 CFR 1356.71(d)(1)(v)]

17. Date child last lived with specified relative: Record the date the child last lived with the specified relative from whom he or she was removed (Question 8). A specified relative is defined at 45 CFR 233.90(c)(1)(v). A child may be considered to meet the requirement of living with one of the relatives specified in the Social Security Act if the child is living with a parent or person in one of the following groups: (1) any blood relative, including those of half-blood, and including first cousins, nephews, or nieces; persons of preceding generations as denoted by prefixes of grand, great, or great-great; (2) stepfather, stepmother, stepbrother, and stepsister; (3) persons who legally adopt a child or the child's parent as well as the biological and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with State law; and (4) spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce.
18. Was the child living with the specified relative within 6 months of the initiation of court proceedings or the voluntary placement agreement? The court order removing the child must have been initiated, that is, the petition filed, or a voluntary placement agreement must have been signed, no longer than 6 months after the child was living with the specified relative from whom he or she was removed (Questions 8, 11, and 17). To be eligible under title IV-E, a child must be living with the specified relative

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and eligible for AFDC in the home of that specified relative in the month the voluntary placement agreement was signed or the petition was filed. The statute does, however, allow a 6-month period during which the child may reside with an interim caretaker and still be eligible for title IV-E. In this case, the child must have resided with the specified relative, from whom he/she was removed, within 6 months of the initiation of court proceedings or voluntary placement agreement and be eligible for AFDC in the home of that specified relative. If more than 6 months have elapsed from the month of the petition or the voluntary placement agreement and the date the child last lived with the specified relative from whom removal occurs, the child is ineligible under title IV-E. The case is an error case if title IV-E funds were claimed for the period of ineligibility. Respond “yes” or “no.”

19. Was the child living with and removed from the same specified relative? If “no,” the child is ineligible for title IV-E. *The “living with” and “removal from” requirements have to be satisfied by the same specified relative.* Sections 472(a)(4)(A) and (B) of the Act require that the child either: 1) received AFDC in or for the month the voluntary agreement was signed or court proceedings leading to the removal of the child from home were initiated; or 2) would have received AFDC in or for such month if an application had been made, if he or she was living with the specified relative and would have received AFDC in or for such month if in such month he had been living with “such a relative” (i.e., the same relative) and application had been made. *The statute did not contemplate the “living with” and “removal from” requirement to be satisfied by two discrete individuals, but by the same relative.*
20. Eligibility for AFDC at removal: Using the criteria in effect in its July 16, 1996 approved title IV-A State plan (*Or, if removal was prior to the effective date of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWORA], the title IV-A State plan in effect at the time*), the State agency must document that the child was removed from a specified relative, and that the child was financially needy and deprived of parental support in the month the voluntary placement agreement was signed or the month in which the petition that resulted in a court-ordered removal was filed (Questions 8, 11, and 17). Deprivation must be by reason of *death, absence, physical or mental incapacity of one parent, or the unemployment of the principal wage earner.* The basis for the determination of financial need and deprivation of parental support is the home from which the child was removed. The reviewer is not responsible for making the determination of AFDC eligibility, but for verifying, based on the documentation that is provided, that the State agency made or did not make the determination. *If the child was removed from an “active” AFDC home with an assigned AFDC case number, the reviewer may respond “yes” to this question, record the case number and proceed to Question 22.* Title IV-E eligibility is not automatic merely because the child is eligible for assistance under TANF (Temporary Assistance to Needy Families). There is no eligibility linkage between the title IV-E and TANF programs.
- 20a. Was financial need established? Indicate “yes” or “no.”
- 20b. Was deprivation of parental support or care established? Indicate “yes” or “no.”
21. If NO, were title IV-E funds claimed for the period of ineligibility? If either Question 19 or 20 is “no”, the child is not eligible for AFDC and is ineligible for payments under title IV-E from the beginning of this placement episode. Consequently, the case is an error case. Record, on the ineligibility chart, any ineligible payments that occurred relative to Questions 19 and 20.
22. Was the child’s eligibility redetermined? If the child was in care for less than 1 year prior to the end of the PUR, the response to this question is “N/A.” Proceed to Question 23.

For a child in foster care longer than 1 year, the State agency must document annually that the child continues to be financially needy and deprived of parental support or care, using the State agency’s criteria in effect in its July 16, 1996, title IV-A State plan. The basis for the “determination of financial need” is the child in foster care as his/her own assistance unit. The basis for the “deprivation of parental support” is the home from which the child was removed. *If more than 1 year has elapsed and no*

**Comments:**

*redetermination was done, the State must reconstruct AFDC eligibility or the child is ineligible for title IV-E.* To respond to this question, review the case record to determine whether a redetermination was completed that encompasses the PUR. Record the date of the redetermination.

22a. Did financial need exist throughout the period under review? Refer to the State agency's mechanism to document the child's eligibility at redetermination.

22b. Did deprivation exist throughout the period under review? Refer to the State agency's mechanism to document the child's eligibility at redetermination.

22c. If NO, were title IV-E funds claimed for the period of ineligibility? If the response to either Question 22a or 22b is "no", the child is not eligible for AFDC and is ineligible for title IV-E payments. If title IV-E was claimed during the ineligible portion of the PUR, the case is in error and payments made during the entire period of ineligibility must be recovered. Record on the attached ineligibility chart all ineligible payment data that occurred relative to Questions 22a and 22b.

23. Does the State exercise the school attendance option for students who are 18 years old? When a child reaches his or her 18th birthday, eligibility for AFDC ceases unless, *as a title IV-E state plan option*, the child is a full-time student in a secondary school or its equivalent and is expected to complete the program *before* age 19. If the State agency *does not* exercise this option, eligibility for title IV-E foster care ceases at the end of the month the child turns 18. If the State agency *does* exercise this option, eligibility for title IV-E foster care ceases at the end of the month in which the child leaves school or when the child turns 19, whichever occurs earlier.

To meet title IV-E foster care eligibility under this state plan option when the State agency's jurisdiction over a child automatically ceases at age 18, the State agency must provide verification that the child agrees to remain under the responsibility of the State agency for placement and care. A court order extending the State agency's custody of the student beyond age 18 also satisfies the placement and care requirement. If the response to Question 23 is "no", proceed to Question 23b. Otherwise, continue with Question 23a.

23a. If the child was 18 or older during the period under review, was (s)he a full-time student in secondary school or its equivalent and expecting to graduate prior to the 19<sup>th</sup> birthday? The response to this question is "N/A", if the school attendance option is not elected or the child was not 18 years or older during the PUR. If the response is "N/A", proceed to Question 24.

23b. If "no", were title IV-E funds claimed for the period of ineligibility? If the answer to Question 23 or 23a is "no" and title IV-E was claimed during the ineligible portion of the review period, the case is in error. Record data concerning the ineligible payments on the attached ineligibility chart.

**Comments:**

			NA
24. For the entire time that the child is in an out-of-home placement during the period under review, does the title IV-E agency (or public agency with a title IV-E agreement) maintain responsibility for the placement and care of the child?			
25. Were title IV-E funds claimed for the period of time that the title IV-E agency (or public agency with a title IV-E agreement) <i>did not</i> have responsibility for the placement and care of the child?			
26. Agency Name:			
<b>H. PLACEMENT IN LICENSED HOME OR FACILITY (Complete for every home/facility where the child was placed during the period under review)</b>			
X2. Provider Name:			
X3. Provider Street Address:			
X4. Provider City:	X5. Provider State:		
27. Date(s) of child's placement in this foster care facility (MM/DD/YY): from: _____ to: _____ from: _____ to: _____			
28. Date of child's departure from this facility, if applicable (MM/DD/YY): _____			
29. Type of foster care facility ( <i>check one</i> ): FFH ( ) GH ( ) Public Inst. ( ) PNP/FP Inst. ( ) Other ( ) _____			
30. Was this provider fully licensed or approved during the child's placement that falls within the period under review?			
30(a). Licensure period (MM/DD/YY): from: _____ to: _____ from: _____ to: _____			
30(b). If NO, were title IV-E funds claimed for the period that the provider is <i>not fully</i> licensed or approved?			

**Instructions:**

G. STATE AGENCY RESPONSIBILITY FOR PLACEMENT/CARE OF CHILD [Statutory Citation: Section 472(a)(2);  
Regulatory Citation: 45 CFR 1356.71(d)(1)(iii)]

24. Does the title IV-E agency maintain responsibility for placement and care? The title IV-E agency (or another public agency, including an Indian tribe, with which the title IV-E agency has a written agreement that is in effect) must have responsibility for placement and care of the child. The court order or voluntary placement agreement must indicate that the agency has this responsibility. A response of "yes" to this item indicates that the agency held this responsibility for the entire period under review. If the response is "no" and title IV-E payments were claimed for the period of ineligibility, this is an error case. (*The reviewer must verify that the title IV-E agency has a bona fide agreement in effect with the State agency in those instances where another public agency has responsibility for placement and care of the child.*)

**Comments:**

25. Were title IV-E funds claimed for the period that the title IV-E agency did not have responsibility for placement and care? If the response to Question 24 is “no,” was title IV-E claimed for the period of ineligibility? If “yes,” this child is ineligible and the case is an error case. Record the ineligible payment data on the attached ineligibility chart.

26. Agency Name: Record the name of the State agency or agencies with responsibility for placement and care of the child.

#### H. PLACEMENT IN LICENSED HOME OR FACILITY [Regulatory Citation: 45 CFR 1356.71(d)(1)(iv), 1355.20]

Section H is to be completed for *every* home or facility in which the child was placed during the PUR.

X2-X5. Record provider information for each home or facility in which the child was placed during the PUR.

27. Date of child’s placement in provider home or facility: Record the date that the child was placed in *each* facility that is encompassed by the PUR.

28. Date of child’s departure from provider home or facility: Record the date that the child left this facility, if not indicated in response to Question 27.

29. Type of foster care facility: The reviewer is to determine whether the child is placed in one of the following title IV-E eligible facilities: foster family home, group home, public institution of 25 children or fewer, or private non-profit or for-profit child care institution. A facility that does not fall into one of these categories is not eligible for Federal matching funds. Facilities such as detention centers, hospitals, and public institutions of more than 25 children are ineligible under title IV-E. The “other” category should be used when the child is not in one of the eligible foster care placements indicated above. *If placement is “other,” the provider is ineligible.* The case is an error case if title IV-E funds were claimed for the period of ineligibility. Record ineligible payment data on the attached ineligibility chart.

30. Was this provider fully licensed or approved during the child’s placement that falls within the period under review? The license must show that the home or facility is licensed during the child's placement there. The certificate of licensure/approval or a letter of approval can satisfy documentation of full licensure. The terms “licensed” and “approved” are used here to refer to facilities that meet all of the State’s standards for *full* licensure or approval. The title IV-E eligibility review does not evaluate the State agency’s licensing standards. Rather, the review determines that the child’s foster care placement was licensed during the PUR and that the safety requirement was addressed. Title IV-E foster care payments cannot be made on behalf of a child prior to the month the foster home or facility attained *full* licensure or approval. Interim or probationary licenses issued pending satisfaction of all licensing standards are not eligible for title IV-E reimbursements. *All providers, including those licensed or approved by a child-placing agency, effective September 28, 2000 must meet full licensure.* (No disallowances will be taken for the period of 3/27/00 - 9/27/00 for homes that were licensed prior to 3/27/00 that do not meet full licensure status during that period). Indicate whether or not the foster care home or facility, regardless of type, was licensed or approved during the PUR.

30a. Period of licensure: Record the dates of the period of licensure or approval of the facility that encompass the PUR.

30b. If the response to Question 30 is “no”, were title IV-E funds claimed for the period that the provider is not fully licensed or approved? If the response to this question is “yes”, this is an error case. Record the ineligible payment data on the attached ineligibility chart.

**Comments:**



			NA
31. Did this State opt out of the criminal records check requirement? (Applies only to prospective foster family homes and pre-adoptive family homes).			
32. Was a criminal records check satisfactorily completed on the foster/adoptive parent(s)?			
33. If the State opted out of the criminal records check requirement, did the State document that safety considerations with respect to the caretaker(s) were addressed?			
34. If the child is placed in a childcare institution, did the State document that safety considerations with respect to the staff/caretakers were addressed?			
35. Were title IV-E funds claimed prior to the month in which the safety requirements were satisfactorily met?			

#### Instructions:

- I. SAFETY REQUIREMENTS OF PROVIDER [Statutory Citation: Section 471(a)(20), 475(1);  
Regulatory Citation: 45 CFR 1356.30]

This section is to be completed for every home or facility where the child was placed during the PUR.

31. Opt-out provision: Has this State opted out of the criminal records check requirement for foster and adoptive parents? The criminal records check requirement applies only to prospective foster family homes and pre-adoptive family homes licensed on or after 11-17-97, or the State agency's approved delayed effective date. A home licensed prior to 11-17-97 is not considered a prospective home, for the purposes of title IV-E eligibility. If the response is "yes," proceed to Question 33. If "no," continue with Question 32.
32. Satisfactory completion of criminal records check: Unless the State has opted out of the criminal records check requirement, the State must provide documentation that criminal records checks have been conducted with respect to prospective foster and adoptive parents. The licensing file must document the results of the record check. In reviewing the criminal records check requirement, the reviewer must ensure that the State agency has complied with the regulatory safety requirements for foster family and adoptive placements and that the foster or adoptive parent has not been convicted of any of the felonies enumerated in section 471(a)(20)(A) of the Social Security Act. Once it is determined that the safety requirement was satisfied, the reviewer does not have to verify whether a subsequent criminal records check was completed on the home during the licensing renewal process. A response of "N/A" indicates the child is not placed in a foster family home or a pre-adoptive home.
33. Safety requirements for foster/adoptive family homes when State has opted out of criminal records check: In all cases where the State opts out of the criminal records check requirement, the licensing file for that foster or adoptive family must contain documentation that verifies that safety considerations with respect to the caretaker(s) have been addressed. A response of "N/A" indicates that the child is not placed in a foster family home or a pre-adoptive home *or* that the State has not opted out of the criminal records check requirement.

#### Comments:

34. Safety requirements for staff/caretakers in child care institutions: In order for a child care institution to be eligible for title IV-E funding, the licensing file for the institution must contain documentation that verifies that safety considerations with respect to the staff and caretakers of the institution were addressed. A response of “N/A” indicates that the child is not placed in a child care institution.
35. Were title IV-E funds claimed prior to the month in which all safety requirements were satisfactorily met? A title IV-E foster care payment cannot be made on behalf of a child prior to the completion of the criminal records check or other safety requirement for the foster family home, pre-adoptive family home or foster care facility. If the response is “yes” and the period of ineligibility is during the PUR, this case is an error case. Record the ineligible payment data on the attached ineligibility chart.

### Case Review Findings

After this checklist is completed, determine whether or not the sample case is a non-error case and indicate this at the top of the eligibility review checklist. Also indicate, for a non-error case, whether or not ineligible title IV-E funds were claimed.

### Supplemental Tools

The following attachments are appended to record multiple foster care placements, additional reviewer comments, and data concerning error cases or ineligible payments, respectively.

Licensing /Safety Checklist for Multiple Placements

Additional Comments Sheet

Ineligibility Chart

## Licensing/Safety Checklist for Multiple Placements

Use this page to record multiple placements during the review period.

<b>H. PLACEMENT IN LICENSED HOME OR FACILITY</b> <b>(Complete for every home/facility where the child was placed during the period under review)</b>			
			N/A
X2. Provider Name:			
X3. Provider Street Address:			
X4. Provider City:			
X5. Provider State:			
27. Date(s) of child's placement in this foster care facility (MM/DD/YY): from: _____ to: _____ from: _____ to: _____			
28. Date of child's departure from this facility, if applicable (MM/DD/YY): _____			
29. Type of foster care facility ( <i>check one</i> ): FFH ( ) GH ( ) Public Inst. ( ) PNP/FP Inst. ( ) Other ( )			
30. Was this provider licensed or approved during the child's placement that falls within the period under review?		<input checked="" type="checkbox"/>	
30(a). Licensure period (MM/DD/YY) from: _____ to: _____ from: _____ to: _____			
30(b). If NO, were title IV-E funds claimed for the period that the provider <i>is not</i> fully licensed/approved?			
<b>I. SAFETY REQUIREMENTS OF PROVIDER</b> <b>(Complete for every home/facility where the child was placed under the period under review)</b>			
31. Did this State opt out of the criminal records check requirement? (Applies only to prospective foster family homes and pre-adoptive homes).			
32. Was a criminal records check satisfactorily completed on the foster/adoptive parent(s)?		<input checked="" type="checkbox"/>	
33. If the State opted out of the criminal records check requirement, did the State document that safety considerations with respect to the caretaker(s) were addressed?		<input checked="" type="checkbox"/>	
34. If the child is placed in a child care institution, did the State document that safety considerations with respect to the staff/caretakers were addressed?		<input checked="" type="checkbox"/>	
35. Were title IV-E funds claimed prior to the month in which the safety requirements were satisfactorily met?			

**Comments:**

State \_\_\_\_\_  
Sample Number \_\_\_\_\_

### **Additional Comments**

---

Use this page to record additional comments and notes.

---

State \_\_\_\_\_  
Case Reviewer \_\_\_\_\_

Case ID Number \_\_\_\_\_  
Sample Number \_\_\_\_\_

### Ineligibility Chart

			Ineligible Payment Amount

\*Provide a brief description of all ineligible payments, regardless of whether or not the sample case is determined to be an error case.

#### Fiscal

(A). Federal Share for Foster Care Maintenance Payments (FCMP) Calculation

Disallowance: Total error case FCMP x State 's Federal Medical Assistance Percentage (FMAP).

(B). Federal Share for Foster Care Administration Costs Calculation

Disallowance: Refer to the *instructions for calculating administrative cost disallowance and formula calculation spreadsheet for initial and primary reviews* issued June 2, 2003.

(C). Period of Ineligibility

Calculate the months of erroneous payments beginning with the first month of ineligibility to the end of the PUR. The State agency must remove from its claims payment system unallowable costs occurring after the PUR and suspend claiming the unallowable costs until the error ceases.

## Appendix II

# Sample State Notification Letter

Director, Child Welfare Agency  
Street Address  
City, State, Zip

Dear Director:

On January 25, 2000, the Administration for Children and Families (ACF) published in the *Federal Register* the final regulations on the title IV-E Foster Care Eligibility Reviews and State Child and Family Service Reviews. The regulations provide for initial title IV-E foster care eligibility reviews and child and family services reviews to be conducted in all States, the District of Columbia, and Puerto Rico during the 4-year period following the effective date of the regulation, and at specified intervals thereafter.

As discussed with (enter State coordinator) of your staff, the (enter name of State) on-site title IV-E foster care eligibility review will be conducted the week of (enter date). This is an important review because many of the child protections in the Adoption and Safe Families Act (ASFA) are embedded in the eligibility criteria for the title IV-E foster care program. The review team that is comprised of Federal and State representatives will examine cases of children and licensing files to assure that payments are being made on behalf of eligible children and to eligible homes.

In the primary review, the review team will review 80 cases. A random sample of 88 cases, which includes at least a 10 percent oversample, will be drawn from the most recent submission of (enter the name of the State)'s Adoption and Foster Care Analysis and Reporting System (AFCARS) data. (Other information may be included here regarding the cases, such as automated files or a sample drawn from an alternative database. A request for advance copies of all forms to be used to determine eligibility may be made, e.g., copies of court orders, documentation of Aid to Families with Dependent Children [AFDC] determination and redetermination, criminal records checks verification, etc.)

In addition, please have the following files and documents available on-site for the review, if they are not already included in the case plan:

- Foster home and group home/institution care licenses;
- Criminal record verification files for foster parents;
- Payment rates for each child;
- Payment history for each child; and
- Safety considerations on behalf of employee/institutional personnel.

We look forward to working with you and your staff throughout the title IV-E foster care eligibility review process. Please do not hesitate to call (enter the name of the ACF Regional Office contact(s) and their telephone number(s)) if you have questions or if you need additional information.

Sincerely,

ACF Child Welfare Program Manager  
Or appropriate Regional Official

cc: As appropriate

## **Appendix III**

### **Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review**

1. Title IV-E Foster Care Eligibility Review Guide
2. ACYF-PI-CB-98-02 (New Legislation – Public Law 105-89, The Adoption and Safe Families Act of 1997)
3. Adoption and Safe Families Act (ASFA) legislation
4. Section 472 of the Social Security Act
5. Title IV-E Foster Care Eligibility Checklist and Instructions
6. 45 CFR 1356
7. General eligibility determination procedures of the State being reviewed and the applicable Aid to Families with Dependent Children (AFDC) eligibility factors, as of 7/16/96, of the State
8. Other material submitted by the State to the Administration for Children and Families (ACF) Regional Office



## **Appendix IV**

### **Recommended Topics for Discussion by the Title IV-E Eligibility Review Team Before Reviewing Records**

1. Ask the State to describe how a child typically comes into foster care (what kinds of judicial orders; what are the policies and statutes governing removal of the child from home; how does the State define a trial visit; etc.).
2. What constitutes a final or bona fide court order? Is a signature or signature stamp required? Is there a court numbering system that makes a court order valid?
3. How does the State ensure that Aid to Families with Dependent Children (AFDC) eligibility is determined using the July 16, 1996, look-back date? What documentation will be in the record?
4. Does the State exercise the option to pay title IV-E foster care maintenance payments on behalf of children over the age of 18 in secondary school and graduating by age 19?
5. For purposes of AFDC eligibility, how does the State consider deprivation when a stepparent is in the home?
6. For States that have opted out of the criminal records check provision: How does the State verify that safety considerations with respect to foster care providers have been addressed?
7. For child care institutions where title IV-E is claimed: How does the State verify that safety considerations with respect to staff have been addressed?
8. Ask the State to describe the licensing procedures. How often must licenses be renewed? What happens when a license expires? What constitutes full licensure?
9. What are the “aggravated circumstances” defined in State statute that govern when reasonable efforts are not required?
10. Does the title IV-B/IV-E agency have agreements with other State public agencies or Federally recognized tribes? If so, with which entity?
11. Is the State plan approved such that the State can claim title IV-E for children voluntarily placed into foster care?

## **Appendix V**

# **Suggested On-Site Quality Control Tasks for the Administration for Children and Families Regional Office Team Leaders**

The Administration for Children and Families (ACF) Regional Office Team Leader is responsible for ensuring that quality control functions are performed during the on-site review in order to ensure consistency, objectivity, and accuracy in reviewing cases. The following are some tasks that can be performed to ensure quality control.

1. Verify that all case records in the sample are available at the review site since an unavailable case is counted as an error record.
2. Review each completed checklist to ensure that all questions have been answered and that the dates recorded are logical.
3. Re-read the first record read by each reviewer to ensure that the reader understands the checklist and is applying an accurate interpretation of the law and regulations.
4. Re-review all error records.
5. Re-read records of reviewers who appear to have difficulty completing the checklist.

## Appendix VI

### Title IV-E Eligibility Reviews Table of Completed Case Records and Description of Errors

State name: \_\_\_\_\_

Sample Number	Child's Name	Reviewer	No Errors Found	Errors		Type of Error
				Child	Provider	

## Appendix VII

### Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program

<b>Title IV-E FCMP Eligibility Criterion</b>	<b>Statutory Citation</b>	<b>Regulatory Citation</b>
Contrary to the Welfare	472(a)(1)	1356.21(c)
Reasonable Efforts to Prevent Removals*	472(a)(1), 471(a)(15)(B)(i)	1356.21(b)(1)
Reasonable Efforts to Make and Finalize a Permanency Plan*	472(a)(1), 471(a)(15)(B)(ii) and (C)	1356.21(b)(2)
Aid to Families with Dependent Children (AFDC) Eligibility	472(a)(1) and (4)	1356.71(d)(1)(v)
Placement and Care Responsibility Vested with the State Agency	472(a)(2)	1356.71(d)(1)(iii)
Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	1356.71(d)(1)(iv) 1355.20
Voluntary Placement Agreements and Best Interests Determinations	472(d), (e), and (f)	1356.22
Criminal Records Check†	471(a)(20) and 475(1)	1356.30

\* The act of making reasonable efforts to prevent a child's removal from the home and/or to make and finalize a permanency plan is a State plan requirement, and compliance with such is assessed during the course of the child and family services review. The judicial determination regarding the act of making reasonable efforts to prevent a child's removal from the home or to make and finalize a permanency plan is an eligibility criterion. The State's performance in obtaining the requisite judicial determination is assessed through the title IV-E eligibility review.

† States must conduct criminal records checks on all prospective foster and adoptive parents to comply with the title IV-E State plan. The results of the criminal records check affect the State's ability to license foster and adoptive homes. The provision must also be treated as an eligibility criterion, given its impact on the licensing process.

## Appendix VIII

# Sample Transmittal Letter Including Notice of Disallowance

Name and Title of Appropriate State Official  
Street Address  
City, State, Zip Code

Dear (enter title and name):

During (enter date/time frame), Administration for Children and Families' (ACF) staff from the Central and Regional Offices and State of (enter the name of the State) staff conducted an eligibility review of (enter the name of the State)'s title IV-E foster care program in (enter the name of the city).

The purpose of the title IV-E foster care eligibility review was (1) to determine if (enter the name of the State) was in compliance with the child and provider eligibility requirements as outlined in 45 CFR 1356.71 and Section 472 of the Act; and (2) to validate the basis of (enter the name of the State)'s financial claims to ensure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

**Include any information about the review, the review team, discoveries, positive feedback, etc., such as the following:**

We want to commend the State for its excellent efforts to improve its title IV-E foster care eligibility determination process, resulting in a more accurate title IV-E foster care eligibility program. The enclosed report identifies program strengths and provides recommendations for further improvement.

**Suggested language when the State is determined to be in substantial compliance:**

This is to inform you that the ACF has determined the State of (enter the name of the State)'s title IV-E foster care maintenance payment program to be in substantial compliance with Federal child and provider eligibility requirements for the period (enter date) through (enter date). Because (enter the name of the State) was found to be in substantial compliance, a secondary review will not be required. The next primary review must be held in 3 years. The financial penalty to be taken for this review will be for the payments, including the administrative costs, associated with the (enter number) error cases as indicated below.

**Suggested language when the State is determined not to be in substantial compliance:**

This is to inform you that the ACF has determined the State of (enter name)'s title IV-E foster care maintenance program not to be in substantial compliance with Federal child and provider eligibility requirements for the period (enter date) through (enter date). Pursuant to 45 CFR Section 1356.71(i), (enter the name of the State) is required to develop a Program Improvement Plan (PIP) designed to correct those areas needing corrective action as identified in the enclosed report. The PIP is not to exceed 1 year. It will be developed by the State, in consultation with ACF Regional Office staff, and must be submitted to the ACF Regional Office by (enter date that is 90 days from date of cover letter).

The PIP must include the following components:

- Specific goals;
- Action steps required to correct each identified area needing improvement;
- A date by which each of the action steps is to be completed; and
- A description of how progress on the plan will be evaluated by the State and reported to the ACF Regional Office, including the frequency and format of the evaluation procedures.

Also, pursuant to 45 CFR Section 1356.71(j)(2), following the completion of the PIP, a secondary review must be held between \_\_\_\_ and \_\_\_\_ (enter the date of the first Adoption and Foster Care Analysis and Reporting System [AFCARS] reporting period following the completion of the PIP). The sample for the secondary review will be 150 cases (plus a 10 percent oversample of 15 cases) drawn from the State's most recent Adoption and Foster Care Analysis and Reporting System (AFCARS) data. The financial penalty to be taken for this primary review will be for the payments, including the administrative costs, associated with the (enter number) error cases as indicated below.

This letter also constitutes our formal notice of disallowance of \$(enter dollar amount) in Federal Financial Participation (FFP) for title IV-E foster care maintenance payments and related administrative costs.

A review of a sample of 80 cases was drawn from a universe of title IV-E payments for the review period noted above. The review team determined that (enter number of error cases) cases were ineligible for Federal funding.

Since the amount of disallowed funds was previously included in Federal payments made to the State, you must repay these funds by including a prior period decreasing adjustment on the Quarterly Report of Expenditures (Form ACF-IVE-1), Part 1, Line 1, Columns (c) and (d). A supplemental IVE-1 form must be submitted within 30 days of the date of this letter in order to avoid the assessment of interest. A supplemental submission must contain only the adjustment described above; other claims or revisions must not be included and will not be accepted. The original report should be submitted to the following address with a copy to the ACF Regional Office:

Administration on Children, Youth and Families  
Office of Management Services  
330 C Street, SW, Room 1427  
Washington, D.C. 20447

This is the final decision of the Administration for Children and Families. Under regulations at 45 CFR Part 16, you have an opportunity to appeal this decision to the Departmental Appeals Board (Board). This decision shall be the final decision of the Board unless, within 30 days of receiving this decision, you deliver or mail (using registered or certified mail to establish the date) a written notice of appeal to:

Department of Health and Human Services  
Departmental Appeals Board  
Room 635-D HHH Building  
200 Independence Avenue SW  
Washington, D.C. 20201

You must attach to the notice a copy of this decision, note that you intend to appeal, state the amount in dispute, and briefly state why you think this decision is wrong. A copy of your appeal also should be sent to my attention in the ACF Regional Office. The Board will notify you of further procedures.

If you appeal, you may elect to repay the amount at issue pending a decision by the Departmental Appeals Board, or you may retain the funds pending that decision. An adjustment to return the disallowed funds for the purposes of avoiding interest assessment must be made through the use of a supplemental submission of the IVE-1 form, as described above. If you retain the funds and the Board sustains all or part of the disallowance, interest will be charged starting from the date of this letter on the funds the Board decides were properly disallowed. Regulations at 45 CFR Part 30 detail how interest will be computed.

In the event you choose to take no action to return the funds, it will be assumed you have elected to retain the funds either to appeal or to delay recoupment of the funds until the next issued grant award. Interest will continue to accrue on the Federal funds retained by the State during this period.

**Closing for all letters:**

We want to thank you and your staff for the excellent efforts that were made to prepare for and participate with us in this review. We look forward to working with you and your staff to continue to improve State implementation of the Federal requirements and to improve services to children and families. Please contact (enter name of ACF Regional Office review coordinator) at (enter telephone number) if you have any questions about this review. Questions concerning the disallowance should be directed to (enter name of ACF Regional Office fiscal contact) at (enter telephone number).

Sincerely,

Regional Administrator/Hub Director

Enclosures



**Appendix IX**  
**Model Report**  
**(Appropriate State) Title IV-E Foster Care**  
**Eligibility Review**  
**(Date of AFCARS Review Period)**

**Introduction**

During (enter appropriate time frame), Administration for Children and Families' (ACF) staff from the Central and Regional Offices and State of (enter the name of the State) staff conducted an eligibility review of (enter the name of the State)'s title IV-E foster care program in (enter the name of the city).

The purpose of the title IV-E foster care eligibility review was (1) to determine if (enter the name of the State) 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 (2) to validate the basis of (enter the name of the State)'s financial claims to ensure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

**Scope of the Review**

The (enter the name of the State) title IV-E foster care review encompassed a sample of all of the title IV-E foster care cases that received a foster care maintenance payment during the period of (enter date) to (enter date). A computerized statistical sample of (enter number) cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which was transmitted by the State agency to the ACF for the period under review. 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 or approved for the period of the review.

**For an initial primary review, the following language is suggested:**

During the initial primary review, (enter number) cases were reviewed. (enter number) 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.

**Use the language in either number 1 or 2 below, as appropriate to the review results:**

1. Since the number of error cases was fewer than nine, the ACF has determined (enter the name of the State) to be in substantial compliance.
2. Since the number of error cases exceeded eight, the ACF has determined (enter the name of the State) 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 ACF Regional Office staff, and must be submitted to the ACF Regional Office by (enter date that is 90 days from date of cover letter). 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.

**For a primary review, the following language is suggested:**

During the primary review, (enter number) cases were reviewed. (enter number) 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.

**Use the language in either number 1 or 2 below, as appropriate to the review results:**

1. Since the number of error cases was fewer than five, the ACF has determined (enter the name of the State) to be in substantial compliance.
2. Since the number of error cases exceeded four, the ACF has determined (enter State) 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 ACF Regional Office staff, and must be submitted to the ACF Regional Office by (enter date that is 90 days from date of cover letter). 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.

**For a secondary review, the following language is suggested:**

During the secondary review, (enter number) cases were reviewed. (enter number) 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. The

dollar value of the sample was \$(enter dollar amount) with the error cases totaling \$(enter dollar amount). These data indicate that (enter the name of the State)'s dollar error rate (enter percent) was (enter "less than/equal to" or "greater than") 10 percent and/or the error cases error rate (enter percent) was (enter "less than/equal to" or "greater than") 10 percent. Therefore, (enter the name of the State) is considered (enter "to be in" or "not to be in") substantial compliance.

## Case Record Summary

The following details the error cases and reasons for the error, erroneous payments, and appropriate citations: (List the sample number, describe the errors, and note the citation of the requirement found to be in error.)

Sample number 27: Voluntarily placed child did not have a judicial determination within 180 days of placement. 42 USC 672(e).

The erroneous payments associated with the (enter number of cases) error cases were calculated as follows, and include all payments claimed on behalf of the child for the entire period of the error. (Indicate the error case(s), all payments claimed for the entire period of the error for each case, Federal Medical Assistance Payment [FMAP] rate, and Federal Financial Participation [FFP]. Note that a State's FMAP rate may vary annually and, therefore, needs to be obtained for each year that a case is found to be in error.)

Sample #	XX	XX	XX	Total	FMAP	FFP
FFY 94			1,635.71	1,635.71	70.92%	1,160.05
FFY 95			3,224.95	3,224.95	70.14%	2,261.98
FFY 96	2,378.88		3,067.01	5,445.89	68.78%	3,745.68
FFY 97	5,450.00		3,975.73	9,425.73	67.97%	6,406.67
FFY 98	5,324.00		4,326.36	9,650.36	69.59%	6,715.69
FFY 99	2,868.00	32,915.29	3,557.87	39,341.16	69.85%	27,479.80
FFY 00	3,182.67	11,336.69	3,263.55	17,782.91	70.15%	12,474.71
Total	19,203.55	44,251.98	23,051.18	86,506.71		60,244.58

## **Areas in Need of Improvement**

Describe the areas of weakness or deficiency that need to be addressed in the PIP.

## **Strengths and Model Practices**

Describe strengths or model practices discovered during the review.

## **Disallowances (if necessary)**

Use language appropriate to the type of review and disallowance criteria pursuant to 45 CFR 1356.71(j).

**For the primary review, the following language is suggested:**

The review included a sample of (enter number) 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 (enter date) to (enter date). Based upon the results of the review, the State of (enter name) has been determined (enter “to be” or “to be not”) in substantial compliance. (The report should end here if no cases were determined to be in error.) (enter number) cases were determined not to be eligible for funding under title IV-E foster care. Therefore, a disallowance in the amount of \$(enter dollar amount) in Federal Financial Participation (FFP) is assessed for the entire period of time that these cases were determined to be in error.

**For the secondary review, use the suggested language in either 1 or 2 below, as appropriate to the review results:**

- 1. State in substantial compliance:** The review included a sample of (enter number) cases with a total dollar value of \$(enter dollar amount). 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 (enter date) to (enter date). Based on the results of the review, the State of (enter the name of the State) has been found to be in substantial compliance; (the report should end here if no cases were determined to be in error) however, (enter number) cases were determined to be in error and are not eligible for funding under title IV-E foster care. Therefore, a disallowance in the amount of \$(enter dollar amount) in Federal Financial Participation (FFP) is assessed for the entire period of time that these cases were determined to be in error.

- 2. State not in substantial compliance:** The review included a sample of (enter number) cases with a total dollar value of \$(enter dollar amount). 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 (enter date) to (enter date). Based upon the results of the review, the State of (name) has been found not to be in substantial compliance since (enter number) cases were not eligible for funding under title IV-E foster care and the case and dollar error rates both exceeded 10 percent. We have projected the results of the review over the universe from which the sample was drawn and have determined that \$(enter dollar amount) in title IV-E funds were inappropriately claimed as foster care maintenance payments. In addition, the proportionate share of administrative dollars of \$(enter dollar amount) is disallowed. Therefore, the total disallowance is \$(enter dollar amount) in Federal Financial Participation (FFP).