

**State of Maine
Department of Children and Families
Title IV-E Foster Care Eligibility
Primary Review
Report of Findings for
April 1, 2012 – September 30, 2012**

Introduction

During the week of May 13, 2013, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the Maine title IV-E foster care program. The review was conducted in Augusta, Maine in collaboration with the Maine Office of Child and Family Services (OCFS) and was completed by a review team comprised of representatives from Maine OCFS, CB Central and Regional Offices, and ACF Regional Grants Management Office.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether Maine's title IV-E foster care program was in compliance with the eligibility requirements as outlined in 45 CFR 1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of Maine's financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

The primary review encompassed a sample of Maine's foster care cases that received a title IV-E maintenance payment during the six-month period under review (PUR) of April 1, 2012 through September 30, 2012. A computerized statistical sample of one hundred (100) cases (80 cases plus 20 oversample cases) was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed consisting of seventy-four (74) cases from the original sample plus six (6) cases from the oversample. The oversample cases were selected for review to replace cases for which no title IV-E maintenance payment was made for an activity during the PUR. The State provided documentation to support excluding these cases from the review sample and replacing them with the cases from the oversample.

In accordance with Federal provisions at 45 CFR 1356.71, the State was reviewed against the requirements of title IV-E of the Act and Federal regulations regarding:

- Judicial determinations of reasonable efforts and contrary to the welfare as set forth in §472(a)(2)(A) of the Act and 45 CFR 1356.21(b)(1) and (2), and (c), respectively;

- Voluntary placement agreements as set forth in §§472(a)(2)(A) and (d)-(g) of the Act and 45 CFR 1356.22;
- Responsibility for placement and care vested with State agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR 1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the State plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR 1356.71(d)(1)(v).
- Placement in a licensed foster family home or childcare institution as defined in §§472 (b) and (c) of the Act and 45 CFR 1355.20(a); and
- Safety requirements for the child’s foster care placement as required at 45 CFR 1356.30.

The case file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider information was examined to ensure the foster family home or childcare institution in which the child was placed during the PUR was licensed or approved and safety considerations were met. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify any underpayments that were eligible for title IV-E claiming. A sample case is determined to be in error when a title IV-E payment for a maintenance claim was made for an activity during the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility during the foster care episode. A sample case is cited as non-error with ineligible payment when a title IV-E payment for a maintenance claim was made for an activity solely outside the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility. A case also may be cited as non-error with ineligible payment when the title IV-E eligibility criteria was fully met, but an unallowable title IV-E maintenance payment (e.g. for a duplicate payment; for an overpayment; or for any other unallowable program cost) is paid for an activity during or outside of the PUR. In addition, underpayments are identified for a sample case when an allowable title IV-E maintenance payment is not claimed by the State for an eligible child during the 2-year filing period specified in 45 CFR 95.7, unless the title VI-E agency elected not to claim the payment or the filing period has expired.

Compliance Finding

The review team determined that 79 of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. One (1) case was determined to be in error for part of the PUR. Based on these review findings, CB has determined that the Maine OCFS title IV-E foster care program is in substantial compliance with Federal eligibility requirements for the PUR. The next review of Maine’s title IV-E eligibility program will be a primary review, conducted within three years from the date of this primary review.

Case Record Summary

The following chart records the error case; reason for the improper payments; improper payment amounts; and Federal provisions for which the State did not meet the compliance mandates.

Error Case:

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Maintenance Payment FFP	Improper Administrative Payment FFP
29	Foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR 1356.71(d)(1)(iv)and 1355.20] Ineligible: 07/03/12 – 09/30/12	\$998	\$2,323

Total: \$3,321

Program Strengths & Promising Practices

Improvements in the State's title IV-E foster care eligibility program were noted during this review. The following positive practices and processes have led to improved program performance and successful program operations:

- *Judicial determinations.* Each of the cases reviewed was found to have the required judicial determinations explicitly documented and within the required timeframes. Cases were reviewed for the judicial findings that continuation in the home would be contrary to the child's welfare; reasonable efforts were made to prevent removal; reasonable efforts were made to finalize the permanency plan; and continued foster care placement was in the best interests of the child. The court orders reviewed typically detailed the basis for the findings and made reference to supporting affidavits and petitions, which provided additional case history and context. Inclusion of this child-specific information in the court documentation provided a foundation for meaningful judicial determinations.

State staff attributes Maine's success in meeting title IV-E legal and judicial requirements to strong collaboration between OCFS; the Office of the Maine Attorney General; the Courts; and the Children's Bureau. Regular formal and informal communication and cross-training between OCFS and the Attorney General's Child Protection Division is seen as particularly important in meeting these requirements. The agency's work since the 2010 review has focused on ensuring there is clear understanding of the judicial requirements and the documentation needed for title IV-E eligibility. The case records examined for this

review provide evidence of Maine's emphasis on family engagement; concerted efforts to prevent removal; and efforts to achieve permanency through reunification, permanent placement with relatives, and adoption.

- *Licensing and safety checks.* With the exception of the circumstances in the error case detailed below, reviewers found that Maine claims title IV-E foster care maintenance payments only for foster family homes and childcare facilities that are fully licensed and meet safety requirements, including fingerprint-based criminal record checks of the National Crime Information Databases (NCID). The State's policy and procedures support a timely licensing process. The OCFS has worked closely with the licensing staff to ensure that case records have current information documenting the licensing status of foster family homes and residential facilities. Title IV-E claiming procedures are supported by the licensing status and histories recorded in the Maine Automated Child Welfare Information System (MACWIS), which were found to be clear and current for the cases reviewed.

Criminal records checks for foster family homes were found to be thorough and completed on a timely basis. For childcare institutions, Federal regulations at 45 CFR 1356.30(f) require States to establish procedures that address safety considerations with respect to the staff. For title IV-E eligibility purposes, the State must provide documentation verifying that these safety considerations are satisfied for the duration of the child's placement during the PUR. Similar to our 2010 review, we found clear, detailed documentation in the case files which demonstrated State review of 20 percent of all residential personal staff records during licensing renewal timeframes, as is required by State policy. The information was consistently documented on the Division of Licensing and Regulatory Services Check Sheet, Review of Employee Records, and notes the name of the staff person, title of the staff person, date of hire, date of criminal check, and date of child abuse registry check, as well as the date the Check Sheet was completed.

- *Voluntary Placement Agreements (VPA) and Responsibility for Placement and Care Vested with State Agency.* State policies and procedures regarding voluntary placements were identified as a concern in the 2010 primary review due to the lack of OCFS policy on VPAs. As a result, State staff were unclear about signature requirements for a valid agreement and the duration of the voluntary placement agreement when its end date was within 180 days of the child's placement. During the current review, State staff told CB that OCFS has taken steps to clarify its policy regarding voluntary placements and has provided staff training. There were no similar concerns identified during this review for the

cases with children placed in foster care pursuant to a voluntary placement agreement. All of the voluntary placement agreements were signed by a representative of the State agency and the child's parents or legal guardians. The agreements also indicated the period of time that the responsibility for placement and care of the child would be with OCFS. If the child's placement through a VPA extended beyond 180 days or the period specified in the agreement, a timely judicial determination was found which indicated that continued foster care placement was in the best interests of the child.

- *AFDC determinations.* The case review found the required determinations for Aid to Families with Dependent Children (AFDC) consistently and correctly documented in the case records. Maine has maintained reliable procedures for determining financial need and deprivation of parental support according to the State's July 16, 1996 guidelines for AFDC, as required for title IV-E eligibility determinations of children removed from the home and placed into foster care. The State also routinely documents the home of removal and specified relative for purposes of AFDC determinations. In the cases reviewed, these determinations were supported by court orders with child-specific findings and associated affidavits and petitions, which provided informative details about past and current household composition and removal circumstances. The determination of AFDC eligibility is a centralized function in Maine, performed by experienced, knowledgeable staff. New staff are trained and supported by more experienced IV-E eligibility staff on these requirements regularly and as needed. This structure provides for continuity of knowledge and development of agency expertise.
- *Automation of title IV-E eligibility.* Maine continues to effectively use the title IV-E application within MACWIS to determine title IV-E eligibility and document the basis for those determinations. MACWIS also provides automated tools to support the State in ceasing title IV-E claims when a child no longer meets eligibility requirements.

Area in Need of Improvement

Issue: One (1) case was found to be in error because ineligible payments were made for a child who was placed with a foster care provider that was not fully licensed. This foster family home had previously been fully licensed. When the family was in the process of renewing its license, the family moved to another house, and the license was changed to temporary status. The temporary license status continued until the license was renewed three months later. A temporary license does not meet Maine's standard

for full licensure. Title IV-E maintenance payments were made for the period the home was not fully licensed.

Title IV-E Requirement: Consistent with Federal provisions at 45 CFR 1355.20 and §472(b) and (c) of the Act, a child must be placed in a foster care facility that meets the standards for full licensure or approval established by the State where it is located in order to be eligible for title IV-E payments.

Recommended Corrective Action: Maine should examine its procedures for managing the licensing status of foster families who move during a period when the family's license is being reviewed for renewal. The State is encouraged to make any needed policy modifications and provide training for agency staff to ensure that, in these circumstances, title IV-E claims are submitted only for those eligible children in fully-licensed foster care settings.

Disallowance

A disallowance in the amount of \$998 in maintenance payments and \$2,323 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error case. The total disallowance as a result of this review is \$3,321 in FFP. The State also must identify and repay any ineligible payments that occurred for the error case subsequent to the payments provided in the payment histories for this review. No future claims should be submitted on this case until it is determined that all eligibility requirements are met.

Next Steps

As part of the State's ongoing efforts to improve its title IV-E foster care eligibility determination process, CB recommends that OCFS examine the identified area needing improvement and develop strategies to address the problems hindering the State from operating a fully accurate foster care eligibility program. Appropriate corrective action should be taken in instances of noncompliance with Federal laws and regulations and to address general case management and documentation issues. The CB Regional Office is available to work with the State to identify and provide available technical assistance.