

**Final Report
State of North Carolina
Title IV-E Foster Care Eligibility
Primary Review**

**Report of Findings for
July 24, 2017-July 28, 2017**

Introduction

The Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the state's title IV-E foster care program. The title IV-E foster care review (IV-E review) was conducted during the week of July 24, 2017 in collaboration with the state of North Carolina's Department of Social Services and was completed by a review team comprised of representatives from the state title IV-E agency, CB Central and Regional Offices, ACF Regional Grants Management office and cross-state reviewers.

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

Scope of the Review

The IV-E review encompasses a sample of the state's foster care cases in which a title IV-E maintenance payment is claimed for an activity that occurs in the six-month period under review (PUR) of October 1, 2016 to March 31, 2017. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from data the state submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of seventy-seven (77) cases from the original sample plus three (3) oversample cases. The three (3) cases in the original sample were replaced because no title IV-E payment was made for a period of activity during the PUR.

In accordance with federal provisions at 45 CFR 1356.71, the state is reviewed against requirements of title IV-E of the Act and federal regulations regarding:

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

- Voluntary placement agreements as set forth in §§472 (a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with the state agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR 1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v);
- Placement in a licensed foster family home or child care institution as defined in §§472(b) and (c) of the Act and 45 CFR §1355.20(a); and 1356.71(d)(1)(iv); and
- Safety requirements for the child's foster care placement as required at §472(a)(20)(A) of the Act and 45 CFR §1356.30.

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

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

Compliance Finding

The review team has determined that 79 of the 80 sample cases have met all eligibility requirements (i.e., were deemed non-error cases) for the PUR. One (1) case was determined to be in error for not meeting eligibility requirements for a period during the PUR. Four (4) non-error cases meet eligibility requirements for the PUR, but are found to have periods in the child's foster care episode for which title IV-E maintenance payments are improperly claimed.

The Children's Bureau has determined the North Carolina Division of Social Services' title IV-E foster care program is in substantial compliance for the PUR. Substantial findings for non-error cases with ineligible payments are not considered in determining the state's level of compliance with federal requirements.

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

In addition to the above one (1) error case and four (4) non-error cases that are established as having ineligible payments, three (3) non-error cases have periods of eligibility for which the

state has not claimed allowable title IV-E maintenance payments. In accordance with federal regulations at 45 CFR §95.7, the state may claim the eligibility payments for the underpayment cases by filing an increasing adjustment on its title IV-E Program Quarterly Financial Report (Form CB-496) in the next quarter, if the claim for the expenditure falls within two years after the end of the calendar quarter within which the state made the expenditure.

Case Summary

The following charts record the improper payment cases, reason for the improper payments, amounts and federal provisions for which the state does not meet compliance mandates. Calculation of the improper payments is based on the federal financial participation (FFP) rates of maintenance payments at the state's Federal Medical Assistance Percentages (FMAP) for applicable year(s) for each sample case.

Error Case

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
41	<p>Removal from and living with requirements not met by the same specified relative [§472(a)(3) of the Act; 45 CFR §§1356.21(k) and (I) and §1356.71(d)(I)(v)]</p> <p>Child was not living with the same specified relative as noted in the removal court order within 6 months of child's removal. [§472(a)(1) and (3) of the Act and 45 CFR §233.20, §233.90 and §1356.21(k) &(I)]</p> <p>Ineligible: 04/23/12 - 02/13/17 Entire foster care episode</p>	<p>Maintenance: \$16,990</p> <p>Administrative: \$23,937</p>

Total Maintenance FFP	\$16,990
Total Administrative FFP	\$23,937
Total FFP	\$40,927

Non-Error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2016 – March 31, 2017	Improper Payments (FFP)
6	<p>Judicial determination of reasonable efforts to prevent removal not attained in the month the state started claiming. Title IV-E funds paid before the month of the judicial finding of reasonable efforts to prevent removal was attained. [§472(a)(2)(A) of the Act; 45 CFR §1356.21 (b)(1) & §1356.60 (a)(1)(i)].</p> <p>Reasonable efforts documented as of 10/1/14. Claim for payment started 9/29/14. Ineligible: 09/29/14 - 09/30/14</p>	Maintenance: \$88
46	<p>Judicial determination of reasonable efforts to prevent removal not attained in the month the state started claiming. Title IV-E funds paid before the month of the judicial finding of reasonable efforts to prevent removal was attained. [45 CFR §1356.21(b)(1) & §1356.60 (a)(1)(i)].</p> <p>Reasonable efforts documented as of 3/1/16. Claim for payment started 2/24/16.</p> <p>Ineligible: 02/24/16 - 02/29/16</p>	Maintenance: \$65
52	<p>Judicial determination of reasonable efforts to prevent removal not attained in the month the state started claiming. Title IV-E funds paid before the month of the judicial finding of reasonable efforts to prevent removal was attained. [45 CFR §1356.21(b)(1) & §1356.60 (a)(1)(i)].</p> <p>Reasonable efforts documented as of 9/2/15. Claim for payment started 8/31/15. Ineligible: 08/31/15 - 08/31/15</p>	Maintenance: \$12

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2016 – March 31, 2017	Improper Payments (FFP)
77	<p>Judicial determination of reasonable efforts to prevent removal was not attained in the month that the state started claiming. Title IV-E funds paid before the month of judicial finding of reasonable efforts to prevent removal was attained. [45 CFR §1356.21 (b) (1) & §1356.60 (a)(1)(i)].</p> <p>Reasonable efforts documented as of 7/5/16. Claim for payment started 06/01/16.</p> <p>Ineligible: 06/1/16-6/30/16.</p>	<p>Maintenance: \$315</p> <p>Administrative: \$468</p>

Total Maintenance FFP: \$480

Total Administrative FFP: \$468

Total FFP: \$948

Underpayment Cases

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2016 – March 31, 2017	Improper Payments (FFP)
11	<p>Placement in licensed foster care- Foster family home was fully licensed and foster care maintenance payment was not claimed for an otherwise eligible child.</p> <p>There was no specified reason for not claiming. [§472(b) and (c) of the Act; 45 CFR 1355.20)(a) and 1356.71(d) (1) (iv)]</p> <p>Eligible: 7/9/16-7/31/16</p>	\$233
34	<p>Agency did not establish AFDC connectedness until 10/2016. [§472(a) (1) and (3) of the Act; 45 CFR 233.20, 233.90 and 45 CFR 1356.21 (k) and (l)]</p> <p>Eligible: 5/2016- 9/2016</p>	\$4101

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2016 – March 31, 2017	Improper Payments (FFP)
60	<p>AFDC- Child met the AFDC requirements for eligibility in 8/2015. Agency began claiming 09/2015. [§472(a) (1) and (3) of the Act; 45 CFR 233.20, 233.90 and 45 CFR 1356.21 (k) and (l)]</p> <p>Claiming began 09/2015, however all eligibility requirements met 08/2015</p> <p>Eligible: 08/2015</p>	\$663

Total Maintenance FFP: \$4,997

Areas in Need of Improvement

Findings of this review indicate the state needs to further develop and implement procedures to improve program performance in the following areas. For each issue, there is a discussion of the nature of the area needing improvement, the specific title IV-E requirement to which it relates and the corrective action the state should undertake.

Issue #1: Living with and removal from specified relative: One case is in error because the child was not living with the same specified relative as was noted in the court order within six months that court proceedings were initiated to remove the child from the relative's home. The case is in error because the "removal from" requirement is met by a different specified relative than the "living with" requirement for title IV-E eligibility.

Title IV-E Requirement:

In order to be eligible for title IV-E, a child must be living with a specified relative during the month in which court proceedings are initiated to remove the child from that relative's home, or the month in which the specified relative signed a voluntary placement agreement. The only exception to this requirement is when a child has not been living with that specified relative in such month, but has lived with that relative within 6 months of the initiation of court proceedings or signing of the voluntary placement agreement. See § 472(a)(3)(A)(ii)(II) of the Act and 45 CFR § 1356.21(l).

Recommended Corrective Action: The agency should ensure that staff are trained to understand the "living with and removal from" requirements and the linkage to determining the AFDC removal home for title IV-E eligibility. North Carolina Division of Social Services and the Administrative Office of Courts should work with county and other pertinent staff to ensure that procedurally, the child has lived with the specified relative from whom the child is removed within six months of initiation of the petition to remove the child (or court order, as applicable).

Issue #2: Title IV-E Payments Claimed Prior to Requirements Met

In four (4) non-error cases, the review team determined that title IV-E maintenance payments were claimed for periods prior to the month the judicial finding of reasonable efforts to prevent removal was made. In sample number six, the county claimed title IV-E for two days in September, 2014, the month before it had secured a judicial determination of reasonable efforts to prevent removal in October 2014. Similarly, in sample number 46, the agency claimed title IV-E funds in February 2016, which was the month before it obtained a judicial determination of reasonable efforts in March 2016. In sample number 52, the county claimed title IV-E in August 2015, but did not obtain a judicial determination of reasonable efforts until September 2015. Finally, we specifically highlight the fact that in the fourth non-error case, number 77, the provider was paid for a full month in June 2016; however, the child was only in care for two days. Moreover, the County did not obtain a judicial determination of reasonable efforts until July, 2016.

Title IV-E Requirement: Consistent with § 472 of the Act and federal regulations at 45 CFR §1356.60 (a)(1)(i), title IV-E foster care maintenance payments may not be claimed on behalf of a child for a period that is before the month all title IV-E eligibility criteria are met, including those pertaining to the judicial determinations of contrary to the welfare and reasonable efforts to prevent removal. When the title IV-E maintenance payments are claimed for periods before the child is title IV-E eligible, the title IV-E maintenance payments are ineligible for claiming and are disallowed when claimed.

Recommended Corrective Action: We recommend that the state continue to train county staff that they may not claim title IV-E until they have secured all relevant judicial determinations, including the reasonable efforts to prevent removal requirement. Finally, we encourage the state to consider implementing system safeguards that do not allow the county to claim title IV-E unless and until it has secured the relevant initial judicial determinations.

Issue #3 Underpayments: There were three (3) sample cases in which the agency did not claim title IV-E when it could have done so. In one (1) case, reviewers noted that claiming began 09/2015, even though all of the eligibility criteria had been met during the previous month. In another case, underpayments occurred because the agency did not establish AFDC connectedness until 10/26/16, but the child otherwise would have been eligible in 05/2016. In the third case, the child was eligible and was in an allowable and claimable placement; however, the county did not claim reimbursement from 7/9-7/31/16. In short, in each of these three sample cases, the agency failed to claim payments for the maximum time that they could have claimed for each child.

Title IV-E Requirement:

Federal regulations at 45 CFR 1356.60 state that title IV-E foster care maintenance payments may be claimed for allowable costs of expenditures that are covered by the federal definition of foster care maintenance found at section 475 (4) of the Act. Title IV-E maintenance payments may be claimed from the first day of the foster care placement in the month in which all title IV-E eligibility requirements are met as stipulated in section 472 of the Act.

Recommended Corrective Action:

North Carolina Division of Social Services should ascertain whether there are systemic factors that have caused the occurrence of underpayments. Understanding any such systemic factors will allow the agency to develop corrective actions to correct it and claim for children who are eligible. The process should involve the application of fiscal controls that will reduce or eliminate underpayments and maximize the state's ability to draw title IV-E funds for eligible children.

Additional Areas of Concern

Payment History Issue:

North Carolina Division of Social Services submitted its title IV-E payment history as part of the review process; it is critical that the payment history is accurate and complete. As we discussed onsite, the review findings indicate that the payment histories did not reflect actual payments to providers. Instead, it only reflected reimbursement by the state to the counties.

We have an overarching concern about the state's fiscal controls as to whether the right providers are getting paid, because payment histories need to show actual payment and not merely reimbursement to counties. We noted several cases in which the payment and placement histories conflicted. The state examined each circumstance during the review and found that the county had paid the correct provider, but had reported to the state inaccurately. These issues were caught during the review because the payment histories in the past only listed the Facility ID and did not include the provider Name that coincides with the Facility ID. The payment history is a vital element of documentation upon which the determination of whether a proper title IV-E payment is made and expenditure is verified. We therefore strongly encourage the state to improve its fiscal oversight and controls.

Systems issue:

Reviewers also noted inconsistency in related county data and system output (placement/payment records, etc.) related to title IV-E review information. There is currently no systems functionality to validate title IV-E payments automatically at the state level, i.e. reconciling foster parent, placement, licensure information, etc. to confirm appropriate payments. Counties are expected to perform individual quality assurance checks before submitting reimbursement documentation. The ability to generate placement and payment information at a county level from the system does not currently exist, and/or needs refinement.

Since North Carolina is in the process of developing new enhancements to its automated NCFAST system that will include a payment component, we strongly encourage the state to include an automated quality assurance module that could periodically review and track payments for accuracy and compliance with federal requirements and state standards.

Program Strength and Promising Practices

Court Hearings and Court Orders:

Judicial determination of contrary to welfare and reasonable efforts to prevent removal were timely and child specific. As indicated in the 2014 title IV-E eligibility review findings, the 2017 review team found that court orders include the requisite judicial findings, are child specific, and are detailed; the good court practice is an indication of effective collaboration between NCDSS and the Administrative Office of Courts (CIP). The state should continue its collaborative effort with the CIP so as to ensure ongoing quality child-specific findings statewide.

As noted in the title IV-E review of 2014 findings, the judicial findings of reasonable efforts to finalize the permanency plan are obtained in a timely manner and occur more frequently than the federal requirements. We noted that in many cases in the review sample, the agency secured the findings within six months.

Documents and case files were well organized. Moreover, North Carolina's review staff demonstrated strong understanding of the title IV-E eligibility requirements and process.

Eligibility Determinations:

As stated in the 2014 North Carolina title IV-E Eligibility report findings, the revisions made to eligibility determination form (DSS-5120) and Redetermination form (DSS-5120A) have been a key component that has helped in reducing the errors that occur in eligibility determinations. Reviewers also noted that the AFDC forms are well-designed to easily record all of the essential information for assessing eligibility and are standardized across counties, demonstrating strong, effective internal controls that reduce the potential for inaccurate AFDC determinations.

Disallowances:

A disallowance in the amount of \$17,470 in maintenance payments and \$24,405 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for the error case. The total disallowance as a result of this IV-E review is \$41,875 in FFP.

Next Steps:

As part of North Carolina's ongoing effort to improve the agency's title IV-E foster care eligibility determination process, the Children's Bureau recommends that North Carolina's continue to examine the identified areas that need improvement, and develop measurable, sustainable strategies that target root causes of identified issues. The Children's Bureau Region 4 staff is available to assist the state in identifying corrective action and obtaining support available through our network of training and technical assistance centers to help the state address issues and concerns raised during the IV-E review.