

Final Report
State of New Hampshire Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for April 1, 2018 - September 30, 2018

Introduction

The Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the New Hampshire title IV-E foster care program during the week of April 8, 2019. The IV-E Review was conducted in collaboration with the New Hampshire Division for Children, Youth and Families (DCYF) and was completed by a review team comprised of representatives from DCYF, 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 New Hampshire'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 New Hampshire's financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

The New Hampshire title IV-E foster care program's primary eligibility review encompassed a sample of the state's foster care cases in which the state claimed a title IV-E maintenance payment for an activity during the six-month period under review (PUR) of April 1, 2018 through September 30, 2018. A computerized statistical sample of 125 cases (80 cases plus 45 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 61 cases from the original sample plus 19 oversample cases. The oversample cases were selected for review to replace cases for which no title IV-E maintenance payment was made for a period of 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 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 state agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR 1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR 1356.71(d)(1)(v);

- Placement in a licensed foster family home or child care institution as defined in §§472 (b) and (c) of the Act and 45 CFR 1355.20(a) and 1356.71(d)(1)(iv); and
- Safety requirements for the child's foster care placement as required at §471(a)(20)(A) of the Act and 45 CFR 1356.30.

The case record of each child in the selected sample is reviewed to verify title IV-E eligibility. The foster care provider's information is also reviewed to ensure the foster family home or child care institution where the child lived during the PUR is fully licensed and satisfactorily 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 that are 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 a title IV-E maintenance payment 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 payment (e.g. for a duplicate payment, overpayment) is claimed for the activity date. In addition, underpayments are identified for a sample case when the state agency unintentionally failed to claim for 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 72 of the 80 cases meet all eligibility requirements (i.e., are deemed non-error cases) for the PUR. Eight (8) cases were determined to be in error for not meeting eligibility requirements either for a period only during the PUR or the entire foster care episode. Fourteen (14) non-error cases meet eligibility requirements for the PUR, but are found to have periods in the foster care episode for which title IV-E maintenance payments are improperly claimed.

One (1) of the eight (8) error cases came about when maintenance payments were claimed for a period during the PUR on behalf of the child while placed in an unlicensed, relative foster home, and the rest of the seven (7) error cases with foster care maintenance payments made for periods during and outside the PUR occurred when there was insufficient documentation from the court that the responsibility for the placement and care of the child was vested with DCYF.

The state also incorrectly included as foster care maintenance payments claims for 14 cases related to certain child health support services that are not allowable under the federal definition of a title IV-E foster care maintenance payment. There are no cases identified as having underpayments.

The Children's Bureau has determined that New Hampshire's title IV-E foster care program is not in substantial compliance with federal eligibility requirements for the PUR. Non-substantial compliance in a primary IV-E review means the total number of error cases determined as not meeting eligibility requirements for the PUR is more than four (4) cases. Additional findings for the non-error cases with ineligible payments are not considered in determining the state's compliance level. Since the state is not in substantial compliance, a program improvement plan and a secondary review of 150 sample cases are required.

Case Summary

The following charts record the improper payment cases comprised of error and non-error cases with the reasons for the improper payments; improper payment 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 for the sample case.

Error Cases:

Sample Number	Improper Payment Reason & Ineligibility Period PUR - April 1, 2018 - September 30, 2018	Improper Maintenance Payment FFP	Improper Administrative Payment FFP
32	Foster care provider was not fully licensed. [§472(b) and (c) of the Act; 45 CFR 1356.71(d)(1)(iv)] Title IV-E payments were claimed for child health support payments that are unallowable as maintenance payments. [45 CFR 1356.71(d) (2), 472(b), and 475 (4) (A) of the Act, and 45 CFR 1355.20(a)]. Reported Ineligible Payment Period: 8/1/18 – 2/27/19	\$6,655	\$6,978
For the 7 error cases listed below, foster care maintenance payments were made while there was insufficient documentation from the court that DCYF was responsible for the placement and care of the child. [§472(a)(2)(B) of the Act; 45 CFR 1356.71(d)(1)(iii)]			
9	Reported Ineligible Payment Period: 4/1/18 – 7/31/18	\$1,059	\$0
18	Reported Ineligible Payment Period: 11/1/17 - 6/30/18	\$2,050	\$1,994
22	Reported Ineligible Payment Period: 12/1/17 - 6/30/18	\$1,672	\$0
35	Reported Ineligible Payment Period: 6/1/17 - 9/30/18	\$20,786	\$14,871
36	Reported Ineligible Payment Period: 6/1/17 - 9/30/18	\$22,699	\$11,881
37	Reported Ineligible Payment Period: 5/1/18 - 6/30/18	\$487	\$0
62	Reported Ineligible Payment Period: 2/1/18 - 5/30/18	\$6,625	\$3,987
	Subtotals	\$62,033	\$39,711

Total FFP: \$101,744

Non-error Cases with Improper Payments:

Sample Number	Improper Payment Reason & Ineligibility Period PUR - April 1, 2018 - September 30, 2018	Improper Maintenance Payment FFP
For the 14 non-error cases listed below, title IV-E payments were claimed for child health support payments that are unallowable as maintenance payments. [45 CFR 1356.71(d) (2), 472(b), and 475 (4) (A) of the Act, and 45 CFR 1355.20(a)].		
8	Reported Ineligible Payment Period: 7/1/18 – 3/6/2019	\$4,108
39	Reported Ineligible Payment Period: 7/1/18 – 12/31/2018	\$1,869
44	Reported Ineligible Payment Period: 7/10/18 – 10/7/2018	\$1,890
45	Reported Ineligible Payment Period: 7/1/18 – 2/15/2019	\$5,648
50	Reported Ineligible Payment Period: 7/2/18 – 2/2/2019	\$9,120
52	Reported Ineligible Payment Period: 7/1/18 – 2/14/2019	\$3,718
55	Reported Ineligible Payment Period: 8/2/18 – 9/19/2018	\$431
56	Reported Ineligible Payment Period: 7/2/18 – 2/22/2019	\$3,574
63	Reported Ineligible Payment Period: 7/1/18 – 9/24/2018	\$781
73	Reported Ineligible Payment Period: 7/1/18 – 12/20/2018	\$2,609
OS-2	Reported Ineligible Payment Period: 7/5/18 – 11/20/2018	\$2,752
OS-11	Reported Ineligible Payment Period: 7/1/18 – 8/22/2018	\$370
OS-14	Reported Ineligible Payment Period: 7/2/18 – 7/11/2018	\$164
OS-17	Reported Ineligible Payment Period: 7/2/18 – 2/11/2019	\$2,403

Total Maintenance FFP: \$39,437

Areas Needing Improvement

Findings of this review indicate the state agency 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: Unlicensed Foster Care Provider

One (1) case (#32) was in error with ineligible payments because the state claimed foster care maintenance payments for periods during which the child was placed with a foster family that was not fully licensed. The state agency must document that the child's foster care placement is fully licensed or approved in order for the child to be eligible under title IV-E.

For the error case, we noted that the DCYF eligibility and claiming processes were successful in preventing the claiming of room and board payments for the child's placement with the unlicensed foster care provider. However, title IV-E maintenance payments were made to cover child health support payments for the months prior to full licensure of the foster family home. Child health support payments also are not allowed as foster care maintenance payments for a child under the title IV-E program.

Title IV-E Requirement: Federal provisions at §472(b) and (c) of the Act; 45 CFR 1356.71 (d)(1)(iv) and 1355.20 permit FFP for the costs of foster care maintenance for otherwise eligible children placed in licensed or approved foster family homes or childcare institutions. These provisions require that the child's foster care setting be fully licensed or approved in accordance with the state's licensing standards where the foster family home is located. For the title IV-E Review, the state must provide sufficient information to support FFP for a child's foster care placement during the PUR.

Recommended Corrective Action: The state should determine why certain payments are being erroneously claimed under title IV-E. A foster care provider must meet all state licensing criteria for the period of the state's claiming of any title IV-E maintenance payments on behalf of a child placed in the foster care setting. We recommend that DCYF enhance its eligibility monitoring procedures to ensure that no title IV-E maintenance payments are claimed for children placed with caregivers, including relatives, until the caregivers have been fully licensed.

Issue #2: Responsibility for placement and care placed with title IV-E agency.

During the New Hampshire primary title IV-E Review, among other title IV-E requirements, cases were examined to ensure that the title IV-E agency maintained responsibility for the placement and care of the child during the PUR. The reviewers found seven (7) error cases for which title IV-E funds were claimed for the PUR when the responsibility for the placement and care of the child was not vested with DCYF. In these juvenile justice cases, New Hampshire's court orders lack language clearly specifying that placement and care was vested with DCYF. A decision on whether the requirement was met in the cases was based on the fact that there was insufficient documentation from the court that evidenced assignment of placement and care authority to the state agency.

Title IV-E Requirement: Section 472(a)(2) of the Act requires for program eligibility that the responsibility for placement and care be placed with the title IV-E agency with an approved title IV-E plan under section 471 of the Act. The title IV-E agency must present documentation during a title IV-E foster care eligibility review that it has responsibility for placement and care of the child for the entire period for which title IV-E maintenance payments are claimed during the foster care episode.

Recommended Corrective Action: The state should ensure that the judicial requirements are met before claiming for title IV-E maintenance payments. The judicial determination, including placement and care authority vested with the state agency, must be explicitly documented in a court order or court transcript. As advised in the 2016 IV-E Review, a mere reference to state statute is not sufficient documentation. The DCYF should continue the work that has been done through the Court Improvement Program that has strengthened the quality of court orders for child protection cases so that the agency can achieve the same level of specificity and quality in the orders for juvenile justice cases.

Issue #3: Improper payments for non-error cases

Fourteen (14) cases were determined to be non-error cases with improper payments during and outside the PUR because the title IV-E payment history for the sample cases included child health support services that are not allowable as title IV-E maintenance payments. (These child health support services included services such as supportive counseling, health assessment, health education, behavioral health management, and other supports to improve the health and well-being of children and other family members.) The child in each case met all of the requirements for title IV-E eligibility.

Title IV-E Requirement: Consistent with 45 CFR 1356.60(a)(i), title IV-E foster care maintenance assistance payments may be claimed only for the cost of providing certain expenditures covered within the federal definition of foster care maintenance at §475(4) of the Act. The state must document that foster care maintenance payments claimed for title IV-E reimbursement are for allowable expenditures in accordance with the statutory definition, are in amounts conforming to the state established rates of payment for the type and level of care provided, and reflect non-duplicative costs of daily maintenance.

Recommended Corrective Action: The CB urges the state to identify the systemic factors underlying these improper payments and develop strategies to correct them during the implementation of the program improvement plan. The state must also cease claiming title IV-E reimbursement for child health support payments.

Program Strengths & Promising Practices

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

Judicial Determinations and Court Orders:

The DCYF and the court have collaborated to strengthen the efficiency of actions through training and support of judges, attorneys, and other court staff, particularly in terms of the required judicial determinations through court improvement programs. Judicial determinations were child-specific and those pertaining to the child's removal clearly outlined the circumstances under which the child was removed from the home. In all sample cases reviewed, the court orders and judicial determinations of reasonable efforts to prevent removal were found in the Emergency or Adjudicatory order along with the judicial determinations of whether remaining at home was contrary to the child's welfare. The judicial determinations were timely and included rulings that facilitated timely permanency plans. The DCYF has strengthened judicial determinations through strong collaboration among the Court Appointed Special Advocates (CASA) program, parents' attorneys, agency attorneys and the work of the Court Improvement Program.

Court orders explicitly documented the "contrary to welfare" and "reasonable efforts" judicial findings. There were a few cases in which the judicial requirement was not met timely regarding "reasonable efforts to finalize the permanency plan"; however, the agency did not claim title IV-E maintenance payments for the ineligible period(s). The removal court orders were obtained from the court the next business day following removal if an emergency removal occurred after hours. The agency has maintained its close collaboration with the courts and worked to educate the judiciary to promote timely and quality judicial findings. As noted above, the agency should continue its partnership with the courts to improve the quality of court orders involving juvenile justice cases.

Safety Requirements and Licensure:

The completion of FBI fingerprint-based checks for foster parents and safety considerations for the staff of childcare institutions was well-documented and demonstrated full compliance with the requirements in section 471(a)(20) of the Act and 45 CFR 1356.30(f). The DCYF has designated staff who work with both state and local police to ensure criminal background checks are completed and processed timely. The state uses "Livescans" to obtain and request fingerprint-based checks of criminal databases. Results of federal and state criminal background checks are transmitted by the New Hampshire State Police's automated computer system.

New Hampshire's automated system "BRIDGES" reminds staff when a license is due for renewal and has the ability to turn on and off title IV-E payments based on eligibility status. The automated claiming process contains edits that are intended to stop payments to a placement provider if the provider's license is not valid.

Eligibility Determinations:

The staff has a clear understanding of title IV-E foster care eligibility requirements related to the AFDC requirements of financial need, deprivation, and living with and removal from a specified relative. As evidenced by the cases reviewed, eligibility staff are verifying and clearly documenting the persons in the home at the time of removal and the month for which the AFDC determination is completed. The path to eligibility was clearly documented in each case reviewed.

The DCYF has developed flow charts, desk reference tools, and mini tests that assist staff with eligibility determinations based on both the internal quality assurance and the supervisory review

processes. The cross match system is used to test resources via the Medicaid, wages and child support systems. The eligibility worksheet, deprivation form, parent information form, financial affidavit, and the resource screen were very helpful for the reviewers in reviewing the cases.

The DCYF has a separate module in the agency's automated eligibility system that is programmed to include all of the state's Aid to Families with Dependent Children (AFDC) state plan requirements that has been very effective. Fiscal specialists are also trained to do a manual AFDC budget based on the AFDC requirements. Training needs are identified through the quality assurance work being completed in the unit.

Quality Assurance: The state has developed a QA process to track and monitor program performance and to strengthen the proficiency of eligibility specialists responsible for eligibility determinations. The QA process is in place to support training and identify areas needed for additional training and focus areas.

The DCYF utilizes the Children's Bureau's title IV-E Review instrument to review all their cases. This helps the agency address ongoing training issues based on the outcomes of these reviews. The QA process has been a main driver to allow supervisors and managers the ability to identify key training areas and offer customized training for eligibility staff. The DCYF commitment to a continuous quality improvement process was evident throughout this review.

Eligibility Automation:

In addition to the program enhancements, complete case records were available onsite for each sampled case in this review. The DCYF provided screen prints of relevant eligibility information from New Hampshire's automated system along with paper case files to document eligibility requirements related to AFDC, judicial determinations, agency placement and care responsibility and the child's foster care placements. Reviewers also were able to access the completed case files and all licensing information with assistance from staff if additional information was required. Access to the complete case information on the child and child's placement assisted reviewers in properly assessing the state's eligibility documentation, eligibility decisions and FFP claims.

The state has a well-integrated automated system which provides access to demographic information from the DCYF automated system and family financial information through the TANF and Medicaid automated systems operated by other state agencies. Title IV-E eligibility determinations are completed in the Title IV-E Application within New Hampshire DCYF system and are documented in summary form on the automated worksheets. Overall the automated worksheets provide clear, thorough documentation of the eligibility decision, basis for the decision, and period of eligibility.

The system produced a payment history for the IV-E Review that was comprehensive and captured necessary data on the child, provider, payment amounts, funding sources, service codes and activity dates.

Disallowances

A disallowance in the amount of \$62,033 in maintenance payments and \$39,711 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error cases. A disallowance in the amount of \$39,437 in maintenance payments are assessed for title IV-E foster care payments that are claimed for the non-error cases.

Based on the results of the above determinations for New Hampshire's primary title IV-E eligibility review, the total disallowance as a result of this review is \$141,181 in FFP. The state also must identify and repay any ineligible payments that occurred for the error cases and other ineligible cases subsequent to the payments provided in the payment histories. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

Next Steps

New Hampshire is required to complete a Program Improvement Plan (PIP) as a result of being determined not in substantial compliance in this primary review. The state must submit its PIP to the CB Region 1 Office for approval within 90 calendar days from the date the state receives this final report and accompanying report letter from the CB advising your title IV-E program is not operating in substantial compliance [45 CFR 1356.71(i)(2)].

The PIP must be developed by the state in consultation with CB staff and must address, at a minimum, each area the IV-E Review identified as needing improvement. The state is expected to work closely with the CB regional office for guidance and technical assistance throughout the PIP development and implementation processes.

The PIP must include the following elements, as noted in federal regulations at 45 CFR 1356.71(i):

- specific goals for improvement action
- steps needed to correct each identified weakness or deficiency
- time frames for completing each action step

The CB does not require a state to use a particular format when developing its PIP. However, the PIP must provide sufficient detail and context to ensure the CB regional office and state staff can work in partnership to monitor the state's progress in implementing and completing the PIP. To assist state staff with the PIP process, the CB has developed a standard template that is recommended for state staff to use in preparing the PIP document for initial submission and for periodic reporting of progress to the CB regional office. The state is requested to electronically submit its PIP documents to the CB regional office.

The state is strongly encouraged to use the PIP process to examine program deficiencies and develop measurable, sustainable strategies that target the root cause of problems preventing the state from operating an accurate foster care eligibility program. The PIP planning and implementation process provides the state with an excellent opportunity to engage the judiciary, licensing agency, and other state partners to develop strategies for making short-term and long-term changes necessary to improve state performance and service delivery. The state also should use the PIP process to enhance its internal quality assurance procedures to inform and eventually evolve into a systematic mechanism

for continuous program improvement that support systemic change and sustain successful performance achievements over time.

The PIP development may necessitate making changes to your automated information systems. We encourage you to include state data analysis staff and information technology staff in discussions with program staff about modifications. If your state has an active information technology project that qualifies for title IV-E funding under federal regulations at 45 CFR 1355.52, the information technology changes made must be reported and approved through the process described in 45 CFR 1355.54.

A secondary review of 150 sample cases is conducted, in accordance with 45 CFR 1356.71(j) (2), following the expiration of the state's approved PIP completion date.

The CB Region 1 office will assist the state in identifying corrective action for the PIP and obtaining support available through our national network of training and technical assistance centers to help the state develop and implement program improvement strategies.