

**State of New Jersey
Department of Children and Families
Primary Review
Title IV-E Foster Care Eligibility**

**Report of Findings for
April 1, 2014 – September 30, 2014**

Introduction

During the week of March 22, 2015, the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary eligibility review of New Jersey's title IV-E foster care program. The review was conducted in collaboration with the New Jersey Department of Children and Families (DCF) and was completed by a review team comprised of representatives from DCF, CB Central Office and Region II staff, ACF Regional Grants Management staff and two peer reviewers from other states. The purposes of the title IV-E foster care eligibility review were (1) to determine whether New Jersey's title IV-E foster care program was 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 New Jersey's financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

During the review, the review team examined a sample of New Jersey's foster care cases that received a title IV-E maintenance payment during the six-month period under review (PUR) of April 1, 2014 – September 30, 2014. A computerized statistical sample of 100 cases (80 cases plus 20 over sample 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, with seventy-seven (77) cases from the original case sample and three (3) cases from the oversample. Prior to the on-site review, three (3) cases from the original sample were eliminated after it was determined that title IV-E payments were not made for a period during the PUR. The state provided documentation to support excluding these cases from the review sample and replacing them with cases in the oversample.

During the on-site review, one case in the original sample was identified for which the state indicated that all title IV-E maintenance payment claims for the PUR were in the process of being reversed. We, therefore, decided to review one extra oversample case to assure that the review would consist of the required 80 case sample should this case need to be pulled from the sample and replaced with an oversample case. The state, however, could not verify that title IV-E payments in the PUR were rescinded before the eligibility review sample was provided to the title IV-E agency. Therefore, the involved case remained in the original sample and the fourth oversample case was not used to replace it.

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 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) (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 child care 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 files of each child in the selected sample were reviewed to verify title IV-E eligibility. The foster care provider’s file also was examined to ensure the foster family home or child care institution where the child was placed during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child were also reviewed to verify that expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating when the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was paid. A sample case was cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity.

Compliance Finding

The review team determined that 77 of the 80 cases reviewed met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Three (3) cases were determined in error for either part or all of the PUR and four (4) non-error cases were ineligible for federal funding for a period of claiming outside of the PUR. In addition, an underpayment was identified for one (1) sample case when an allowable title IV-E maintenance payment was not, but could have been, claimed by the state for an eligible child.

Accordingly, federal funds claimed for title IV-E foster care maintenance payments, including related administrative costs associated with the error cases and non-error cases with ineligible payments, are being disallowed. Based on the review findings, the Children’s Bureau has determined that New Jersey’s title IV-E foster care program is in substantial compliance with federal eligibility requirements for the PUR. Substantial compliance in a primary review is achieved when there are fewer than five (5) error cases during the PUR.

The following charts record the error cases; non-error cases with ineligible payments; underpayments; reasons for the improper payments; improper payment amounts; and federal provisions for which the state did not meet the compliance mandates.

Case Record Summary
Error Cases

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
#7	Foster family home not licensed. [§§472(b) and (c); 45 CFR §§1355.20 & 1356.71(d)(1)(iv)] Ineligible Payment Period: 03/10/14-11/30/14	\$ 4,085 Maint
#43	Foster family home was not fully licensed. [§§472(b) and (c); 45 CFR §§1355.20 & 1356.719(d)(1)(iv)] Ineligible Payment Period: 08/25/14- 11/30/14	\$ 1,486 Maint
#56	Safety requirements of the child care institution were not met [§45 CFR §§ 1355.20 and 1356.30] Ineligible Payment Period: 09/16/14-10/16/14	\$ 726 Maint \$1,022 Admin

Non-Error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
#9	Safety requirements for foster care provider were not met. [Section 471(a)(20)of the Act and 45 CFR §1356.30]. Ineligible Payment Period: 02/13/2013-04/30/13	\$1,374 Maint \$2,976 Admin
#39	Safety requirements of the child care institution were not met [45 CFR §§ 1355.20 and 1356.30] Ineligible Payment Period: 10/11/13-03/06/14	\$8,478 Maint \$3,067 Admin
# 48	Foster Family Home was not fully licensed [§§472(b) and (c); 45 CFR §§1355.20 & 1356.719d)(1)(iv)] Ineligible Payment Period: 03/1/13-3/31/2013	\$221 Maint
#OS-2	Foster Family Home was not fully licensed [§§472(b) and (c); 45 CFR §§1355.20 & 1356.719d)(1)(iv)] Ineligible Payment Period: 06/17/2013-03/31/2014	\$3875 Maint

Underpayments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
#77	Foster Family home was licensed but the State did not claim title IV-E funds for a period of time Eligible Period: 10/1/13-11/30/13	\$961 Maint

Areas in Need of Improvement

The findings of this review indicate that the State needs to further develop and implement procedures to improve program performance in the following areas:

Issue #1: Unlicensed Foster Care Provider

In error cases #7 and #43 and non-error cases #48 and #OS-2, foster care maintenance payments were made for a child placed with an unlicensed provider. The state claimed title IV-E maintenance funds for a period prior to the relative caregiver becoming fully licensed as a foster family home. 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.

Title IV-E Requirement: Federal provisions at §472(b) and (c) of the Act and 45 CFR §1355.20 permit federal financial participation (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 continue to ensure that staff is fully trained and understand that all state licensing criteria must be met prior to claiming title IV-E maintenance payments on behalf of a child placed in the foster care setting. We recommend that the state enhance its eligibility monitoring procedures to ensure that title IV-E maintenance payments are not claimed for children placed with caregivers, including relatives, until the caregivers have been fully licensed.

Issue #2 Safety requirements of the Foster Family Home

In non-error case #9, ineligible payments were made for periods prior to completion of safety checks.

Title IV-E Requirement: To ensure that a child is not placed in a foster care setting where the potential caregiver has caused or is likely to cause harm to a child, the state is required to examine the potential safety risk posed to the child by a foster care provider. The state agency

must document that the foster care provider meets the established safety standards before a foster care provider is licensed or approved and before title IV-E foster care maintenance payments are claimed on behalf of a child placed in the foster family home or childcare institution, as required in §471(a)(20)(A) of the Act and 45 CFR §1356.30.

Recommended Corrective Action: The state should continue to ensure that all staff statewide is trained and understands the federal requirements. We recommend that the state enhance its monitoring procedures to ensure that title IV-E maintenance payments are not claimed for children placed in foster homes until criminal background checks have been satisfactorily completed.

Issue #3 Safety requirements of Childcare Institutions

In non-error case #39, ineligible payments were made for a period prior to the completion of the criminal background checks. In error case #56, we could not determine if the safety requirements were completed for one staff member of the childcare institution. It is the state policy that within two weeks of hire, new staff members of New Jersey childcare institutions providing behavioral health treatment or shelter care must submit to a fingerprint-based, national criminal record background check, state child abuse record information (CARI) check and CARI check of any previous state of residence. The staff member is not permitted to work alone with children until the results of the background checks are received with an indication that there is no record or a determination is made that any identified items do not prohibit such employment. A letter from the New Jersey Department of Human Services (DHS) Central Fingerprint Processing Unit verifies the results of the fingerprint-based check. In error case #56, the letter from the DHS central processing unit did not clearly verify the results of the fingerprint background checks. In addition, the residential personnel worksheet did not contain sufficient information.

Title IV-E Requirement: Title IV-E agencies are reviewed against the statutory and regulatory safety requirements specified in §471(a)(20)(A) of the Act and 45 CFR § 1356.30, respectively. As a condition of the title IV-E plan and child eligibility, the agencies must have procedures that address safety considerations of the caregiver staff of childcare institutions. The title IV-E agencies must complete the safety requirements before licensing or approving a childcare institution and before title IV-E maintenance payments can be claimed for the period of the child's placement in the childcare institution. In addition, federal requirements mandate the title IV-E agency to document that the background safety checks with respect to the caregiver staff of the childcare institution are completed in accordance with the licensing agency's requirements where the childcare institution is located.

Recommended Corrective Action: It is recommended that the State continue to ensure that facility staff is adequately trained on the safety check process. A quality assurance review of childcare facility licensing records would assist in identifying any lapses in the necessary criminal background checks for staff at such facilities. For a title IV-E review, documentation of safety background checks will be accepted based upon the degree to which the documentation clearly specifies (1) the background checks completed, (2) the date completed, (3) the individual on whom completed, (4) the individual completing the background check or reviewing the results of the background check, and (5) the evidence reviewed. The documentation must

explicitly reflect the evidence that is reviewed. Furthermore, the documentation must verify all of the applicable safety requirements are met for the period the title IV-E maintenance payments are made on behalf of a child residing in the foster family home or childcare institution during the PUR. We recommend that the residential personnel worksheet be enhanced to clearly demonstrate the date the criminal background check is completed.

Issue #4: Underpayments

In sample case #77, the foster home was fully licensed but the state did not claim title IV-E funds for the entire period of time of the eligible child's placement in the home. The state initially claimed title IV-E funds once the home became licensed, but then it suspended such claiming for a two-month period. New Jersey then resumed title IV-E claiming for subsequent periods. During the review it could not be determined why the state stopped claiming.

Title IV-E Requirement: federal regulations at 45 CFR 1356.60 provide that title IV-E foster care maintenance payments may be claimed for allowable costs that are covered by the federal definition of "foster care maintenance" found at §475(4) of the Act. Under §472 of the Act and ACYF-CB-PIQ-91-05, 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 criteria are met. The payment may be claimed for the entire month when an eligible child has resided in the foster care placement for the entire month. However, if the eligible child is placed on a date in the month other than the first of the month, title IV-E funds may be claimed for the period beginning with the actual date of foster care placement.

Recommended Corrective Action: We recommend that New Jersey identify the cause(s) of non-title IV-E claiming on behalf of children meeting all title IV-E eligibility requirements and put processes into place to ensure that it is fully claiming its share of title IV-E funds for these children. This process would help to reduce or eliminate underpayments and increase the state's ability to maximize reimbursements for allowable costs of care for eligible children by using funding under title IV-E.

Strengths and Promising Practices

Judicial Determinations

The title IV-E review findings reflected the dedicated efforts between the state child welfare agency and the court system to ensure that court proceedings occurred timely and that title IV-E requirements were being met. Reviewers noted that the court order findings were clear, timely and specific to the individual case. Most of the court orders included detailed child-specific language. In all sample cases reviewed, the court orders and judicial determinations of reasonable efforts to prevent removal were found in the first order along with the judicial determinations of whether remaining at home was contrary to the child's welfare. The permanency hearings, in which judicial findings of reasonable efforts to finalize the permanency plan are obtained, are occurring on a timely basis and in many instances before the due dates. Reviewers commented that standard court language existed across the counties. In all sample

cases, the agency maintained responsibility for the care and placement of the child throughout the life of the case.

Income Eligibility/AFDC Documentation:

The AFDC eligibility specialists have access to income verification systems which are used to document and support eligibility decisions. The history of income, deprivation, employment, family supports, and other data was well documented in the AFDC eligibility narrative. The general information is automated and the system calculates if the family meets the AFDC requirements based on the input from the specialist. Reviewers noted that eligibility files were well-organized with supporting documentation showing the search for income. The required determinations for AFDC were consistently and correctly documented in the case records.

Automated Data System

New Jersey's child welfare automated system, NJ SPIRIT, continues to facilitate timely eligibility decisions and track eligibility throughout the foster care episode. Once all eligibility requirements are met, the child's status changes to eligible and claimable. The system is able to interface electronically with the Office of Licensing allowing workers to view and print licenses and safety documentation. In addition, the system sends electronic requests for and receives electronic transmissions of criminal record checks from state and federal law enforcement agencies. These electronic system interfaces eliminate duplicative data collection efforts by staff and increase the authenticity of data used for eligibility determinations.

Disallowances

A disallowance in the amount of \$6,297 FFP in maintenance assistance payments and \$1,022 FFP in administrative costs is assessed for the identified error cases. A disallowance is assessed for the non-error cases with ineligible payments in the amount of \$13,948 FFP in maintenance assistance payments and \$6,043 FFP in administrative costs.

The total disallowance resulting from the review is \$27,310 FFP (\$20,245 FFP in maintenance assistance and \$7,065 FFP in administrative). The state must also identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the PUR. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

Underpayments identified as the result of the review may subsequently be claimed by the state filing an increasing adjustment on its Form CB-496 in the next quarter, but not later than 2 years after the calendar quarter in which the state agency made the expenditure (45 CFR 95.7).

Next Steps

As part of the state's ongoing efforts to improve its title IV-E foster care eligibility determination process, CB recommends that New Jersey examine the areas of concern identified in this report. The state should develop measurable, sustainable strategies that will target the root cause of the concerns and improve the foster care eligibility program. The CB Regional Office believes that New Jersey's title IV-E unit provides a vehicle to continuous improvements and staff will be available, as needed, to provide assistance and guidance.