

**Final Report**  
**Puerto Rico**  
**Primary Review**  
**Title IV-E Foster Care Eligibility**  
**Report of Findings for**  
**April 1, 2015 – September 30, 2015**

**Introduction**

The Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of Puerto Rico's title IV-E foster care program. The title IV-E foster care review (IV-E review) was conducted during the week of April 18, 2016 in collaboration with Puerto Rico and was completed by a review team comprised of representatives from the territory title IV-E agency, state court improvement project, CB Central and Regional offices, ACF Regional Grants Management office and cross-state peer reviewers.

Key purposes of the IV-E review are (1) to determine whether the Puerto Rico's 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 Puerto Rico'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 Puerto Rico'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 April 1, 2015 – September 30, 2015. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from data Puerto Rico has submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 79 cases from the original sample plus one oversample case. Sample case 47 was excluded from the original sample because no title IV-E foster care maintenance payment was made for a period during the PUR. Puerto Rico provided documentation to support excluding this case from the review sample and replacing it with a case from the oversample.

In accordance with federal provisions at 45 CFR 1356.71, Puerto Rico's title IV-E program 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 title IV-E 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 record also is looked at to ensure the foster family home or child care 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 Puerto Rico 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.

The Children's Bureau and Puerto Rico agreed that Puerto Rico would have 2 weeks following the onsite review to submit additional documentation for a case during the onsite review identified as in error, in "undetermined" status, or not in error but with ineligible payments.

### **Compliance Finding**

The review team has determined that all 80 sample cases met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. One non-error case met eligibility requirements for the PUR but was found to have other periods in the child's foster care episode for which title IV-E maintenance payments were improperly claimed.

The Children's Bureau has determined Puerto Rico's title IV-E foster care program is in substantial compliance for the PUR. Substantial compliance in a primary IV-E review means the total number of error cases is four or fewer cases determined as not meeting eligibility requirements for the PUR. Supplemental findings for the non-error case with ineligible payments are not considered in determining Puerto Rico's level of compliance with federal requirements. Since Puerto Rico 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 case that was established as having ineligible payments, three non-error cases have periods of eligibility for which Puerto Rico has not claimed allowable title IV-E maintenance payments (underpayments).

### **Case Summary**

The following charts record improper payment cases comprised of the non-error case with ineligible payments and underpayments; reasons for improper payments; improper payment amounts; and federal provisions for which Puerto Rico does not meet compliance mandates. Calculation of improper payments is based on the federal financial participation (FFP) rates of

maintenance payments at Puerto Rico's Federal Medical Assistance Percentages (FMAP) for applicable year(s) for each sample case.

**Non-Error Case with Ineligible Payments:**

<b>Sample Number</b>	<b>Improper Payment Reason &amp; Ineligibility Period April 1, 2015 – September 30, 2015</b>	<b>Improper Payments (FFP)</b>
74	Foster care maintenance payment claimed outside of PUR for placement setting that did not meet safety requirements. No background check/fingerprint documentation provided for caregiver staff. [§471(a)(20) of the Act; 45 CFR 1356.30(f)]  Ineligible: 12/28/2013 – 2/26/2015	\$3,850 Maint. \$0 Admin.

**Total: \$3,850**

**Underpayment Cases:**

<b>Sample Number</b>	<b>Improper Payment Reason &amp; Ineligibility Period April 1, 2015 – September 30, 2015</b>	<b>Improper Payments FFP)</b>
42	All title IV-E eligibility requirements satisfied; however, the agency did not claim foster care maintenance payments for a period of time [§471(a)(20)(A) of the Act; §472 (b) and (c) of the Act and 45 CFR §1355.20(a), 1356.30, and 1356.71(d)(1)(iv)]  Eligible: 6/19/2015 – 7/21/2015	\$352 Maint.
67	All title IV-E eligibility requirements satisfied; however, the agency did not claim foster care maintenance payments for a period of time [§471(a)(20)(A) of the Act; §472 (b) and (c) of the Act and 45 CFR §1355.20(a), 1356.30, and 1356.71(d)(1)(iv)]  Eligible: 7/24/2015 – 12/31/2015	\$1,001 Maint.
71	All title IV-E eligibility requirements satisfied; however, the agency did not claim foster care maintenance payments for a period of time [§471(a)(20)(A) of the Act; §472 (b) and (c) of the Act and 45 CFR §1355.20(a), 1356.30, and 1356.71(d)(1)(iv)]  Eligible: 7/1/2015 – 7/2/2015	\$12 Maint.

**Total: \$1,365**

### **Area Needing Improvement**

Findings of this review indicate Puerto Rico needs to further develop and implement procedures to improve program performance in the following area. 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 Puerto Rico should undertake.

#### **Issue: *Safety Requirements for Foster Family Homes and Institutions***

For all sample cases during the PUR, foster care maintenance claims were only made once all licensing and safety requirements were fulfilled. However, sample case 74 was deemed a non-error case with ineligible payments outside of the PUR for a child placed in a child care institution. The appropriate documentation of background checks and other fingerprint-based safety checks required by Puerto Rico was not provided for the caregiver staff of the childcare institution.

**Title IV-E Requirement and Recommended Corrective Action:** Section 471(a)(20)(A) of the Act and 45 CFR § 1356.30 require title IV-E agencies to examine the potential safety risks posed to the child by a foster care provider. Moving forward, the Children's Bureau strongly recommends that any and all placement settings in Puerto Rico satisfactorily meet both the federal and territory licensing and safety requirements prior to a child entering a placement. This will ensure that a child is not in a foster care placement where the potential caregiver has caused or may cause harm to a child. Safety requirements also must be met prior to any claims for FFP of foster care maintenance payments Puerto Rico submits on behalf of an otherwise eligible child.

### **Program Strengths and Promising Practices**

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

#### *Eligibility Determinations*

In the past year, Puerto Rico created a title IV-E unit whose mission is to centralize the title IV-E eligibility determination process. This unit includes specialized title IV-E staff that is dedicated to monitoring the title IV-E program. Staff within the unit are well trained in title IV-E requirements and implementation of the IV-E eligibility determination criteria. The staff in the unit works with the territory's regional and local offices, courts, the licensing agency, and fiscal officials to help ensure that required actions related to establishing title IV-E eligibility are completed timely and correctly.

During the review week complete documentation was present for all sample cases, and the title IV-E unit was present to address any questions. Personnel from the courts, local offices, and the licensing agency also participated, in support of the title IV-E unit. Throughout the review week the ongoing coordination of efforts among these agencies was clear. Puerto Rico's dedication to this collaborative process has created a clear understanding of title IV-E and has further enhanced the accuracy and availability of documentation supporting title IV-E eligibility.

The work of this centralized eligibility unit has fostered Puerto Rico's efforts to claim title IV-E funds appropriately. Puerto Rico should continue to bolster its eligibility determination process by implementing a continuous quality improvement program to further ensure that it is claiming appropriately and maximizing claiming.

### *Judicial Determinations*

Reviewers noted that judicial determinations documented in court orders were child specific and explicit. We also observed that reasonable efforts to finalize permanency planning are occurring timely. Moreover, in Puerto Rico, permanency hearings occur multiple times a year; the federal requirement is that a judicial determination regarding permanency be made annually. The frequency of Puerto Rico's hearing schedule has played a significant role in promoting timely decisions concerning case planning, child permanency, and permanency goals, as evidenced by the review.

The result of the review highlights the child welfare agency's strong collaboration with Puerto Rico's Court Improvement Program (CIP). The CIP has implemented trainings focused on hearing quality and timeliness, as well as permanency planning. The trainings are inclusive of all stakeholders; including judges, attorneys, child welfare agency social workers, and court social workers. It is important to note that while the CIP projects are not all currently territory-wide; the influence of these trainings has obviously been far reaching. Once the CIP projects are extended across Puerto Rico the current procedures will only be further enhanced and a benefit to all children and families.

### **Disallowances**

A disallowance in the amount of \$3,850 in maintenance payments of FFP is disallowed for title IV-E foster care payments that are claimed improperly for the non-error case.

### **Next Steps**

The Children's Bureau recommends Puerto Rico continue to build on the identified strengths and best practices, as well as examine identified program concerns and develop measurable, sustainable strategies to target them. Appropriate corrective action must be taken in instances of noncompliance with federal laws, regulations and policies. The Children's Bureau Region 2 office staff is available to assist Puerto Rico with identifying necessary corrective action and obtaining support available through our national network of training and technical assistance centers to help Puerto Rico address issues and concerns raised during this IV-E review.