

Final Report
South Carolina Department of Social Services
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
April 1, 2017 – September 30, 2017

Introduction

The Children’s Bureau of the Administration for Children and Families conducted a primary review of the South Carolina title IV-E foster care program. The title IV-E foster care review (IV-E Review) was conducted during the week of July 9, 2018 in collaboration with South Carolina and was completed by a review team comprised of representatives from the state’s title IV-E agency, the Children’s Bureau (CB) Central and Region 4 offices, the ACF Region 4 Office of Grants Management office, and cross-state peer reviewers from Alabama and Utah. Two state staff from Florida also participated in the review to observe and learn more about the IV-E Review process.

Key purposes of the IV-E Review are (1) to determine whether the South Carolina 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 South Carolina’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 South Carolina’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, 2017 – September 30, 2017. A computerized statistical sample of 80 cases (80 cases plus 20 oversample cases) was drawn from data South Carolina 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 and 1 oversample case. An oversample case was used because there were no IV-E payments made for the PUR for one of the cases (sample #21) in the sample. The state 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, South Carolina 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’s 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 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.

The Children’s Bureau and South Carolina agreed the state would have two (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. Supplemental documentation submitted by the state for sample cases #9 and #20 supported changing the error finding to non-error.

Compliance Finding

The review team has determined 77 of the 80 sample cases have met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. Three (3) cases are determined as in error for not meeting eligibility requirements either for periods only during the PUR or for a child’s entire foster care episode. Five (5) non-error cases meet eligibility requirements for the PUR but are found to have periods in a child’s foster care episode for which title IV-E maintenance payments are improperly claimed.

The Children’s Bureau has determined the South Carolina 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 non-error cases with ineligible payments

are not considered in determining the state’s level of compliance with federal requirements. Since South Carolina is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

Case Summary

The following charts record the error cases, non-error cases with ineligible payments; reasons for improper payments; improper payment amounts; and federal provisions for which the state does not meet compliance mandates. Calculation of 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 Cases:

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2017 – September 30, 2017	Improper Payments (FFP)
6	<p>Removal from a specified relative requirement was not met; the child was judicially removed from an unrelated family friend. [§472(a)(1) of the Act; 45 CFR §§1356.21 (k)]</p> <p>Ineligible: Entire foster care episode Reported Disallowance Period: 9/1/2016 – 5/31/2017</p>	<p>\$25,205 Maint. \$4,712 Admin</p>
19	<p>Foster care maintenance payments claimed after the agency no longer had placement and care authority for the child during the PUR. The agency was relieved of placement and care authority of the child on 4/20/17. [§472(a)(2)(B) of the Act; 45 CFR 1356.71(d)(1)(iii)]</p> <p>Ineligible: 6/9/17 – 6/12/2017</p> <hr/> <p>A criminal record check was not documented for the foster parents during the child’s placement and period of the claim for foster care maintenance payments for the same timeframe above during to the PUR. [§471(a)(20) of the Act; 45 CFR §§1355.20, 1356.30, and 1356.71(d)(1)(iv)]</p> <p>Ineligible: 6/2/17 – 6/12/2017</p>	<p>\$96 Maint. \$0 Admin.</p>

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2017 – September 30, 2017	Improper Payments (FFP)
32	Foster care maintenance payments claimed after the agency no longer had placement and care authority for the child during the PUR. The agency was relieved of placement and care authority of the child on 4/20/17. [§472(a)(2)(B) of the Act; 45 CFR1356.71(d)(1)(iii)] Ineligible: 4/20/17 – 4/30/2017	\$112 Maint. \$0 Admin

Total Maintenance FFP: \$25,413

Total Administrative FFP: \$4,712

Total FFP: \$30,125

Non-error Cases with Ineligible Payments:

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2017 – September 30, 2017	Improper Payments (FFP)
16	A criminal record check was not documented for the foster parents during the child's placement and period of the claim for foster care maintenance payments. [§471(a)(20) of the Act; 45 CFR §§1355.20, 1356.30, and 1356.71(d)(1)(iv)] Ineligible: 03/08/2013-10/31/2013	\$4,108 Maint. \$3,950 Admin.
34	Foster care maintenance payments claimed after the agency no longer had placement and care authority for the child. The agency was relieved of placement and care authority of the child on 4/18/18. [§472(a)(2)(B) of the Act; 45 CFR 1356.71(d)(1)(iii)] Ineligible: 4/19/2018-4/20/2018	\$10 Maint. \$0 Admin.
43	Judicial determination of reasonable efforts to finalize permanency plan not attained. The judicial finding was due by 10/31/2017. [§472(a)(2)(A) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 11/1/2017 – Month finding made Reported Disallowance Period: 11/1/2017 - 4/30/2018	\$2,014 Maint. \$3,150 Admin.

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2017 – September 30, 2017	Improper Payments (FFP)
58	A criminal record check was not documented for the child’s placement and period of the claim for foster care maintenance payments. [§471(a)(20) of the Act; 45 CFR §§1355.20, 1356.30, and 1356.71(d)(1)(iv)] Ineligible: 3/23/2016 - 1/31/2017	\$10,870 Maint. \$5,171 Admin.
66	A criminal record check was not documented for the foster parents during the child’s placement and period of the claim for foster care maintenance payments. [§471(a)(20) of the Act; 45 CFR §§1355.20, 1356.30, and 1356.71(d)(1)(iv)] Ineligible: 2/1/16 – 5/31/16	\$3,858 Maint. \$2,048 Admin.

Total Maintenance FFP: \$20,860
Total Administrative FFP: \$14,319
Total FFP: \$35,179

Areas Needing 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: *Safety requirements were not satisfactorily met for foster parents in which children were placed prior to the PUR and during the PUR.* One (1) error case and three (3) non-error cases have ineligible payments as a result of the agency not being able to provide documentation that the criminal records check (CRC) was completed to support the state’s claim for a period of the child’s placement. The timeframes in question occurred prior to and during the PUR.

Title IV-E Requirement: Consistent with 45 CFR 1356.30(a) (b), the title IV-E agency must provide documentation that criminal record checks have been conducted with respect to prospective foster and adoptive parents. The title IV-E agency may not approve or license any prospective foster or adoptive parent, nor may the title IV-E agency claim FFP for any foster care maintenance or adoption assistance payment made on behalf of a child placed in a foster home operated under the auspices of a child placing agency or on behalf of a child placed in an adoptive home. The state, to support the FFP claim, must clearly document that: (1) a criminal record check is completed, which includes for applicable foster parents a check of the National Crime Information Databases; (2) the foster parent has not been convicted of any of the prohibited felonies listed under § 471(a)(20)(A)(i) and (ii) of the Act; and (3) title IV-E maintenance payments are not made for a period prior to all of these conditions being met.

Recommended Corrective Action: The state must take steps to ensure all required criminal background checks are completed on foster parents and CCI staff caring for children, in particular for children on whose behalf title IV-E foster care maintenance payments are made. South Carolina also should review its licensing and record-keeping practices to ensure that sufficient oversight of licensed homes and licensing decisions are appropriately documented. Most importantly, when using documentation other than the actual results of the CRC, the state needs to ensure documentation provided clearly contains (1) the date the CRC is completed, (2) the name of the foster parent on whom the CRC is completed, (3) whether the foster parent has convictions of prohibited felonies, (4) the evidence reviewed, and (5) the name of the individual performing the check. During the review week, the CB IV-E Review team leaders met with the state IV-E supervisory staff, agency attorney, and FBI liaison to discuss how the CRCs are managed and documented for CCI staff. It was suggested that the agency begin managing and maintaining all documentation of the CRCs versus relying on the CCIs and group homes to maintain the record checks.

Issue #2: *Responsibility for placement and care of a child vested with the state agency.* In two (2) of the error cases and one (1) non-error case it was determined title IV-E payments were claimed for ineligible periods. In the three (3) cases, the children had returned home and foster care maintenance payments were claimed even though the agency no longer had placement and care responsibility of the children during the period of the claim.

Title IV-E Requirement: Section 472(a) (2) of the Act requires that the responsibility for placement and care of a child be vested with the state agency administering the title IV-E plan approved under section 471 of the Act, or any other public agency with which the state agency has a written agreement in effect. The state agency must present documentation during an IV-E 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. The court order or voluntary placement agreement must indicate that the agency has this responsibility.

Recommended Corrective Action: The state should determine the reason claims for title IV-E maintenance payments continued beyond the eligibility period and develop a corrective action plan to prevent improper payments from occurring. In addition, the Children's Bureau suggests the state put in place a quality assurance system to monitor accuracy of eligibility determination and claiming processes. This will allow staff to ensure determinations are completed and updated with the most recent supporting information.

Issue #3: *Timeliness of Judicial Determinations Regarding Reasonable Efforts to Finalize a Permanency Plan.* One (1) non-error case had an ineligible payment because the judicial requirement of "reasonable efforts to finalize a permanency plan" was not obtained within the required twelve-month period. The state agency continued to claim title IV-E maintenance payments after the twelve-month period had lapsed. A court order or court transcript with the finding of reasonable efforts to finalize permanency plan was not obtained prior to the end of the IV-E Review.

Title IV-E Requirement: For a child who is judicially removed and remains in foster care for 12 months or more, federal provisions at §472(a)(2)(A) of the Act and 45 CFR §1356.21(b)(2) require the state to obtain a judicial determination of whether the state has made “reasonable efforts to finalize a permanency plan” for the child. The judicial finding must occur at regular 12-month intervals for the duration of the foster care episode and no later than 12 months from the month in which the prior determination is obtained. If the judicial determination of “reasonable efforts to finalize” is not made or is not timely, the child becomes ineligible from the beginning of the first month after it is due and remains ineligible until the judicial determination is made.

Recommended Corrective Action: The state has struggled with obtaining and documenting timely judicial findings in each of its IV-E Review conducted to date, except the 2012 one. The state should increase its efforts to develop and implement procedures to ensure timely judicial determinations of “reasonable efforts to finalize the permanency plan” in addition to judicial findings regarding agency efforts to prevent the removal and whether it is contrary to the child’s welfare to remain in the home. The accuracy and reliability of eligibility determinations generally are increased through training of the judiciary and other court officials to correct delays in judicial findings as well as to secure court orders that reflect title IV-E criteria on legal authority, best interests and reasonable efforts. Staff training will help to ensure workers make eligibility decisions based on the correct elements needed for compliance and to eliminate the authorization of payments prior to establishing compliance with requirements. In addition, the Children’s Bureau suggests the state put in place a quality assurance system to monitor accuracy of eligibility determination and claiming processes.

Issue #4: Removal from a Specified Relative. In one (1) error case, the child was living with and judicially removed from a family friend.

Title IV-E Requirement: To qualify for title IV-E, a valid removal of the child from a specified relative must occur for the most recent foster care episode. A specified relative may be a parent or any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the child. [45 CFR § 233.90(c)(1)(v)] The eligibility determination is based on the home of the parent or other specified relative who is the subject of the judicial finding of “contrary to the welfare” or who enters into the voluntary placement agreement with the state agency.

Recommended Corrective Action: Several court orders read for sample case 6 during and after the on-site IV-E Review had court hearing dates and removal dates that conflicted with other court orders in the case.. The state should revisit and strengthen procedures to ensure court orders accurately reflect rulings made during court proceedings. Agency staff must resolve questions about removal dates, court findings, the agency’s legal custody and other issues affecting eligibility and must ensure the resolution is based on explicit documentation before a decision is made about eligibility. The agency should ensure that staff is trained to understand the judicial determination and documentation requirements and the linkage to determining the AFDC removal home for title IV-E eligibility.

Other Program Concerns:

Quality Assurance: The state needs to improve their quality assurance (QA) process to effectively track and monitor their eligibility process not only at the state level but the county level also. A stronger and more efficient QA process will strengthen training opportunities for county staff, improve record keeping, and strengthen the monitoring process at the state and county levels. The QA process should include all counties, have clear written policies and procedures, include random reviews, and a feedback loop that involves internal and external stakeholders. Case reviews also should include cases with new determinations to determine if the funding source determination is correct, when a child moves in or out of title IV-E eligibility status was correctly applied, and spot checks of redeterminations and changes are applied according to policy and procedure.

Program Strengths and Promising Practices

Since 2001, South Carolina has met substantial compliance in all IV-E Reviews with the exception of the review completed in 2004. The following positive practices and processes of the state's title IV-E program were observed during the 2018 review that have contributed to the state continuing to meet substantial compliance.

Centralized Eligibility Determinations: As noted in the title IV-E Review of 2015, South Carolina has a centralized title IV-E eligibility determination and re-determination unit that manages the title IV-E eligibility process by gathering required information from county staff, making determinations, tracking and monitoring, and documenting compliance. It appears that oversight efforts of the eligibility unit working together with agency staff, and external partners, such as the state's court improvement project, continue to minimize the amount of erroneous title IV-E claims. Child-specific and timely judicial findings of Reasonable Efforts to Prevent Removal and Contrary to the Welfare were evident in all sample cases. The judicial finding of Reasonable Efforts to Prevent Removal often was found in the initial order pertaining to the removal. The initial eligibility determinations for title IV-E are completed in a timely manner. This process continues to be an asset for the South Carolina Department of Social Services.

The state also has in place a centralized licensing process to ensure that all licensing standards are met, including a process to alert the IV-E eligibility unit when licensing standards are not met for a foster family home or childcare institution. All cases in the review sample were documented as having met the licensing requirement for foster parents and child care institutions. This review outcome can be contributed largely to the state's centralized licensing process.

Disallowances

A disallowance in the amount of \$25,413 in maintenance payments and \$4,712 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for error cases. Additional amounts of \$20,860 in maintenance payments and \$14,319 in related administrative costs of FFP are disallowed for title IV-E foster care payments that are claimed improperly for non-error cases. The total disallowance as a result of this IV-E Review is \$65,304 in FFP.

South Carolina also must identify and repay any ineligible payments for error and non-error cases that occur for additional periods that these cases are improperly claimed. No future claims can be submitted on these cases until it is determined 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, the Children's Bureau recommends South Carolina examine identified program deficiencies and develop measurable, sustainable strategies that target root causes of issues and concerns hindering the state from operating an accurate foster care eligibility program.

Appropriate corrective action must be taken in instances of noncompliance with federal laws, regulations and policies. The Children's Bureau Region 4 office staff is available to assist the state in identifying corrective action and obtaining support available through our national network of training and technical assistance centers to help the state address issues and concerns raised during this IV-E Review.