

# Title IV-E Foster Care Eligibility Review Guide

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## **Preface**

This Title IV-E Foster Care Eligibility Review Guide (Review Guide) provides a consistent and uniform approach for federal and title IV-E agency staff to use in complying with the title IV-E requirements set forth in § 472(a) of the Social Security Act and 45 CFR § 1356.71. The title IV-E agency is the agency of the state or Tribe responsible for administering the title IV-E program within its jurisdiction. The Review Guide contains policy and procedural guidance on title IV-E eligibility. It establishes the framework for planning, conducting, and completing a Title IV-E Foster Care Eligibility Review (IV-E Review).

The Review Guide also provides a non-technical summary of the laws and regulations on title IV-E eligibility. It should not be used as the sole source of information on the subject, however. It is intended to complement, not supplant, applicable statutory and regulatory provisions. In the event of a conflict or inconsistency between the Review Guide and federal statutes or regulations, the latter govern.

The Review Guide applies solely to the regulatory IV-E Review. It does not apply to other types of reviews or checks on eligibility, such as those that are conducted by the Office of the Inspector General or that arise out of the Administration for Children and Families' (ACF) Office of Grants Management's financial reviews or audits of title IV-E claims filed by title IV-E agencies. The IV-E Review is a monitoring review of program compliance. It is not a financial audit and is not conducted in the same manner or purpose as one.

Throughout the Review Guide, commentaries are used to clarify and explain issues, concepts, or challenges and to present concrete examples of typical situations. The information is intended to be instructive. The examples are not to be read more broadly than the expressed facts presented and may not be applied to factual situations different from those specifically described.

Finally, the Review Guide is amended whenever necessary to add material that clarifies or reflects substantive changes in federal mandates or review procedures governing the title IV-E program.

# Chapter 1: Framework for the Title IV-E Foster Care Eligibility Reviews

## *Purpose of the Reviews*

Title IV-E foster care funds enable states and Tribes to provide foster care for children determined to be eligible for assistance from the former Aid to Families with Dependent Children (AFDC) program under the state's approved title IV-A plan as in effect on July 16, 1996. The agency of the state or Tribe responsible for administering the plan for the title IV-E program is referred to as the title IV-E agency. The Social Security Act (the Act) includes requirements that define the circumstances under which the title IV-E agency can claim foster care maintenance payments in accordance with an approved title IV-E plan and mandates a child's placement in an approved or licensed foster care setting that meets the safety requirements.

The Children's Bureau (CB) conducts IV-E Reviews to monitor title IV-E agencies' compliance in meeting requirements of title IV-E of the Act regarding the eligibility of children on whose behalf foster care maintenance payments are made. The IV-E Reviews are conducted in accordance with 45 CFR § 1356.71 to monitor a title IV-E agency's compliance with certain requirements of title IV-E at § 472 of the Act and implementing federal regulations at 45 CFR Part 1356. The authority for federal review of the foster care program is expressly provided for under § 471(a)(6) of the Act (see ACYF-PA-85-2).

Through a systematic examination of case records and payment documentation, IV-E Reviews validate program compliance and claims for reimbursement of foster care maintenance payments and identify improper payments. The IV-E Reviews facilitate coordination of program improvement processes between CB and title IV-E agencies, which constructively impact the implementation of IV-E foster care maintenance payment programs. The IV-E Reviews provide a snapshot of a title IV-E agency's decisions about the child's foster care episode and, thus, the agency's child welfare practice and fiscal accountability. As such, IV-E Reviews help to ensure fiscal accountability, improve child welfare practice, and support the goals of child safety, permanency, and well-being.

Payment eligibility also is monitored and reviewed by audits conducted by the Office of the Inspector General and the ACF Office of Grants Management when conducting a claims review. In conducting IV-E Reviews, the CB is fulfilling its financial and programmatic stewardship responsibilities while also complying with statutory provisions relating to improper payment reporting as mandated by the Payment Integrity Information Act of 2019 and related guidance issued by the Office of Management and Budget. These measures for fiscal accountability require federal agencies to prevent, identify, and recover improper payments in federal programs. Title IV-E agencies are the CB's essential partners in reducing errors and ensuring program access for eligible children.

In short, the periodic IV-E Reviews:

- Help determine whether federal funds are spent on behalf of eligible children and are in accordance with federal statute, regulation, and policy;
- Help identify improper payments, including overpayments and underpayments;
- Provide a link to the joint planning, technical assistance, and program improvement processes that occur between the CB and title IV-E agencies; and

- Provide timely and specific feedback to title IV-E agencies that can directly influence the proper and efficient administration and implementation of their title IV-E foster care maintenance payment programs.

## ***Review Process***

The IV-E Review is a collaborative effort between the federal government (i.e., the CB) and the title IV-E agency. It is conducted by a review team composed of both federal and title IV-E agency staff. The IV-E Review is conducted on site, typically where the title IV-E agency's central office is located. The title IV-E agency may negotiate an alternative location with the CB Regional Office if warranted due to record access or other logistical concerns.

**Primary IV-E Review.** The review process begins with a primary review of foster care cases to ensure that children for whom title IV-E foster care maintenance payments are made meet the eligibility requirements at § 472 of the Act and the implementing regulations at 45 CFR Part 1356.

During a primary review,<sup>1</sup> the review team examines 80 cases. Four or fewer error cases are allowed for a title IV-E agency to be found in substantial compliance with the eligibility requirements for the period under review. Title IV-E agencies determined in substantial compliance based on the primary review are reviewed at 3-year intervals. If five or more cases are in error, the title IV-E agency is not in substantial compliance and is required to develop a Program Improvement Plan (PIP).

**Secondary IV-E Review.** A secondary review is conducted whenever a title IV-E agency is determined not in substantial compliance based on the findings of a primary review. During the secondary review, 150 sample cases are reviewed following the end date that the CB approved for the title IV-E agency's implementation of its PIP. If a title IV-E agency exceeds the error threshold of more than 10 percent for both the case error rate and the dollar error rate, the agency is not in substantial compliance. A title IV-E agency will undergo its next primary review 3 years from the date of the secondary review, regardless of the compliance finding for the secondary review.

Following the evaluation of the title IV-E agency's performance in achieving compliance with the eligibility requirements, the CB will determine and calculate the extent to which the title IV-E agency claimed title IV-E federal financial participation (FFP) for cases that were not eligible or costs that were not allowable, as well as instances in which the agency could have claimed allowable costs but did not. (See discussion on compliance and improper payments later in this chapter.)

**Review Instrument.** In a primary or secondary IV-E Review, a sample of foster care cases is read to determine the title IV-E agency's compliance during a designated 6-month period under review for the child's most recent foster care episode (see Sampling Guidance below). The "Title IV-E Foster Care Eligibility Review Instrument" is completed for each sample case in which at least one title IV-E foster care maintenance payment is claimed for an activity in the period under review (see the Title IV-E Foster

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<sup>1</sup> The first IV-E Review conducted following publication of the final rule in the Federal Register on January 25, 2000, was an initial primary review that examined 80 cases and allowed 8 error cases for substantial compliance. For all subsequent primary reviews, the agency must have 4 or fewer cases in error to be determined in substantial compliance.

Care Eligibility Review Instrument and the instructions for completing it, Appendices A and B and Chapter 4 of the Review Guide).

## **Requirements Subject to Review**

Title IV-E agencies are reviewed against the requirements of title IV-E of the Act and federal regulations regarding the eligibility of children on whose behalf foster care maintenance payments are made.

Requirements subject to review include:

- Judicial determinations regarding “reasonable efforts” and “contrary to the welfare,” in accordance with § 472(a)(2)(A)(ii) of the Act and 45 CFR §§ 1356.21(b) and (c), respectively;
- Voluntary placement agreements, in accordance with §§ 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, in accordance with § 472(a)(2)(B) of the Act and 45 CFR § 1356.71(d)(iii);
- Eligibility for AFDC under the state plan in effect on July 16, 1996, in accordance with § 472(a)(3) of the Act and 45 CFR § 1356.71(d)(1)(v);
- Child’s placement in a foster family home, childcare institution, or residential family-based treatment facility for substance abuse, in accordance with §§ 472(b), (j), and (k) and § 475A of the Act and 45 CFR § 1356.71(g);
- Child’s placement setting is fully licensed, in accordance with §§ 472(c) and (j) of the Act and 45 CFR § 1356.71(d)(1)(iv); and
- Safety requirements are met by the foster parent of the foster family home or staff of the childcare institution where the child is placed, in accordance with § 471(a)(20) of the Act and 45 CFR §§1356.30 and 1356.71(d)(1)(iv).

## **Sampling Guidance**

### **Selecting the Sample**

The sample of cases read for a primary or secondary review is drawn from data in the Adoption and Foster Care Analysis and Reporting System (AFCARS) that the title IV-E agency transmits to the CB Central Office. The CB Central Office’s statistical staff draws the sample using probability sampling methodologies, such as simple random sampling, to make sure the case record of each child in the title IV-E agency’s title IV-E foster care maintenance payment program has an equal and independent chance of being selected for inclusion in the review sample. Other probability methodologies may be used, when necessary, to ensure that the review sample adequately represents the characteristics of the child population that makes up the title IV-E agency’s foster care maintenance payment program for title IV-E. For example, in selecting cases for the primary review, the sample may be stratified to make sure it includes a sufficient representation of children for whom the title IV-E agency claims title IV-E foster care maintenance payments through a placement-and-care agreement between the title IV-E agency and another public agency, such as the juvenile justice agency or Tribal child welfare agency.

To make sure a sufficient number of sample cases are available for review, an oversample of cases that consists of 10 percent or more will be randomly selected in addition to the 80 sample cases that must be drawn for the primary review or the 150 cases that must be drawn for the secondary review.

In summary:

- For primary reviews, a sample of 80 cases (plus at least a 10 percent oversample) is selected from the title IV-E agency's most recent AFCARS data submission using a probability sampling methodology. An alternate data source may not be substituted for AFCARS for sample selection purposes.
- For secondary reviews, a sample of 150 cases (plus at least a 10 percent oversample) is drawn from the title IV-E agency's most recent AFCARS data submission using a probability sampling methodology. An alternate data source may not be substituted for AFCARS for sample selection purposes.

The CB Central Office draws the review sample and provides it to the title IV-E agency within 60 calendar days before the onsite IV-E Review. The title IV-E agency may negotiate with the CB Regional Office to obtain a review sample that is drawn closer to the scheduled date of the onsite review. Only in extraordinary circumstances will the review sample be provided to the title IV-E agency later than 4 weeks before the onsite review. The CB Regional Office will consult with the CB Central Office statistician and Team Leader for IV-E Reviews before approving the title IV-E agency's request to draw a sample that is less than 60 days before the beginning date of the onsite review.

***Period Under Review (PUR).*** The sample and oversample drawn for the IV-E Review consists of cases of individual children for whom a title IV-E foster care maintenance payment is claimed for a period of activity in the 6-month reporting period reflected in the title IV-E agency's most recent AFCARS data submission. The AFCARS 6-month reporting period is the period under review (PUR). The PUR is the period of time for which a title IV-E agency is reviewed against the federal statutory and regulatory eligibility requirements and is used to focus attention on recent practices in an effort to fairly evaluate the current status of the title IV-E agency's implementation of and compliance with title IV-E eligibility requirements. The AFCARS 6-month PUR also is a reference point for assessing compliance with the eligibility requirements and for determining whether a sample case is considered a case in error.

The "most recent AFCARS data submission" is usually the reporting period that ends at least 3 to 6 months before the date of the onsite review. There are two 6-month reporting periods based on the federal fiscal year: October 1 to March 31 and April 1 to September 30. The AFCARS data are submitted by the title IV-E agency to the CB Central Office within 45 calendar days following the end of the reporting period and are not available for use until 30 calendar days later. Therefore, to make sure there is adequate time for CB to draw the sample, the AFCARS data submission for the October 1 through March 31 reporting period must be transmitted to the CB Central Office no later than May 15. The AFCARS data for the April 1 through September 30 reporting period must be transmitted no later than November 14.

***Sampling Universe.*** The sampling universe for the IV-E Review comprises the cases of all children the title IV-E agency has coded in AFCARS indicating at any point during the 6-month reporting period that title IV-E foster care is a source of income for the child's care and title IV-E foster care maintenance payments are claimed for the child in foster care who meets all title IV-E eligibility criteria. The AFCARS



code should be reported in accordance with 45 CFR § 1355.44(17)(ii). The IV-E Review sample, as noted, consists of the cases of children for whom the title IV-E agency claimed at least one title IV-E maintenance payment for the 6-month AFCARS reporting period designated as the review's PUR.

**Sample Validity.** The validity of the sample and oversample depends on the title IV-E agency accurately reporting information on the relevant AFCARS data element for foster care. It is critical, therefore, that the title IV-E agency properly complete the data elements according to the specifications in AFCARS' federal regulations at 45 CFR § 1355.44(17)(ii) and guidance so the data will correctly indicate the agency's claims of title IV-E foster care maintenance payments.

### **Verifying the Sample**

The title IV-E agency must verify before the onset of the IV-E Review that a title IV-E foster care maintenance payment is claimed for a period of activity in the PUR for each child's case listed in the sample and oversample of cases drawn for the IV-E Review. After the sample is verified, the title IV-E agency must provide the CB Review Leads a list of all cases the agency recommends for elimination from the sample and the supporting documentation to substantiate the case elimination. Full explanation must be provided for any case in the sample that is not reviewed.

The CB Review Leads must confirm the accuracy of the information included on the elimination list and determine the appropriateness of eliminating a case from the review sample. Therefore, the title IV-E agency must make sure the relevant case documentation, case file, and payment history are available onsite to the CB to determine whether a case is properly excluded from the IV-E Review sample. The ACF Grants Management Specialist assists the CB Review Leads in examining the financial information from the title IV-E agency and approving the case elimination and substitution with a case from the oversample.

**Payment Adjustments.** It is important that the title IV-E agency make any needed adjustments to title IV-E claims before receiving its sample of cases for the IV-E Review. Any payment adjustments to a sample case that the title IV-E agency makes after receiving its IV-E Review sample selection will not be considered for purposes of conducting the IV-E Review.

For example, a sample case will not be excluded from the IV-E Review if the agency initially submitted claims for the case for activities during the PUR, but after receipt of the sample filed a decreasing adjustment reversing those title IV-E claims. Likewise, if a title IV-E foster care maintenance payment is adjusted for a sample case after the title IV-E agency receives the IV-E Review sample, the affected payment will continue to be considered for purposes of determining an ineligible payment or extrapolation to decide the disallowance.

These restrictions are based on longstanding federal policy ensuring that the determination of substantial compliance is not affected by the removal of a known ineligible case or payment from the IV-E Review sample after it is identified as included in the sample. The removal of known ineligible cases from the sample (rather than the sampling pool) voids the underlying statistical validity of the sampling process. In this manner, omissions from the defined sample tend to produce bias and distort the review findings. The regulations at 45 CFR § 1356.71(c)(1) provide the sampling protocol.

Payments are considered properly adjusted if the ACF Grants Management Specialist or CB Review Lead receives documentation that the title IV-E agency has adjusted the title IV-E foster care maintenance payments before the title IV-E agency receives its review sample from the CB. The

payment adjustment is established by the title IV-E agency's payment history and submissions on the title IV-E agency's quarterly financial report, Form CB-496.

### Using the Oversample

A case is replaced with a case from the oversample when it is recognized that a case is coded in AFCARS as having a title IV-E foster care maintenance payment claimed for an activity that has taken place during the PUR, but it is verified that title IV-E is not the funding source for at least one title IV-E foster care maintenance payment for the IV-E Review's PUR.

A sample case may not be replaced with an oversample case because of difficulties in performing the IV-E Review or because of problems in obtaining the necessary information about the case. If the case file or information documenting the child's eligibility cannot be located or is otherwise not made available for the IV-E Review, an oversample case cannot be used as a substitute for the unavailable sample case. The unavailable case is marked as in error and associated costs are disallowed (see ACYF-PA-85-2).

In addition, an oversample case may not be used as a substitute for a closed foster care or adoption case (CB Child Welfare Policy Manual, Section 5.2)<sup>2</sup> or for a sample case in which the title IV-E agency retains placement and care responsibility of a child placed with an out-of-state foster care provider.

**Sample Case Exclusions.** The oversample is used only when there is a legitimate reason to replace a case from the original sample. A case from the sample may be replaced with an oversample case in limited circumstances, such as:

- There is no title IV-E foster care maintenance payment claimed for the PUR. The case remains in the sample, however, if the payment history shows a title IV-E foster care maintenance payment claimed after the PUR is for an activity date in the PUR (e.g., October payment after the PUR is for a September activity date in the PUR). If the claimed payment for the activity in this situation is ineligible, the associated payment outside the PUR is recorded for the PUR activity month on the CB financial disallowance spreadsheet.
- The only payment in the PUR is for administrative costs.
- Compliance with the title IV-E eligibility requirements has been excluded under a federally approved title IV-E waiver demonstration project (see CB Child Welfare Policy Manual, Section 5.2, Question 4).
- Documentation verifies that all title IV-E payments for the PUR are rescinded before the title IV-E agency receives the IV-E Review sample.
- The youth is 18 years old or older in the PUR and title IV-E eligibility is extended through the title IV-E plan option under § 475(8)(A) of the Act.

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<sup>2</sup> The Child Welfare Policy Manual may be accessed at [https://www.acf.hhs.gov/cwpm/public\\_html/programs/cb/laws\\_policies/laws/cwpm/](https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/).

Each case in the sampling frame is numbered and must be assigned to reviewers consecutively. Similarly, the consecutive order of cases from the oversample is maintained, such as Oversample 1 (OS 1), Oversample 2 (OS 2). Oversample 1 replaces the first case that is eliminated from the original sample.

The guidance about using and excluding cases in the sample is specifically for the IV-E Review sample, and it may differ with instructions given regarding AFCARS, improper payment calculations for the national foster care error rate, or other data reporting protocols.

Any instructions to the title IV-E agency by the CB Central Office statistician or Regional Office regarding the case sample is provided in writing, either electronically or in paper form. The CB Regional Office is given copies of all correspondence related to sampling and participates in all necessary conference calls between the CB Central Office statistician and the title IV-E agency staff.

## **Payment History**

For each of the sample and oversample case records, the title IV-E agency must provide the CB Regional Office with the complete payment history before the onsite review [45 CFR § 1356.71(b)(2)]. The complete payment history consists of all foster care payments, which includes title IV-E maintenance payments (and when available, child-specific administrative costs), claimed by the title IV-E agency on behalf of the child that encompasses the most recent foster care episode.

While on site, the title IV-E agency must provide an updated payment history for each sample and oversample case record to help identify payments claimed between the time the sample is drawn and the onsite review. The updated payment history must include all foster care maintenance payments and available child specific administrative costs that are claimed for title IV-E from the first day of the foster care episode through the last day of the month immediately prior to the month of the onsite review (see Payment History Format).

**Most Recent Foster Care Episode.** The most recent foster care episode refers to the period that begins with the date of the child's last removal from home in accordance with a judicial order or voluntary placement agreement before the end of the PUR and continues to the child's discharge from foster care for that removal. If a child has multiple foster care episodes during the PUR, a complete payment history is required, and the child's title IV-E eligibility is examined for each foster care episode. If a child has remained in foster care since the original removal from home and the court order or voluntary placement agreement that sanctioned the removal has remained in effect for that period of time, the duration of this foster care event is considered the most recent episode (see Chapter 4, "Eligibility Requirements" for additional information on foster care episodes).

**Payment History Format.** The payment history should be provided in an Excel spreadsheet format. The information included must be the result of querying data in the title IV-E agency's financial management system that is maintained in the agency's Comprehensive Child Welfare Information System (CCWIS) or another financial system that the agency communicates with to electronically generate financial payments and claims for title IV-E foster care maintenance payments.

For title IV-E agencies that do not have data systems with the ability to export into an Excel format, the ACF Grants Management Specialist will provide an Excel workbook that can be completed by the title IV-E agency. System-generated copies of the payment histories, in a PDF, must accompany the Excel

spreadsheet completed by the title IV-E agency. The PDF copies must be clearly marked with the child's name, unique case or client identifier and sample or oversample number. These documents must be transmitted to the ACF Grants Management Specialist and/or CB Review Lead within 30 calendar days after the title IV-E agency receives the review sample. The histories must be sent electronically in an encrypted or password-protected file.

All payments in the payment history are expected to include (in no particular order):

- Child's name and IV-E Review sample number;
- Child's case number or unique client identifier;
- Provider's name and unique provider number;
- Activity type being claimed;
- Activity dates covered;
- Amount claimed;
- Invoice number or other financial record identifier and date that the title IV-E agency was charged for the invoiced activity;
- Invoice payment date that the title IV-E agency paid the invoice;
- Funding source for the payment (title IV-E foster care or other programs); and
- Payment adjustment.

Any payment adjustment must clearly identify the amount (as a negative dollar amount, “-\$xx”), the date of adjustment, the activity or service, provider and provider number, funding source, and the dates or period covered.

The title IV-E agency must maintain in its CCWIS, other child welfare information system, electronic files and/or automated functionality supporting the title IV-E agency's eligibility process, the above payment history data elements on all children for whom the agency has placement and care responsibility.

In addition to the payment history for each sample and oversample case, the title IV-E agency must provide any information that explains service types, payment types and coding, and other features unique to the agency's financial procedures or payment systems.

**Payment History Assessment.** Prior to the onsite IV-E Review, the CB Review Leads and ACF Grants Management Specialist will examine the payment history to make a preliminary assessment of the payment profile to determine whether a case should be removed from the review sample. During the IV-E Review, the payment history also will be examined to determine whether there are other improper payments such as overpayments and duplicate payments attributed to cases in the sample.

## **Record Retention**

### **Retaining Records by Title IV-E Agency**

In accordance with the regulations at 45 CFR § 92.42, the title IV-E agency must retain its records for 3 years from the day the agency submits its final claims for title IV-E payments on behalf of the child. If any

litigation, claim, negotiation, audit, or other similar action involving the records is started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from the action. Records can be retained in electronic or paper form.

### **Retaining Records by CB Regional Office**

The CB Regional Office will keep in an accessible location all relevant materials pertaining to the title IV-E agency's IV-E Review, including but not limited to: (1) documentation of the review process, including the pre-review, onsite review, and post-review phases; (2) documentation used in calculating and determining the amount of title IV-E funds identified and assessed as improper payments; (3) documentation related to the development and implementation of the title IV-E agency's PIP; and (4) documentation on the determination of the title IV-E agency's need for, and provision of, technical assistance. The relevant materials should be retained in accordance with the CB record retention schedule for IV-E Reviews, which usually is for a period that is the latter of three years from the date the review is completed or three years following the resolution of all issues and appeal processes that arise from the review. At the close of the retention period, the CB Regional Office will transfer the material to the Federal Records Center for archiving, unless the CB Regional Office determines the records contain issues of interest that should be readily accessible to the office. The record retention requirement applies to documentation from primary and secondary reviews. CB Central and Regional Office staff may use the following link to refer to ACF Records Management: <https://connect.acf.hhs.gov/rights-responsibilities/records-management>

### **Compliance Standards**

Depending on the type of review, compliance is based on the number of error cases or proportion of erroneous payments found in a IV-E Review. A sample case is in error (an "error case") when a review of the case record indicates a title IV-E eligibility criterion is not met at the time of the child's removal from home, or any time during the PUR, and a title IV-E foster care maintenance payment is made for the ineligible period.

An eligibility criterion that must be satisfied at removal, such as "contrary to the welfare" or "reasonable efforts to prevent removal" that is not met as required will render the child ineligible for the entire foster care episode.

**Substantial Compliance.** Substantial compliance means the error threshold is not exceeded.

**Primary Reviews:** For primary reviews held after the initial primary review, the total number of error cases must be four or fewer. (For the initial primary review, the total number of error cases must have been eight or fewer.)

**Secondary Reviews:** For the secondary review, substantial compliance means either the case error rate or dollar error rate is 10 percent or less for the review sample.

**Noncompliance.** Noncompliance means not in substantial compliance.

**Primary Reviews:** For primary reviews, if five or more cases are in error, the title IV-E agency is not in substantial compliance. (For the initial primary review, nine or more sample cases meant the title IV-E agency was noncompliant.)

Secondary Reviews: For secondary reviews, noncompliance means the case error rate and the dollar error rate both exceed 10 percent for the IV-E Review sample. The case error rate is determined by dividing the number of cases in error by the total number of cases in the review sample. The dollar error rate is determined by dividing the foster care maintenance and administrative dollars ineligible for the PUR by the total PUR amounts in foster care maintenance payments and associated administrative costs claimed for the cases in the review sample.

## **Improper Payments**

Title IV-E eligibility is determined based on whether the child meets eligibility criteria that are delineated in the Act and in federal regulation. When looking at the title IV-E agency's decisions on the child's eligibility, an assessment also is made about whether there are instances of improper payments.

An improper payment is any title IV-E foster care maintenance payment that should not be made or that is made in an incorrect amount under a requirement applicable to title IV-E. Incorrect amounts are overpayments, duplicate payments, erroneous and otherwise ineligible payments, and underpayments.

**Eligible Child.** A child is considered eligible when all title IV-E criteria pertaining to the child and the child's foster care placement are met.

**When Payments May Begin.** In general, if eligibility is attained within a month, the child is considered eligible for the entire month. However, foster care maintenance can be claimed only for the period the eligible child is in an allowable foster care placement during the month. As such, if eligibility is attained after the first of the month, title IV-E maintenance payments may be claimed retroactive to the first day of the eligible child's foster care placement during the same month. If an 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. Eligibility, then, is based on a month-to-month basis unless otherwise specified in federal provisions, such as the 180-day timeframe noted at § 472(e) of the Act and 45 CFR § 1356.22(b) regarding the determination of best interests in a voluntary placement.

**When Payments Must End.** Consistent with § 472 of the Act, title IV-E reimbursement of foster care maintenance payments may not be claimed on behalf of a child for a period that precedes the month in which all title IV-E eligibility criteria are met. In addition, title IV-E reimbursement of foster care maintenance payments may not be claimed on behalf of a child for a period that begins after title IV-E eligibility ceases, unless an exception is specified in federal provisions. For example, one such exception is permitting payments to continue to the end of the month in which an otherwise eligible child reaches the age limit for title IV-E eligibility.

The IV-E Review, as stated earlier, helps determine whether federal funds are spent on behalf of eligible children and helps manage improper payments.

## **Disallowing Ineligible Payments**

When a title IV-E agency receives a title IV-E foster care maintenance payment that it should not have claimed, the CB will take a disallowance. A disallowance refers to the amount of federal funds identified for recovery by the CB and is determined by the extent a title IV-E agency is not in compliance with the eligibility provisions of title IV-E or applicable regulations in 45 CFR Parts 1355 and 1356.

**Payment Disallowance.** A payment disallowance is assessed when a title IV-E eligibility criterion is not met, and title IV-E foster care maintenance payment is made for the ineligible period. A payment disallowance also is assessed when a title IV-E foster care maintenance payment is made for an unallowable title IV-E program cost or is made in an incorrect amount, such as a duplicate payment.

The payment disallowance includes the ineligible title IV-E foster care maintenance payments and associated administrative costs<sup>3</sup> of the error cases and non-error cases that occur during the foster care episode. It also includes ineligible payments that occur in each foster care episode when there are multiple episodes during the PUR (see the “Reporting Disallowance” section on page 13 for the period of the payment disallowance that is included in the Final Report of review findings).

**Ineligible Child.** A child is considered ineligible when a title IV-E criterion pertaining to the child or the child’s foster care placement is not met.

**Ineligible Payment.** An ineligible title IV-E foster care maintenance payment is a payment made for an ineligible child, for an ineligible service, for duplicate payments, for services not received, for overpayments or for any cost unallowable under title IV-E. In addition, when the reviewer is unable to discern whether a payment is properly claimed because of insufficient documentation, this payment also is considered ineligible until the title IV-E agency provides sufficient documentation to show that the claimed payment is allowable.

To determine whether there are ineligible payments associated with the PUR, the reviewer must determine whether all eligibility criteria are met for the child and determine whether there are title IV-E maintenance payments claimed for a period the child does not meet an eligibility criterion. The reviewer also must determine whether there are ineligible payments claimed for an eligible child. Such payments include duplicate payments and overpayments. (Refer to the information that follows and in Chapter 5, “Final Report” for information on reporting improper payments.)

**Error Case.** An error case occurs when a review of the sample case record indicates a title IV-E maintenance payment is claimed for an activity in the PUR on behalf of a child who is ineligible on the date of the activity. The case also is in error if the title IV-E maintenance payment is claimed for an activity in the PUR before the child meets all eligibility criteria.

To determine whether a case is an error case, the reviewer must determine whether all eligibility criteria are met for the PUR. If an eligibility criterion is not met for the PUR, the reviewer must determine whether a title IV-E maintenance payment is made for an activity in the PUR when the child is not eligible. If a title IV-E maintenance payment is made for an activity in the PUR on behalf of an ineligible child, as stated above, the case is in error. The title IV-E maintenance payments and associated administrative costs are disallowed for the periods of ineligibility.

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<sup>3</sup> Federal financial participation (FFP) is permissible for the administrative costs associated with an otherwise title IV-E eligible child placed in an unlicensed foster family home, but only in specified circumstances for a limited period. See Program Instruction ACYF-CB-PI-06-06. There are other circumstances where FFP is permissible for administrative costs associated with FFP improperly claimed for foster care maintenance payments, as specified in title IV-E statute, regulation, and policy.

***Non-Error Case With Ineligible Payments.*** A non-error case with ineligible payments occurs when a review of the sample case record indicates an unallowable title IV-E maintenance payment is made for a period either in or outside the PUR for an eligible child. A non-error case with ineligible payments also occurs when an unallowable title IV-E maintenance payment is made for a period solely outside the PUR on behalf of an ineligible child.

***Substantial Compliance Disallowance.*** For title IV-E agencies in substantial compliance following either a primary or secondary review, a disallowance is assessed based on maintenance payments and associated administrative costs connected to the error cases and non-error cases with ineligible payments. The disallowance is for the entire amount and period the cases are not eligible for title IV-E payments. The findings and payment disallowances regarding the non-error cases are not included in determining the title IV-E agency's substantial compliance with federal requirements in a primary review. However, they are included in determining the dollar error rate for compliance in a secondary review when those payments are for periods during the PUR.

If a child has multiple foster care episodes during the PUR and case errors are identified for more than one episode, the sample case is counted as one error case in determining substantial compliance regardless of the number of foster care episodes verified as in error during the PUR. However, a disallowance is assessed for ineligible payments made for periods in and outside the PUR in any of these episodes.

***Noncompliance Disallowance.***

**Primary Review:** For title IV-E agencies not in substantial compliance following a primary review, a disallowance is assessed based on title IV-E foster care maintenance payments and associated administrative costs connected to the error cases and non-error cases with ineligible payments. The disallowance is for the entire amount and period these cases are not eligible for title IV-E. The findings and payment disallowances regarding the non-error cases are not included in determining the title IV-E agency's substantial compliance with federal requirements.

**Secondary Review:** For title IV-E agencies that are not in substantial compliance following a secondary review, an extrapolated disallowance is assessed for the PUR based on the universe of claims paid for activities during the PUR. The universe of claims refers to the federal share of allowable title IV-E maintenance payments and associated administrative costs claimed for the period in the PUR. The extrapolated disallowance is equal to the lower limit of a 90 percent confidence interval for the population's total dollars in error for the period in the PUR.

Disallowance of foster care maintenance and administrative payments for non-error cases with ineligible title IV-E payments for activities during the PUR are included in the computation of the extrapolated disallowance. These cases, however, are excluded in the determination of the case error rate for the secondary review.

If a child has multiple foster care episodes during the PUR and errors are identified for more than one episode, the ineligible maintenance and associated administrative dollars made for the PUR in any of these episodes are included when calculating the dollar error rate.



In addition to the secondary review's extrapolated disallowance for the PUR, a case-specific disallowance is assessed based on maintenance payments and administrative costs associated with error and non-error cases for ineligible payments made for periods before and after the PUR.

**Reporting Disallowance.** The ACF Grants Management Specialist calculates the title IV-E maintenance payment and administrative cost disallowances identified for the individual cases. The CB Review Lead may assist with this task. The CB Central Office statistician calculates the extrapolated disallowances following a secondary review, at the request of the ACF Grants Management Specialist.

The disallowances reported in the final findings of the IV-E Review will consist of all ineligible foster care maintenance payments and related administrative costs that are claimed for the period of ineligibility (1) beginning with the first day of ineligibility, which may precede the PUR, and (2) continuing through the earlier date of the last day of the onsite IV-E Review or when the ineligibility ceases for the most recent foster care episode(s). Ineligible payments made for non-error cases also must be included in the disallowance report.

If the period of ineligibility continues beyond the date recorded in the Final Report, the title IV-E agency is instructed to, and must, remove the ineligible payments from its financial claiming system and suspend claiming the payments until the child becomes eligible again.

A summary of the disallowance of foster care maintenance payments and administrative costs that differentiates the error cases, non-error cases with ineligible payments, and payment extrapolations is included in the IV-E Review's Final Report of findings (see "IV-E Review Final Report," Chapter 5).

Guidance on the methodology for computing payment disallowances for primary and secondary reviews is available through the CB Regional Office or ACF Grants Management Office.

### **Identifying and Reporting Underpayments**

As noted, the IV-E Review determines compliance with the federal requirements for title IV-E reimbursement and systematically corrects improper payments, which include ineligible payments and underpayments.

**Underpayment.** An underpayment is an allowable title IV-E maintenance payment for an eligible child that the title IV-E agency unintentionally has failed to claim within the 2-year filing limit as specified at 45 CFR § 95.7. An underpayment has not occurred when the title IV-E agency intentionally has not claimed an allowable title IV-E payment for an eligible child (for example, because the agency opted to use an alternate funding source in lieu of title IV-E funds or opted to begin its claims for a period after the first day of eligibility). An underpayment also has not occurred if the regulatory filing limit, as specified at 45 CFR § 95.7, has expired.

**Reporting Underpayments.** The CB Review Leads, with the ACF Grants Management Specialist, must verify the payment period and the child's eligibility for the payment period when an underpayment is identified in the IV-E Review. The CB Review Lead or Co-Lead, in doing so, must consult with the title IV-E agency to determine the cause of the underpayment and whether it qualifies as an underpayment. After documenting this information, the confirmed underpayment amounts are reported in the final findings of the IV-E Review (see "IV-E Review Final Report," Chapter 5). The amount reported will consist of the documented underpayments that occur in the period (1) beginning with the first day of the

underpayment and (2) continuing through the earlier date of the last day of the onsite IV-E Review or when the eligible expenditure period ceases.

There are no financial penalties assessed against the title IV-E agency for an identified underpayment and the underpayment is not included in the disallowance calculation to reduce the amount of funds that is intended for recovery from the title IV-E agency.

**Claiming Underpayments.** The title IV-E agency may claim reimbursement for an eligible underpayment by filing an increasing adjustment on its Title IV-E Programs Quarterly Financial Report, Form CB-496, in the next quarter, but no later than 2 years after the calendar quarter the title IV-E agency made the expenditure (45 CFR § 95.7).

### ***Steps in the IV-E Review Process***

The following general steps in the IV-E Review process include both federal and title IV-E agency roles, and some joint federal and title IV-E agency responsibilities (see also “Time Frames for Title IV-E Foster Care Eligibility Review Activities,” Appendix H).

- **Determine the dates for the review.** The CB Regional Office consults with the title IV-E agency and the CB Central Office’s Team Leader for IV-E Reviews (CB Core Team Lead) to determine the dates for the onsite review. A date for the onsite review is determined 4 to 6 calendar months before the federal fiscal year in which the review must be conducted. Reviews must be conducted within the time frames specified in federal requirements governing the frequency of IV-E Reviews [see 45 CFR § 1356.71(a)(3)]. The CB Regional Office must give the title IV-E agency written confirmation of the review date no later than 120 calendar days before the scheduled date of the onsite review.
- **Identify the review team.** The title IV-E agency determines which of its agency or interagency staff will participate on the review team. The CB determines which CB Regional and Central Office staff will participate on the review team and whether to include Peer Reviewers (see “The Review Team,” Chapter 2).
- **Select the sample.** The CB Central Office selects 80 cases for the primary review or 150 cases for the secondary review (plus at least a 10 percent oversample for each review type) from the title IV-E agency’s most recent AFCARS submission. The CB Central Office statistician works with the CB Regional Office and the title IV-E agency to determine the sample. The sample is drawn no later than 60 calendar days before the onsite review.
- **Arrange the onsite review logistics.** The CB Regional Office collaborates with the title IV-E agency to plan logistical arrangements for the IV-E Review, including space for team meetings and review activities. One large room is preferable for enabling review team leaders to assist reviewers in understanding title IV-E requirements and supporting consistency in the review process and case findings. This set-up also promotes productive interaction among team members.
- **Organize sample cases for review.** The title IV-E agency assembles the sample cases in accordance with the list of random numbers the CB Central Office statistician provides before the onsite review. The CB Central and Regional Offices will work with the title IV-E agency to resolve issues regarding the selection and preparation of cases before the onsite review.

Title IV-E agencies are not to tag, label, remove or segregate sample case documents to identify specific material pertaining to the PUR or IV-E Review. Similarly, the title IV-E agencies are not to make or present separate case folders that are established primarily for the IV-E Review. The entire, official case record of the child under review must be accessible onsite to help resolve issues pertaining to case-specific eligibility that may arise during the onsite review. The record can be in paper or electronic form (or a combination). The entire case record consists of the official records pertaining to eligibility, child welfare services, and foster care provider licensure and safety.

- **Conduct pre-review conference calls.** The CB Regional Office arranges and leads the conference calls that are held with the title IV-E agency and other key individuals assigned to the IV-E Review. The first conference call is held at least 45 calendar days before the beginning of the onsite review. The purpose of this conference call and subsequent ones is to discuss relevant title IV-E agency policies and practices, the onsite review logistics, and the review schedule of activities. Team members are expected to become familiar with the policy and reference material submitted by the title IV-E agency in advance of the call (see “Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review,” Appendix C; “Recommended Topics for Discussion by the IV-E Foster Care Eligibility Review Team,” Appendix D; and “Materials the IV-E Agency Must Submit to the CB Review Leads Before the Onsite IV-E Review”, Appendix E).

At least two conference calls should be held between the federal and title IV-E agency review team members. Additional calls are encouraged and scheduled as needed to help prepare the title IV-E agency and review team for the IV-E Review.

- **Conduct entrance conference.** An entrance conference on the first day of the onsite review is convened with the review team and agency officials identified by the title IV-E agency. The title IV-E agency also should invite representatives from the court improvement program, licensing agency, and foster care program to attend the conference to assist with discussions pertaining to their respective programs. The CB Regional Office will provide an overview of the eligibility review process, including the purpose and scope, partnership between the CB and title IV-E agency, standards of substantial compliance, and agenda for the review week. The CB Review Co-Lead can assist with this task.
- **Provide orientation for review team.** A refresher training on IV-E eligibility is provided on the first day of the review week. The orientation will consist of a focused discussion of the Review Instrument and the instrument’s instructions and will be supplemented with pertinent laws and policies on IV-E eligibility (see Review Guide, Chapter 4; Review Instrument and its instructions, Appendices A and B; “Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review,” Appendix C; and “Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team,” Appendix D).
- **Conduct the onsite review.** The onsite review is conducted in a central locality or other site as agreed on by the CB Regional Office and the title IV-E agency. The review is completed within 5 working days by the combined federal and title IV-E agency review team. The case record, provider documentation, and payment documentation tied to the sample cases are reviewed by the team to verify that title IV-E funds are paid for eligible children; to identify any ineligible payments, including erroneous payments; and to provide technical assistance to help improve the title IV-E agency’s foster care maintenance payment program. The review team also will examine the case record, provider documentation, and payment documentation of the sample cases to

identify and record underpayments to assist the title IV-E agency in accurately claiming title IV-E funds. A sample case in which eligibility is questioned because the title IV-E agency's documentation is insufficient or not available during the onsite review is assigned a preliminary finding of undetermined at the end of the review week (see "Complete and disseminate the Final Report" below for further instructions on resolving a sample case finding of undetermined).

- **Conduct exit conference.** An exit conference at the conclusion of the onsite review is held with the review team, title IV-E agency officials and other individuals the title IV-E agency invites to attend. Representatives from the title IV-E agency should include the child welfare director and senior management staff. The CB Regional Office will: (1) provide a summary of the review week and the tentative findings, including a determination of substantial compliance, estimated disallowances and underpayments, case findings, and other eligibility issues; (2) provide observations about the title IV-E agency's foster care maintenance payment program, focusing on strengths, areas needing improvement, and technical assistance for program enhancements; and (3) identify the next steps in the review process.
- **Complete and disseminate the Final Report.** The CB prepares the review's Final Report of findings that includes the written determination regarding compliance (see "IV-E Review Final Report," Chapter 5).

The CB Regional Office can grant the title IV-E agency extra time to submit additional documentation to change an ineligible case rating or improper payment finding or to resolve an undetermined case. Typically, this will be 2 weeks after the exit conference concludes. This gives the title IV-E agency more time to provide supplemental material for the CB to consider in its compliance decision prior to completing the Final Report. An undetermined sample case is changed to an ineligible case (or error case if ineligibility is in the PUR) if the additional documentation is not provided prior to the issuance of the Final Report.

- **Recover federal funds and report underpayments.** The CB will issue a notice of disallowance of federal funds based on the extent the title IV-E agency claims a title IV-E foster care maintenance payment for an ineligible period, an unallowable program cost or an incorrect amount such as a duplicate payment under a requirement applicable to title IV-E. Underpayments are identified and reported for a sample case when the title IV-E agency unintentionally fails to claim an allowable title IV-E maintenance payment for an eligible child within the 2-year filing period specified in 45 CFR §95.7 (see "Improper Payments" discussed earlier in Chapter 1).
- **Conduct subsequent primary review.** Subsequent primary IV-E Reviews are conducted at 3-year intervals following the completion of a primary or secondary review determined in substantial compliance. A subsequent primary review also is conducted 3 years following a secondary review that is not in substantial compliance.

Some latitude is provided in the scheduling time frame to permit sufficient time to schedule, organize, and conduct the IV-E Review. However, the subsequent primary review must be conducted within 3 months of the anniversary date on which the previous onsite IV-E Review was completed. For example, if an onsite IV-E Review was conducted during the week of May 4, 2020, a subsequent primary review must be conducted by August 31, 2023.

- **Develop the PIP.** A Program Improvement Plan (PIP) is required whenever a title IV-E agency is found not in substantial compliance in a primary review. The title IV-E agency, in consultation with

the CB, develops a PIP that covers each systemic area the IV-E Review identifies as needing improvement as well as additional key concerns affecting agency performance that the agency identifies through PIP planning and development and program evaluation (see “IV-E Review Program Improvement Plan,” Chapter 6).

- **Conduct secondary review.** A secondary review is conducted whenever a primary review finds a title IV-E agency not in substantial compliance. The review consists of 150 sample cases. The sample for the secondary review is drawn from the title IV-E agency’s AFCARS data representing the first full reporting period that immediately follows the PIP completion date. The secondary review is conducted during the next AFCARS reporting period. Thus, the secondary review is conducted during the second AFCARS reporting period that immediately follows the PIP completion date (see “IV-E Review Program Improvement Plan,” Chapter 6). This timeline affords title IV-E agencies ample opportunity to make program changes in accordance with the PIP and to correct related program deficiencies and thereby achieve substantial compliance.

## Chapter 2: The IV-E Review Team

### ***Composition of the Review Team***

A team of individuals, comprising federal and title IV-E agency staff, conducts the IV-E Review. Federal representatives, selected by the Children's Bureau (CB), include CB Central and Regional Office staff. The title IV-E agency's membership, selected by the agency, consists of agency staff, and can include its external partners. In short, the principal members of the IV-E Review Team are from the following groups:

- CB Regional Office staff
- CB Central Office staff
- Title IV-E agency staff

The CB Regional Office should request that the ACF Grants Management Specialist participate in the IV-E Review to assist with completing fiscal functions pertaining to the review (see "ACF Grants Management Specialist Responsibilities," Chapter 3). This coordinated effort is important to ensure the program and fiscal aspects of the IV-E Review are appropriately and adequately completed.

Whenever feasible, the IV-E Review team consists of an equal number of federal and title IV-E agency staff as agreed upon by the CB Regional Office and the title IV-E agency. A combined total of 8 federal and title IV-E agency reviewers has proven to be an ideal number for a primary review and a combined total of 12 federal and title IV-E agency reviewers for a secondary review. At times, it may be advantageous to have a greater number of title IV-E agency staff to facilitate staff development and training. The CB will work with the title IV-E agency to assemble a diverse and inclusive review team that, for instance, may include individuals with lived expertise in the child welfare system.

***Title IV-E Agency Team Members.*** The title IV-E agency may elect to include, along with its agency staff, pertinent staff from its partner agencies. The selected individuals should possess expertise that can assist the title IV-E agency in identifying strategies for training, technical assistance, and program improvement; and augment the title IV-E agency staff's knowledge of title IV-E eligibility requirements. Examples of external partners the title IV-E agency may consider including in its team membership include representatives of the judicial system, and Tribal and public agency representatives who entered into a title IV-E agreement with the title IV-E agency. The title IV-E agency may claim title IV-E administration costs pertaining to the external agency reviewer's participation on the IV-E Review team. However, the associated costs must be reasonable and allocated to the title IV-E program in accordance with the title IV-E agency's approved cost allocation plan.

***Inter-Agency Participation.*** For training purposes, the IV-E Review Team may include staff from CB Regions other than the one assigned to the title IV-E agency being reviewed. Additionally, title IV-E agency staff may participate in a IV-E Review outside the agency's locality. Title IV-E agencies preparing to conduct reviews may find it helpful to send staff to another title IV-E agency's review to prepare and train them for their own reviews.

A CB Regional Office interested in participating in a title IV-E agency's IV-E Review outside the Region will make its request to the CB Core Team Lead through the CB Regional Office leading the review. Likewise, a title IV-E agency will submit its request to the CB Team Lead in the Region where the

requesting agency is located. Cross-jurisdictional participation is subject to the approval of the CB Central and Regional Offices and the availability of reviewer positions on the review team and space at the review site.

The CB Regional Office or the title IV-E agency requesting to send staff to another title IV-E agency's IV-E Review is responsible for paying all travel-related costs associated with that person's participation in the review. Further, staff from the sending CB Regional Office or title IV-E agency will be expected to fully participate in the IV-E Review process and may not attend the onsite review just to observe review activities (see "Function of the Review Team" in the section that follows).

**Peer Reviewers.** In addition to the above team members, the CB can select Peer Reviewers to participate in a IV-E Review. Peer Reviewers are non-federal agency staff recruited and trained through the CB's contract for supporting IV-E Reviews. They must have extensive knowledge of title IV-E eligibility criteria to be considered for selection. However, the CB selection of a Peer Reviewer to participate in a title IV-E agency's IV-E Review is optional and can occur only after it is determined there will not be a sufficient number of federal staff to read case files and complete the Review Instruments during the onsite IV-E Review. In choosing a Peer Reviewer, preference is given to qualified individuals who are working in the title IV-E program of a title IV-E agency, or a public agency that has a title IV-E agreement [see § 472(a)(2)(B) of the Act] with the title IV-E agency, and have experience in determining title IV-E eligibility and/or participating in a IV-E Review. A Peer Reviewer's participation in a review also is contingent on the availability of federal funding.

### ***Functions of the Review Team***

The role of the review team is to read a sample of foster care cases and companion provider records to assess whether the title IV-E agency's eligibility decisions are correct and supported by appropriate documentation and to help identify improper payments. The review team, however, does not conduct an independent determination of eligibility. If the title IV-E agency has made an incorrect determination, the review team uses the case documentation to identify and report which elements of eligibility and payment are incorrect and the period of ineligibility.

The effectiveness of the IV-E Review depends on the performance of the review team, which in turn depends on the completeness of the information the title IV-E agency furnishes. Information the title IV-E agency furnishes to the review team is used to determine case compliance, identify all sources of improper payments, calculate underpayments and disallowances, and formulate PIPs. Therefore, it is important that decisions concerning the accuracy of sample cases are based on an evaluation of the available facts and are thoroughly and accurately documented in the Review Instrument.

**Team Membership.** Serving on the review team involves a significant commitment of time and effort. All team members are expected to:

- Participate in scheduled orientation and training sessions;
- Remain present at the review site for the duration of the onsite review and participate in all scheduled review activities from the entrance conference through the exit conference;
- Perform all assigned activities associated with the review of case records and accurately complete the Review Instrument;

- Participate in a debriefing before the exit conference to discuss the strengths and areas in need of improvement noted during the review;
- Present factual information about case findings and program performance;
- Remain available for consultation following the review if needed to clarify or supplement information recorded in the Review Instrument; and
- Perform quality control functions as assigned by the CB Review Leads (see “Quality Control Tasks for the Title IV-E Foster Care Eligibility Review,” Appendix F).

### ***Leadership of the Review Team***

The team leader for the IV-E Review of a title IV-E agency is the CB Regional Program Specialist who is assigned to work with the title IV-E agency and CB Central Office in planning and conducting the agency’s onsite review.

The CB Regional Program Specialist is referred to as the CB Review Lead. A member of the CB Core Review Team also is assigned by the CB Core Team Lead to assist with the leadership of a title IV-E agency’s IV-E Review. The designated Core Team member is referred to as the CB Review Co-Lead. The CB Review Lead and CB Review Co-Lead are responsible for ensuring the completion of all review-related tasks (see “CB Review Lead Responsibilities,” Chapter 3).



## **Chapter 3: Onsite IV-E Reviews**

### ***Advance Preparation for and Tasks Performed During the IV-E Review***

The Children's Bureau (CB) Core Team Lead for IV-E Reviews (CB Core Team Lead) is the central point of contact throughout the entire IV-E Review process and provides guidance throughout each phase.

Primary functions of the CB Core Team Lead include:

- Develop and maintain a national schedule of IV-E Reviews conducted each year.
- Select a member of the CB Core Review Team to assist the CB Review Lead in overseeing the planning and conduct of a title IV-E agency's IV-E Review. Additional staff from CB Central Office may be selected to serve on the review team.
- Provide the CB Regional and Central Office reviewers with training and preparation to participate in a leadership role or as reviewers.
- Consult with the assigned CB Review Leads on the review sample and review issues needing particular attention.
- Ensure that a listing of random numbers from the title IV-E agency's AFCARS data is drawn for the sample of cases to review on site, and work with the CB Review Lead to provide the sample to the title IV-E agency no later than 60 calendar days before the onsite review.
- Consult with the CB Review Leads to ensure all review activities are completed.
- Review all Final Reports, improper payment information, and PIPs before they are approved and sent to the title IV-E agency.

### **CB Review Lead Responsibilities**

- Serve as the site leader and as the liaison with the title IV-E agency leadership in planning review activities. The CB Review Lead is the CB Regional Program Specialist assigned to lead a specific IV-E Review.
- Transmit to the title IV-E agency a written confirmation of the scheduled primary or secondary review and notify the title IV-E agency of material it must provide before and during the onsite review. This information is sent no later than 120 calendar days before the onsite review.
- Consult with the CB Central Office to select a Peer Reviewer when necessary to fill a vacancy in the federal membership on the review team.
- Coordinate with the CB Central Office to ensure the AFCARS random sample of foster care cases to be reviewed is sent to the title IV-E agency timely, and the complete payment and placement histories from the title IV-E agency are provided before and during the review, as needed.
- Ensure all federal team members have their materials to read before the first pre-review conference call.
- Plan details of the onsite IV-E Review with the title IV-E agency and CB Central Office. This consists of arranging needed conference calls, transmitting review instructions and procedures to

title IV-E agency liaisons, transmitting the title IV-E agency's material to federal team members, and helping to determine review team size and composition, review logistics and review week's agenda.

- Consult with title IV-E agency staff and the CB Review Co-Lead to discuss how the title IV-E agency's CCWIS, other child welfare information system, other electronic files, and/or automated functionality will support the title IV-E agency's eligibility process (see "Use of Information Systems, Automated Functionality, and/or Electronic Files for IV-E Reviews," later in this chapter).
- Conduct with the CB Review Co-Lead, the orientation and training of review team members. Also, lead the IV-E Review entrance and exit conferences.
- Work with the title IV-E agency, CB Review Co-Lead and ACF Grants Management Specialist to ensure complete payment histories are provided, approve replacing a sample case with an oversample one, and confirm improper payments for disallowance and underpayment.
- Participate in review activities by reading case records and completing the Review Instrument for cases in the review sample.
- Consult with the CB Review Co-Lead, the title IV-E agency and/or CB Core Team Lead on review issues or case difficulties needing particular attention.
- Ensure quality control functions are performed on all cases during the onsite review to ensure consistency, objectivity, and accuracy in reviewing cases. This includes assisting reviewers in resolving issues pertaining to completing Review Instruments and gathering supplemental information and applying it appropriately (see "Quality Control Tasks for the Title IV-E Foster Care Eligibility Review," Appendix F).
- Maintain a case log that summarizes review activities for each sample case (see example, "Title IV-E Foster Care Eligibility Reviews Log of Completed Case Records and Description of Improper Payments," Appendix G). Also, maintain a list of eliminated sample cases indicating the replacement oversample case and reason for substitution.
- Retain all documentation provided by the title IV-E agency pertaining to calculating underpayments and disallowances. The retained documentation includes the complete payment history for all sample cases with and without an identified improper payment.
- Ensure the completion of all review-related tasks.

### **CB Review Co-Lead Responsibilities**

- Serve on the leadership team of a specific IV-E Review. The CB Review Co-Lead is a member of the CB Core Review Team.
- Assist the CB Review Lead in guiding the review activities during the planning and conducting of the title IV-E agency's review and in ensuring all review activities are completed.
- Ensure national consistency in carrying out review activities, assessing eligibility requirements, assigning case ratings, and identifying improper payments.
- Assist with orienting and training review team members, as needed.

- Participate in review activities by reading case records and completing the Review Instrument for cases in the review sample.
- Consult with the CB Review Lead, the title IV-E agency and/or CB Core Team Lead on review issues or difficult cases needing particular attention.
- Ensure quality control functions are performed on all cases during the onsite review to ensure consistency, objectivity, and accuracy in reviewing cases. This includes assisting reviewers in resolving issues pertaining to completing Review Instruments and gathering supplemental information and applying it appropriately.
- Also conduct a second level quality check of the Review Instrument for all cases read. The CB Review Lead may assist when necessary due to time constraints (see “Quality Control Tasks for the Title IV-E Foster Care Eligibility Review,” Appendix F).
- Collaborate with the CB Review Lead to prepare preliminary drafts of the Final Report.

### **ACF Grants Management Specialist Responsibilities**

- Identify the sources, authorized payment types, amounts and claiming codes the title IV-E agency uses for foster care maintenance payments. This includes (1) obtaining the title IV-E agency’s fiscal policy materials needed to track foster care maintenance payments and (2) maintaining a list of the title IV-E agency’s payment codes and rates.
- Verify that the title IV-E agency claimed at least one title IV-E foster care maintenance payment for a period of activity in the PUR for each child in the sample coded in AFCARS with title IV-E as the funding source.
- Confirm that all foster care maintenance payments on the payment history coded as title IV-E funded are included as maintenance payment claims on the title IV-E agency’s submitted Form CB-496.
- Determine whether a case should be removed from the review sample. Assist the CB Review Lead in maintaining a list of sample cases eliminated, indicating the replacement oversample case, and documenting the reason for substitution.
- Examine the payment history to (1) verify it is a complete payment history that captures the entire foster care episode(s) including the PUR for each child in the review sample; (2) determine whether there is a payment adjustment and verify the title IV-E agency has submitted the adjustment to its title IV-E claim on the Form CB-496 before the date the title IV-E agency receives the sample; and (3) determine whether there are payment irregularities such as unallowable program costs, overpayments, duplicate payments, or underpayments.
- Calculate the dollar value of improper payments identified for sample cases and complete the required financial worksheets. Improper payments consist of unallowable program costs, overpayments, duplicate payments, erroneous payments, otherwise ineligible payments, and underpayments.
- Assist the CB Review Lead with maintaining a case log that summarizes review activities for each sample case (see case log example, “Title IV-E Foster Care Eligibility Reviews Log of Completed Case Records and Description of Improper Payments,” Appendix G).

- Retain all documentation provided by the title IV-E agency pertaining to underpayments and calculating maintenance and administrative cost disallowances. The documents retained include the complete payment history for all sample cases with and without an identified improper payment.

### **Title IV-E Agency Responsibilities**

- Assign an agency lead to work with the CB Review Lead to plan details for the conduct of the onsite IV-E Review. This consists of arranging needed conference calls, transmitting agency policies and procedures, and determining review team size and composition, review logistics, and the review week's agenda.
- Ensure all title IV-E agency reviewers are oriented to the review process and are available for the entire review week.
- Ensure the entire official case files for each sample and oversample case are available on site and ready for review. The official files are those records the agency (or another agency on its behalf) maintains regarding child eligibility, child welfare services, judicial determinations, and provider licensure and safety.
- Provide requested policy information to the CB Review Lead at least 90 calendar days before the onsite review. Electronic submission of material to the CB Regional Office is expected.
- Provide payment and placement histories to the CB Review Lead at least 60 calendar days before the onsite review. Electronic submission of material to the CB Regional Office is expected in an encrypted or password-protected file. Updated and complete histories should be provided on site.
- Ensure each case in the review sample is correctly coded as "1" to reflect a title IV-E foster care maintenance payment is claimed for the PUR. Submit documentation to the CB Review Lead or ACF Grants Management Specialist to verify replacing a case with an oversample one.
- Provide the CB Review Leads and reviewers with information to familiarize them with the title IV-E agency's CCWIS, child welfare information system, other electronic files, and/or automated functionality supporting the title IV-E agency's eligibility process. The agency may reference its Advance Planning Document (APD), provide screenshots, and/or provide system documentation.

### **Peer Reviewer Responsibilities**

- Connect to periodic webinars convened by the CB to address key aspects of the national IV-E Review protocol, including any changes or updates. The Peer Reviewer also is expected to participate in scheduled orientation and training sessions for the assigned review.
- Supplement federal membership on the review team. (The Peer Reviewer is not permitted to serve as a team leader or CB representative in IV-E Review activities.)
- Become familiar with title IV-E statutes, regulations, and other pertinent review materials including those of the title IV-E agency.
- Inform the CB Review Leads of case issues and review concerns.

- Present factual information unless an opinion is requested by the title IV-E agency or one of the CB Review Leads.
- Remain present at the review site for the duration of the onsite review and participate in all scheduled review activities from the entrance conference through the exit conference.
- Conduct all assigned activities associated with the review of case records and accurately complete the Review Instrument.

## **Case Selection and Review**

### **Sample of Cases Reviewed**

The CB Central Office statistician selects the sample of foster care cases from the title IV-E agency's most recent AFCARS data and electronically transmits the sample to the title IV-E agency. The CB Review Lead may request a stratified sample to ensure the sample proportionally represents the title IV-E foster care population in instances when the title IV-E agency has a title IV-E agreement for placement and care with another public agency, such as the juvenile justice agency or a federally recognized Tribe.

Before the onsite review, the title IV-E agency Review Lead must record the reason for eliminating any cases from the sample of cases that will be reviewed on site and give that information and supporting documentation to the CB Review Lead (see "Sampling Guidance," Chapter 1).

### **Preparation of Case Files for Review**

The title IV-E agency is responsible for providing complete case files that are organized and current. However, the title IV-E agency is not to tag, label, remove or segregate a sample case's documents to identify specific material pertaining to the PUR or onsite IV-E Review. Similarly, the agency is not to create or present separate case folders established primarily for the review.

**Complete Case Files.** The entire, official files for each sample and oversample case must be available on site during the review week so reviewers will have access to pertinent case material to determine compliance with the eligibility and payment requirements. The official files are those records the agency (or another agency on its behalf) maintains on the child regarding eligibility, child welfare services, judicial determinations, and provider licensure and safety. The files can be in paper or electronic form, or a combination.

The reviewer must be able to examine the child's entire case record, family record, and provider licensing file during the onsite review. This allows for a thorough review of the child's placement beginning with entry into foster care and extending through the life of the foster care episode. It also affords the review team better insight into how the title IV-E agency implements the foster care maintenance payment program and it presents an opportunity for the title IV-E agency to receive immediate training and technical assistance onsite. The CB authority for requiring access to sample case records is included in federal regulations at 45 CFR Parts 92 and 1356.

The title IV-E agency must make sure all documents needed to substantiate the child's eligibility in each of the sample cases are available on site to the review team. The review team will not infer or speculate about the eligibility of a child. Therefore, the determination of case compliance must be supported by the

appropriate documentation, even when the title IV-E agency maintains placement and care responsibility for a child it places with a foster care provider in another jurisdiction.

**Undetermined Case Rating.** If acceptable documentation is not provided during the onsite review, the case may be assigned a preliminary finding of *undetermined*. Subsequently, if acceptable documentation is not provided before the issuance of the Final Report of review findings, the ineligible title IV-E foster care maintenance payment in question will be disallowed. The case also will be *in error* if the ineligible payments are made for a period in the PUR.

**Case Documentation Guidelines.** The following list provides general guidelines concerning pertinent case documentation:

- **Judicial Removal.** The child's case records, including all court orders and removal petitions, must be available for review to establish the date of removal, removal home, and whether judicial requirements of "contrary to the welfare" and "reasonable efforts" are met for initial and ongoing eligibility for children judicially removed.
- **Voluntary Placement.** The voluntary placement agreements and subsequent court orders must be available for review to establish that initial and ongoing requirements are met for children removed pursuant to a voluntary placement agreement.
- **Provider Type and Licensure.** Licensing documentation for the foster family home, childcare institution, and residential family-based treatment facility for substance abuse for the child's entire placement in the PUR must include, at a minimum, a copy of the provider license, certificate, or letter of approval that verifies licensure status and demonstrates the licensing authority's official endorsement of the license. Documentation also must verify the type of placement setting and that it fully complies with federal requirements specified for that placement type, consistent with §§ 472(b), (c), (j) and (k) and 475A of the Act.
- **Foster Family Home Safety.** Safety documentation for the foster family home must verify that (1) a criminal records check has been conducted on each foster parent and (2) the foster parent has not been convicted of any of the felonies enumerated in § 471(a)(20)(A) of the Act; or (3) the applicable safety requirements at 45 CFR § 1356.30<sup>4</sup> for former opt-out states are met for the period that the title IV-E maintenance payment is made for the child in the foster family home during the PUR. The opt-out authority for the criminal records check ended as of October 1, 2008 (or at the time of the state's delayed effective date). On or after October 1, 2008 (or at the time of the state title IV-E agency's delayed effective date), safety documentation for all title IV-E agencies also must verify a fingerprint-based check of the national crime information databases (NCID), consistent with § 471(a)(20)(A) of the Act.
- **Childcare Institution Safety.** On or after October 1, 2018 (or the title IV-E agency's delayed effective date) safety documentation must verify a fingerprint-based check of the NCID (or an

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<sup>4</sup> Title IV-E agencies are required to check any child abuse and neglect registry for prospective foster parents. This is a title IV-E plan requirement. Therefore, the IV-E Review does not monitor compliance with this requirement.

approved alternative procedure) is completed satisfactorily on all adults working in the childcare institution, consistent with § 471(a)(20)(D) of the Act<sup>5</sup>.

- AFDC documentation must verify that (1) the title IV-E agency conducted an AFDC eligibility determination in or for the month the voluntary placement agreement is signed or the court proceedings are initiated through a removal petition or removal court order, whichever is earlier; (2) the agency conducted the AFDC determination on the specified relative from whom the child is removed via court order or voluntary placement agreement; (3) the child has been living with that relative within 6 months of the initiation of court proceedings or the voluntary placement agreement and (4) the “living with” and “removal from” requirements are met by the same specified relative. The documentation also must substantiate compliance with the school attendance criteria for a youth over the age of 18 and under the age of 19, in the PUR as provided for in the state’s 1996 title IV-A plan, consistent with § 472(a)(3) of the Act.

As of April 2010, the IV-E Review does not monitor compliance with the title IV-A plan provision requiring annual AFDC re-determinations of financial need and deprivation. Therefore, the title IV-E agency is not required to provide documentation that these AFDC-related factors are met after the initial determination of eligibility.

For further information on the IV-E Review procedures pertaining to title IV-E foster care eligibility requirements and documentation of eligibility, refer to Chapter 4 of this Review Guide.

**Use of Automated Information Systems and/or Electronic Files for IV-E Reviews.** The title IV-E agency may use a Comprehensive Child Welfare Information System (CCWIS), another child welfare information system, other electronic files and/or automated functionality (collectively referred to as automated information systems and/or electronic files) to substantiate title IV-E eligibility. These may be used to provide evidence of: the child’s removal as a result of judicial determinations of “contrary to the welfare” and “reasonable efforts” or via a voluntary placement agreement; responsibility for placement and care vested with the title IV-E agency; placement in a licensed foster family home, childcare institution or residential family-based treatment facility for substance abuse; verification of safety requirements for the foster care placement; and AFDC eligibility under the state’s title IV-A plan in effect July 16, 1996.

If automated information systems and/or electronic files are used, the title IV-E agency must tell the CB Review Leads how it plans to use them onsite during the IV-E Review. The title IV-E agency also must:

- Provide any necessary technology and instructions to enable reviewers to access the electronic records.
- Provide background training to acquaint reviewers with the title IV-E agency’s automated system and ensure agency staff are available on site to assist in navigating the automated information systems and/or electronic files to verify the child’s eligibility.

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<sup>5</sup> Title IV-E agencies are required to check any child abuse and neglect registry for all adults working in the childcare institution. This is a title IV-E plan requirement. Therefore, the IV-E Review does not monitor compliance with this requirement.

- Give the CB Review Leads and the IV-E Review reviewers a non-technical summary of how its automated information systems and/or files are used to determine eligibility, the logic behind the eligibility calculation and the embedded documentation that explains in an easy-to-read format what is going on at each point in the eligibility process.
- Briefly demonstrate the automated eligibility process to the review team. This can be done through screen printouts and the agency's navigation of the system.

The CB Review Leads must become familiar with the title IV-E agency's governing statutes and administrative policies, including signature and document authentication and edit authorizations pertaining to the agency's automated systems and/or electronic files. The title IV-E agency's automated information systems and/or electronic files are expected to document the data used to establish the child's eligibility and apply all eligibility factors consistently and accurately in every eligibility determination. The CB Review Leads' assessment of the automated process will entail a basic exploration of:

- How data are input into the system and the source of the data;
- How financial eligibility, legal decisions, and provider licensure/approval (including safety considerations) are determined and documented;
- How eligibility decisions are electronically sanctioned and documented by the agency;
- How the system captures all necessary factors and maintains supporting documentation considered in calculating eligibility;
- How the system ensures eligibility rules are applied uniformly in every eligibility determination;
- How data accuracy is ensured;
- How data are maintained, updated, and secured;
- Policy for accepting or authenticating electronic signatures; and
- Procedures for internal system controls, edits, and data overrides.

The above information is not an exhaustive list of all the factors to consider in examining the title IV-E agency's automated information systems and/or files. Consultation with the CB Division of State Systems will assist the CB Review Leads in assessing the extent to which the title IV-E agency's automated systems and/or electronic files can support the onsite review and alleviate the title IV-E agency's burden to reproduce paper documentation. The CB Review Leads also can refer to the CB website at: <https://www.acf.hhs.gov/cb/training-technical-assistance/state-tribal-info-systems>. The website has material that provides guidance to title IV-E agencies concerning the level of automation required for supporting title IV-E eligibility determinations and offers several approaches an agency can undertake to automate the determination process. The CB Review Leads also should compare information in the paper case files of the child and the child's foster care provider to that contained in the electronic files to help determine the legitimacy of the title IV-E agency's automated system for documenting eligibility and the extent to which the automated process represents the agency's business practice concerning eligibility determinations.



In summary, the title IV-E agency must demonstrate to the satisfaction of the CB that the automated system and/or electronic file is a valid representation of the title IV-E agency's business practice and policy pertaining to the eligibility determination process. The title IV-E agency must be able to demonstrate that adequate financial standards are maintained in providing necessary source documentation and guarding against payments for unallowable costs.

Regardless of whether the title IV-E agency provides documents on paper or in electronic form (or a combination) for the IV-E Review, the documentation must clearly substantiate that the eligibility requirement is satisfactorily met for the period in the PUR that the title IV-E foster care maintenance payment is made on behalf of the child.

## **Onsite Review Activities**

It is preferable to conduct the review in one large room rather than several small rooms to enable review team leaders to assist reviewers in understanding title IV-E requirements and supporting consistency in the review process and case findings and to promote productive interaction among team members. The room should always be accessible to the review team during working hours and secured to protect the confidentiality of the case records. Reviewers are expected to be flexible about their working hours in order to complete the review of all cases in the allotted 5 working days.

The title IV-E agency schedules the following activities for the onsite IV-E Review:

- An **entrance conference** for the CB Review Leads to meet with the review team to discuss the structure of and agenda for the week's activities and provide opportunities to raise and clarify issues pertinent to the review. Title IV-E agency should invite its senior management and other pertinent staff to attend the entrance conference.
- An **orientation** to the Review Instrument to discuss initial questions, the case record format, electronic files, if any, and the functions of the review team. The CB Review Leads typically conduct the orientation. The title IV-E agency is responsible for providing information in response to the orientation questions (see "Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team," Appendix D).
- A **team debriefing** to compile a summary of improper payments, if any, to discuss the model practices and areas in need of improvement that are demonstrated during the review, and to prepare for the exit conference.
- An **exit conference** for the CB Leads to meet with the title IV-E agency's senior management staff and other individuals invited by the title IV-E agency. During this conference, the CB Review Leads provide an overview of tentative findings of the review, discuss next steps, and raise and clarify issues related to the IV-E Review or its findings. The entire review team should be present for the exit conference.

## Chapter 4: Title IV-E Foster Care Eligibility Review Instrument and Instructions

The Children's Bureau (CB), as noted, conducts a IV-E Review to monitor a title IV-E agency's compliance in meeting requirements of title IV-E of the Act and implementing federal regulations at 45 CFR Part 1356 regarding the eligibility of children in the title IV-E agency's foster care program and the title IV-E agency's claim of foster care maintenance payments on behalf of these children.

The IV-E Review entails a systematic examination of case records and payment documentation to determine compliance with the title IV-E eligibility requirements. This is performed through the use of the "Title IV-E Foster Care Eligibility Review Instrument" (referred to as Review Instrument), which is discussed later in the chapter.

**Eligibility Requirements.** To verify a child's eligibility and, thus, qualify the title IV-E agency's claim for title IV-E foster care maintenance payments, during the IV-E Review the title IV-E agency must provide evidence that the following requirements are met for the child:

- Removal from home is in accordance with (1) judicial determinations of "contrary to the welfare" and "reasonable efforts to prevent removal" [§ 472(a)(2)(A) of the Act and 45 CFR §§ 1356.21(b) and (c), respectively]; or (2) a voluntary placement agreement [§§ 472(a)(2)(A)(i) and (d)–(g) of the Act and 45 CFR § 1356.22];
- Subsequent judicial determinations regarding reasonable efforts to make and finalize a permanency plan are obtained in judicial removals [§472(a)(2)(A) of the Act and 45 CFR § 1356.21(b)(2)] and judicial determinations regarding the child's best interests are obtained in voluntary removals [§472(e) of the Act];
- Responsibility for placement and care is vested with the title IV-E agency or another public agency with which the title IV-E agency has a title IV-E agreement [§ 472(a)(2)(B) of the Act and 45 CFR § 1356.71(d)(iii)];
- Eligibility for AFDC is met in accordance with the state title IV-A plan in effect on July 16, 1996, or earlier if the child was removed before this date [§ 472(a)(3) of the Act and 45 CFR § 1356.71(d)(1)(v)];
- Placement in a foster family home, childcare institution, or residential family-based treatment facility for substance abuse [§§ 472(b), (j) and (k) and § 475A of the Act; and 45 CFR § 1356.71(g)];
- Placement setting is fully licensed in accordance with §§ 472(c) and (j) of the Act and 45 CFR § 1356.71(d)(1)(iv); and
- Safety requirements are satisfied for the foster parent in the foster family home or staff of the childcare institution where the child is placed [§ 471(a)(20) of the Act and 45 CFR §§ 1356.30 and 1356.71(d)(1)(iv)].

**Initial Eligibility Requirements.** The initial criteria of (1) "contrary to the welfare" and "reasonable efforts to prevent removal" judicial determinations in a judicial removal, (2) voluntary placement agreement in a voluntary removal, and (3), in most cases AFDC eligibility are title IV-E eligibility requirements linked to the child's removal from home and, thus, must be met during the onset of the foster care episode. Once

these eligibility requirements are satisfied as mandated for title IV-E, they are considered met for the entire foster care episode.

If the eligibility criterion regarding either “contrary to the welfare,” “reasonable efforts to prevent removal,” “voluntary placement agreement,” or AFDC is not satisfied as required for title IV-E, the child is ineligible for the entire foster care episode.

**Ongoing Eligibility Requirements.** In addition to the initial eligibility requirements pertaining to the child’s removal, documentation for ongoing eligibility includes evidence of (1) a judicial determination regarding reasonable efforts to finalize a permanency plan in a court-ordered removal or a judicial determination regarding the best interests in a removal according to a voluntary placement agreement; (2) placement and care authority vested with the title IV-E agency; (3) placement in a fully licensed or approved foster care setting; (4) the foster parent in the foster family home or staff of the childcare institution meets the safety requirements; and (5) school attendance for an 18-year-old youth under the 1996 title IV-A plan option. These eligibility requirements can be met at any point in the foster care episode. However, title IV-E foster care maintenance payments cannot be made for a period that is before all the eligibility requirements are met as prescribed.

For further information on the title IV-E foster care eligibility requirements, refer to 45 CFR § 1356.21 and 45 CFR § 1356.71. Also refer to the Child Welfare Policy Manual on the CB website.

**State Plan Requirements.** The IV-E Review does not assess the title IV-E agency’s compliance with various title IV-E plan requirements such as: case plan development and implementation in accordance with § 471(a)(16); child abuse and neglect registry checks in accordance with § 471(a)(20); permanency hearings in accordance with § 475(5)(C); and termination of parental rights in accordance with § 475(5)(E). Compliance with title IV-E plan requirements is assessed to a limited extent during the CB review of the title IV-E agency’s child and family services program. However, the CB reserves the right to initiate the partial review process in accordance with 45 CFR § 1355.32(d) if, during the IV-E Review, the CB identifies a title IV-E plan compliance issue.

**Foster Care Episode.** The foster care episode begins at the point the judicial finding of “contrary to the welfare” is made or the voluntary placement agreement is signed that sanctions the child’s removal from home. That same foster care episode continues (1) for as long as that removal court order or voluntary placement agreement remains in effect and (2) the child continues in foster care status (meaning is not discharged from foster care). This principle applies even when the child is temporarily away from a title IV-E reimbursable placement setting and is in a setting such as a psychiatric hospital, trial home visit, or a secure juvenile detention placement that is not allowable for the title IV-E agency to claim title IV-E reimbursement on behalf of the child placed there (see CB Child Welfare Policy Manual at 8.3A.10, Question 2).

**When Payments May Begin and When They Must End.** The child is eligible under title IV-E when all eligibility criteria pertaining to the child’s removal from home and the child’s foster care placement are met. The title IV-E agency may claim title IV-E maintenance from the first day of placement in the month in which all title IV-E eligibility criteria are met (see Child Welfare Policy Manual at 8.3A.15, Question 1).

## ***Review Instrument***

The Title IV-E Foster Care Eligibility Review Instrument (Review Instrument) is a checklist for assessing compliance with the title IV-E eligibility requirements. It is completed for each sample case for which the title IV-E agency claimed at least one title IV-E foster care maintenance payment for an activity in the PUR. The Review Instrument provides a consistent and uniform approach for the CB to conduct IV-E Reviews. The CB may periodically update the Review Instrument to reflect changes in statutory and regulatory requirements.

Reviewers will use the most current Review Instrument to determine compliance with the title IV-E eligibility requirements. If the child exits and subsequently re-enters foster care during the PUR, a Review Instrument is completed for each foster care episode during that period.

The Review Instrument will be provided to the IV-E Review team by the CB Regional Office or its designee for the IV-E Review. The Review Instrument and instructions for completing it are contained in the Review Guide's appendices as Appendix A and Appendix B respectively and also are available on the CB website at <https://www.acf.hhs.gov/cb/monitoring/title-ive-reviews>.

## **Chapter 5: IV-E Review Final Report**

### ***Purpose of the Final Report***

The purpose of the Final Report is to document the Children's Bureau (CB) determination of compliance as a result of the title IV-E agency's performance on the IV-E Review. It also provides a listing of each error case with an explanation of the error, a listing of each non-error case with an explanation of the ineligible payment, an explanation of payments that are identified as underpayments and a compilation of the title IV-E agency's program strengths and areas in need of improvement. The title IV-E agency should use the information in the Final Report to develop a PIP, when necessary, and to enhance the effective operation of its title IV-E program.

### ***Preparation of the Final Report***

The CB Review Leads will write the Final Report and letter for transmitting it to the title IV-E agency. In doing so, they will analyze the results of the cases reviewed and make a determination about compliance and review performance pertaining to the program and fiscal aspects of the IV-E Review. The ACF Grants Management Specialist will compute the payment disallowances and underpayments and complete the financial worksheets for reporting improper payments identified during the IV-E Review.

Subjects discussed in the report must be germane to the scope of the IV-E Review and determination of compliance. Programmatic issues pertaining to IV-E plan requirements identified during the review process are addressed in the report as additional comments or observations and are limited to those factors that directly affect the proper administration of the title IV-E agency's program for foster care under title IV-E.

### ***Dissemination of the Final Report***

Within 30 calendar days after completing the onsite IV-E Review, the CB will issue the Final Report, with transmittal letter, to the appropriate officials at the title IV-E agency to notify the agency as to whether it is operating in substantial compliance, whether there are disallowances of ineligible cases, and whether there are eligible underpayments [45 CFR § 1356.71(h)(3)].

The CB may grant the title IV-E agency extra time to submit additional documentation to change an ineligible case rating or improper payment finding or to resolve an undetermined case. Typically, this will be 2 weeks from the date of the exit conference. This gives the title IV-E agency more time to provide supplemental material for the CB to consider in its compliance decision prior to completing the Final Report. An undetermined sample case is changed to an ineligible case (or error case if ineligibility is in the PUR) when the additional documentation is not provided prior to the issuance of the Final Report.

**Report Addendum.** When the CB Review Lead receives additional documentation after the Final Report is issued and the documentation results in a change to the IV-E Review finding, the CB will send the title IV-E agency written notification of the revised finding. The CB will post on its website the Final Reports, report addenda, and other pertinent information pertaining to the IV-E Reviews.

## Chapter 6: IV-E Review Program Improvement Plan

### ***Criteria for Developing a PIP***

The title IV-E agency must develop a Program Improvement Plan (PIP) when the title IV-E agency is found not in substantial compliance in a primary review. Noncompliance occurs when the IV-E Review findings indicate the total number of error cases is five or more. The PIP must be developed by title IV-E agency staff in consultation with Children's Bureau (CB) staff and must address each systemic area the IV-E Review identified as needing improvement [45 CFR § 1356.71(i)]. The title IV-E agency must engage in the PIP process to examine program deficiencies and develop measurable, sustainable strategies that target the root cause of problems preventing the agency from operating an accurate foster care eligibility program.

The title IV-E agency must develop a PIP even if it appeals an adverse review finding and a decision is pending before the Departmental Appeals Board. When a title IV-E agency decides it will not implement a PIP, the CB will conduct a secondary review in accordance with 45 CFR § 1356.71(i). The secondary review will be conducted during the first complete AFCARS reporting period that immediately follows the CB decision to proceed with a secondary review.

### ***Contents of the PIP***

The PIP must include the following elements, consistent with federal regulations at 45 CFR § 1356.71(i):

- Specific goals for improvement;
- Measurable action steps to correct each identified weakness or deficiency;
- Time frames for completing each action step; and
- Description of the evaluation process used to determine progress and completion.

The PIP is expected to address corrective action through both short-term goals (plans immediately minimizing negative effects on program operations) and long-term goals (plans for lasting reforms).

The PIP must provide sufficient detail and context to ensure the CB and Title IV-E agency can work collaboratively to monitor PIP progress in implementing and completing the plan.

### ***Format of the PIP***

**PIP Template.** The CB does not require the title IV-E agency to use a particular format when developing its PIP. However, the title IV-E agency is strongly encouraged to use the standard template the CB created to help the agency prepare PIP documents for initial submission and for periodic reporting of progress to the CB. Use of this fillable template will facilitate ease of preparing, reviewing, approving, and tracking PIP activities.

The suggested template and instructions for completing it are included with the Final Report and letter notifying the title IV-E agency that it is operating in noncompliance.

## ***Preparation and Approval of the PIP***

Responsibility for developing the PIP rests with the title IV-E agency. The agency is expected to consult with the CB Regional Office for guidance and technical assistance throughout the PIP development and implementation processes.

**PIP Deadlines.** The title IV-E agency must electronically submit its PIP to the CB Regional Office for approval within 90 calendar days from the date the title IV-E agency receives written notice from the CB that it is not operating in substantial compliance. This deadline may be extended an additional 30 calendar days (as determined by the CB) when the title IV-E agency requests an extension to send the CB Regional Office additional documentation supporting eligibility of cases deemed ineligible as a result of the IV-E Review. However, title IV-E agencies are strongly encouraged to submit any additional documentation for this purpose as soon as possible after the onsite review.

The CB Regional Office will notify the title IV-E agency of approval or disapproval of the proposed PIP. The approval notification will identify the prospective date for the title IV-E agency to begin PIP implementation and the target completion date. An approval of the PIP by the CB means the PIP adequately addresses the required elements, but does not mean a title IV-E agency is assured of being in substantial compliance following a secondary or subsequent primary IV-E Review.

If the proposed PIP is not approved, the CB will send written notification that details the basis for the decision, required modifications, and a target date for resubmission. Within 30 calendar days from receipt of this written notice, the title IV-E agency must revise and resubmit the PIP to the CB Regional Office for approval by the CB. If the title IV-E agency does not submit an approvable PIP within the specified time frame, the CB will initiate a secondary IV-E Review. The secondary review will be conducted during the first complete AFCARS period that immediately follows the CB decision to proceed with a secondary review.

## ***Time Frames for Implementing the PIP***

Title IV-E agencies have a maximum of 12 calendar months from their PIP's approved implementation date to complete the implementation of their PIP, unless the title IV-E agency requires legislative action to implement corrective action to accomplish a PIP goal.

Not all elements of the PIP may require this length of time to address corrective actions, and the 12-month period is, therefore, an outside time limit for those elements requiring more extensive planning and action.

**Extensions Within 12 Months.** The PIP can be scheduled for completion earlier than the 12-month period as determined by the latest date designated in the PIP for an action step to be achieved. When this occurs but it is later determined that additional time is needed within the 12-month time frame, the CB Regional Office can approve a request for a PIP extension that goes beyond the approved PIP completion date so long as the approval will not extend the PIP for more than the 12 months specified in 45 CFR 1356.71(i)(1)(iii).

**PIP Completion Date.** The PIP completion date is the date that is the earlier of the latest completion date of an action item in the CB-approved PIP or 12 calendar months from the approved implementation date of the PIP. For example, if the CB-approved implementation date for the PIP is May 10, and there

are three succeeding action steps outlined in the PIP with completion dates of November 1, January 30, and April 30, respectively, the PIP completion date is April 30 (not May 31 of the subsequent year). Then, the case sample and oversample is drawn using the title IV-E agency's data from the October 1–March 31 AFCARS reporting period. The secondary review will be conducted during the subsequent AFCARS reporting period of April 1–September 30.

***Extensions After 12 Months.*** When the title IV-E agency requires legislative action for PIP completion, the CB also may grant an extension. The CB and the title IV-E agency will negotiate the terms and duration of the extension. The required legislative action must be directly linked to an area of improvement and goal attainment identified in the PIP. It is expected that negotiations concerning an extension of the PIP will have occurred before the completion of PIP implementation. The extension must end by the last day of the first legislative session after the date previously approved for completing the PIP [45 CFR 1356.71(i)(1)(iii)].

The title IV-E agency's request for a PIP extension beyond the 12-month implementation period must be submitted in writing to the CB through the CB Regional Office. It must include the rationale for the request and documentation to justify the extension. The CB Regional Office must receive the written request no later than 60 calendar days before the targeted completion date of the approved PIP. The CB Regional Office will submit to the CB Core Team Lead the title IV-E agency's request for an extension, along with the supporting information and the CB Regional Office's recommendation. The CB Regional Office will notify the title IV-E agency in writing of the decision on the PIP extension within 30 calendar days from the date the Children Bureau receives the title IV-E agency's request. If the title IV-E agency's extension request is approved, the notification will identify the new date for completing the PIP.

### ***Periodic Progress Reports***

The title IV-E agency will submit periodic progress reports to the CB Regional Office and a cumulative report after the PIP completion date. The CB Regional Office and title IV-E agency will determine the reporting frequency.

***Reporting Timeframe.*** The CB Regional Office and CB Core Team Lead, in consultation with the title IV-E agency, will review the periodic reports to assess the title IV-E agency's progress in completing the prescribed action steps in accordance with the time frames and conditions identified in the PIP. The status reports must include a description of progress made during the reporting period and data about measurable factors and their relationship to the established benchmarks and timeframes. The progress report must contain sufficient detail to describe the extent of improvements made during the reporting period, including information that addresses the specific time frames and benchmarks of progress included in the PIP. The title IV-E agency is expected to submit the progress and final PIP reports within 30 calendar days following the end of the PIP reporting period. For example, if the reporting frequency is quarterly, the progress report for the quarter ending March 31 is due to the CB Regional Office by April 30.

After the final progress and cumulative reports are received, the CB Regional Office will send a letter to the title IV-E agency acknowledging the agency's completion of the PIP and summarizing the work that is accomplished to complete it.



### ***Technical Assistance***

The CB Regional Office will work with the title IV-E agency to determine needed technical assistance, which will be provided to the extent available to help the agency implement its PIP. To the degree possible, technical assistance needs should be coordinated with other program improvement efforts underway in the title IV-E agency, especially with regard to implementation of the title IV-E agency's PIP stemming from its Child and Family Services Review.

## **Glossary**

### **Case Error Rate**

The case error rate applies to a secondary review, and it is the number of cases in error divided by the number of cases in the review sample.

### **Disallowance**

A payment disallowance is the amount of federal funds identified for recovery by the Children's Bureau (CB) when such funds are paid for a child ineligible under title IV-E. The disallowance includes all title IV-E payments for foster care maintenance and associated administrative costs claimed for the ineligible period for the most recent foster care episode.

### **Dollar Error Rate**

The dollar error rate applies to a secondary review and is determined by dividing the maintenance and administrative dollars ineligible for the period under review (PUR) by the total PUR amounts in maintenance payments and administrative costs claimed or the cases in the review sample.

### **Eligible Child**

A child is eligible under title IV-E when all title IV-E eligibility criteria pertaining to the child and the child's foster care provider are met.

### **Error Case**

A case is in error when a child is not eligible on a date of activity in the PUR for which a title IV-E maintenance payment is made.

### **Improper Payment**

An improper payment is any title IV-E foster care maintenance payment that should not have been claimed or that is claimed in an incorrect amount under a requirement applicable to title IV-E. Incorrect amounts are overpayments, duplicate payments, erroneous and otherwise ineligible payments, and underpayments.

### **Ineligible Child**

A child is not eligible when a title IV-E eligibility criterion pertaining to the child or the child's foster care provider is not met.

### **Ineligible Payment**

An ineligible payment refers to a title IV-E maintenance payment claimed for a child who is not eligible on the date of the claimed activity or when there is an unallowable program cost claimed for an eligible child.

### **Initial Primary Review**

The initial primary review refers to the first IV-E review conducted following the publication of the final rule in the Federal Register on January 25, 2000.

### **Most Recent Foster Care Episode**

The most recent foster care episode begins with the date the child is last removed from the home (according to a court order or voluntary placement agreement) and placed in foster care before the end of the PUR and continues to the date the child is discharged for that removal. If a child has multiple foster care episodes during the PUR, each episode is reviewed for title IV-E eligibility.

**Noncompliance**

If a title IV-E agency is noncompliant, it is not in substantial compliance. For primary reviews, noncompliance means five or more of the cases in the review sample are in error. For secondary reviews, noncompliance means both the case error rate and the dollar error rate exceed 10 percent.

**Non-Error Case With Ineligible Payment**

A non-error case with an ineligible payment occurs when an unallowable title IV-E maintenance payment is claimed for an activity or expenditure solely outside the PUR. It also occurs when an unallowable maintenance payment is claimed for an activity or expenditure in or outside the PUR for an eligible child.

A non-error case with ineligible payments for activities occurring in the period under review is included in the assessment of payment disallowance and calculation of the dollar error rate in the secondary review. It is excluded from the determination of substantial compliance for the primary review and from the determination of the case error rate for the secondary review.

**Period Under Review**

The period under review (PUR) is the 6-month reporting period of the Adoption and Foster Care Analysis and Reporting System (AFCARS) from which the sample of cases is drawn for the IV-E Review. The AFCARS data are transmitted semi-annually by the title IV-E agency to the CB Central Office.

**Program Improvement Plan**

The program improvement plan (PIP) is a plan developed by the title IV-E agency, in collaboration with the CB, to correct systemic areas identified during the IV-E Review as deficient or problematic for successful program performance.

**PIP Completion Date**

The PIP completion date is the date that is the earlier of the latest completion date of an action item in the approved PIP or 12 calendar months from the approval date for PIP implementation, unless an extension has been granted by the CB.

**Primary Review**

The primary review is the first review in the IV-E review process. A sample of 80 foster care cases is reviewed. These cases, plus at least a 10 percent oversample, are selected from AFCARS data using a probability sampling methodology. No alternate data source may be substituted for AFCARS for sampling selection.

**Review Oversample**

The review oversample refers to the additional cases randomly selected from the sampling universe for potential review to ensure the required number of sample cases is examined for a primary or secondary review. At a minimum, a 10 percent oversample is selected from the title IV-E agency's most recent AFCARS submission to the CB Central Office. A case from the oversample is reviewed in lieu of a case from the original sample only in exceptional conditions.

**Review Sample**

The review sample consists of the cases of children for whom the title IV-E agency claimed at least one title IV-E maintenance payment for the 6-month reporting period of the title IV-E agency's most recent period of AFCARS data submission. A sample of 80 cases is selected for review during the primary review and 150 cases is selected for the secondary review.

## **Secondary Review**

A secondary review is a review conducted after a title IV-E agency is found not in substantial compliance in a primary review. A sample of 150 cases is reviewed in a secondary review. These cases, plus at least a 10 percent oversample, are drawn from the title IV-E agency's AFCARS data submission for the first 6-month period that immediately follows the PIP completion date. The secondary review is conducted during the second AFCARS reporting period that immediately follows the PIP completion date.

## **Secondary Review Extrapolation**

A secondary review extrapolation refers to the payment disallowance calculated when the case error rate and dollar error rate exceed 10 percent in a secondary review. The disallowance is based on an extrapolation from the review sample to the universe of claims paid for the entire AFCARS reporting period under review.

## **Substantial Compliance**

For a primary review, substantial compliance means the total number of error cases does not exceed four. For a secondary review, substantial compliance means that either the case error rate or dollar error rate does not exceed 10 percent.

## **Three-Year Cycle of Reviews**

Title IV-E agencies in substantial compliance must undergo a subsequent primary review 3 years after completing the primary or secondary review. Title IV-E agencies not in substantial compliance in a secondary review also must undergo a primary review 3 years after completing the secondary review.

## **Transcript**

In the absence of a paper court order, the title IV-E agency may provide a court transcript that demonstrates a requisite judicial finding is made at the appropriate time [see 45 CFR § 1356.21(d)(1)]. An acceptable transcript is a true reproduction of the proceedings and can include an audio recording of the court's proceedings, a written reproduction that derives directly from an audio recording of the proceedings, or a written reproduction that was produced during the proceedings. A transcription of the court proceeding by the title IV-E agency is not acceptable.

## **Underpayment**

An underpayment is an allowable title IV-E foster care maintenance payment for an eligible child that the title IV-E agency unintentionally fails to claim within the 2-year filing limit specified at 45 CFR § 95.7. An underpayment has not occurred if the title IV-E agency intentionally has not claimed reimbursement for the eligible expenditure or the filing period has expired.

## **Universe of Claims**

The universe of claims is the federal share of allowable title IV-E foster care maintenance payments and associated administrative costs claimed for the PUR. It is associated with the calculation of the extrapolated disallowance in a secondary review.

## **When Payments May Begin**

Federal financial participation generally may begin on the first day of a child's placement in the month in which all eligibility requirements are satisfied. If eligibility is attained after the first of the month, title IV-E payments may be claimed retroactive to the first day of the month for an otherwise eligible child. If an eligible child is placed on a date in the month other than the first of the month, title IV-E funds must be claimed from the actual date of placement.

## Appendices

<b>Appendix A:</b>	Title IV-E Foster Care Eligibility Review Instrument (Review Instrument)
<b>Appendix B:</b>	Instructions for Completing the Title IV-E Foster Care Eligibility Review Instrument
<b>Appendix C:</b>	Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review
<b>Appendix D:</b>	Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team
<b>Appendix E:</b>	Materials the IV-E Agency Must Submit to the Children's Bureau Review Leads Before the Onsite IV-E Review
<b>Appendix F:</b>	Quality Control Tasks for the Title IV-E Foster Care Eligibility Review
<b>Appendix G:</b>	Title IV-E Foster Care Eligibility Review Log of Completed Case Records and Description of Improper Payments
<b>Appendix H:</b>	Time Frames for Title IV-E Foster Care Eligibility Review Activities
<b>Appendix I:</b>	Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program
<b>Appendix J:</b>	Title IV-E Foster Care Eligibility Chart
<b>Appendix K:</b>	Matrix of AFDC Factors for Title IV-E Foster Care Eligibility
<b>Appendix L:</b>	Provider Requirements for Title IV-E Foster Care Eligibility

## Appendix A: Instrument

### QUALITY ASSURANCE SIGNATURES AND DATES

Level	Signature	Date
First Level		
Second Level		

## TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW INSTRUMENT (REVIEW INSTRUMENT)

### A. CASE FINDINGS

Complete this section after completing the entire instrument (check all applicable boxes).

Case Type: Non-Error Case ☐ Error Case ☐

For either case type, case includes: Underpayments ☐ Ineligible Payments ☐

### B. GENERAL INSTRUCTIONS

Complete this TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW INSTRUMENT (Review Instrument) for each foster care episode in the 6-month period under review (PUR). Use pencil and write legibly. Information in this Review Instrument is *confidential* and must not be disclosed for any purposes outside the Title IV-E Foster Care Eligibility Review (IV-E Review).

**Each question must be answered.** Read the INSTRUCTIONS FOR COMPLETING THE TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW INSTRUMENT for an explanation of each question and how to answer it. The Review Instrument may be annotated with additional information regarding eligibility, as necessary. ***Response boxes with an asterisk (\*) and outlined in bold indicate potential case errors and/or other improper payments.***

### C. GENERAL CASE INFORMATION

1. Review PUR (MM/DD/YY): \_\_\_\_/\_\_\_\_/\_\_\_\_ – \_\_\_\_/\_\_\_\_/\_\_\_\_
2. State Abbreviation and Random Sample Selection number: \_\_\_\_
3. Case ID: \_\_\_\_\_
4. County or Local Office: \_\_\_\_\_
5. Review Date (MM/DD/YY): \_\_\_\_/\_\_\_\_/\_\_\_\_
6. Reviewed by: \_\_\_\_\_ and \_\_\_\_\_

### D. CHILD INFORMATION

7. Child's Name (First and Last): \_\_\_\_\_
8. Child's Date of Birth (MM/DD/YY): \_\_\_\_/\_\_\_\_/\_\_\_\_
9. Child's Age (in years) on the First day of the PUR: \_\_\_\_\_

**COMMENTS** (Record reason for a response above; indicate question number and cite relevant case documentation):

**E. REMOVAL DATE**

[Statutory Citation: § 472(a) of the Social Security Act (the Act)]

10. Date child is removed from home (MM/DD/YY): \_\_\_\_/\_\_\_\_/\_\_\_\_

**COMMENTS** (Record reason for a response above; indicate question number and cite relevant case documentation):**F. JUDICIAL REMOVALS**

[Statutory Citation: § 472(a)(2) of the Act; Regulatory Citations: 45 CFR §§ 1356.21(b), (c), &amp; (d)]

Questions 11–13	YES	NO	N/A
11. Is the child's removal the result of a court order?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	–
12. If Question 11 is YES, what is the date of the court order removing the child from home?  Court order date (MM/DD/YY): ____/____/____	–	–	<input type="checkbox"/>
12(a). Is this court order the first order that sanctions the child's removal?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12(b). Does this court order have a finding of contrary to the welfare?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12(c). Is the judicial requirement met regarding contrary to the welfare?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12(d). Are title IV-E funds claimed for a period before the month the contrary to the welfare requirement is met?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. If Question 11 is YES, is there a judicial finding regarding reasonable efforts to prevent removal?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13(a). Is this judicial finding within 60 days of the child's removal?  Judicial finding date (MM/DD/YY): ____/____/____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13(b). Is the judicial requirement met regarding reasonable efforts to prevent removal?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13(c). Are title IV-E funds claimed for a period before the month the reasonable efforts to prevent removal requirement is met?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):**G. VOLUNTARY PLACEMENTS**

[Statutory Citation: §§ 472(a)(2)(A)(i), (d)–(g) of the Act; Regulatory Citation: 45 CFR § 1356.22]

Questions 14–16	YES	NO	N/A
14. Is the child's removal the result of a voluntary placement agreement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	–

Questions 14–16, cont'd.	YES	NO	N/A
15. If Question 14 is <i>YES</i> , is the voluntary placement agreement signed by the parent or legal guardian and the title IV-E agency representative(s)? Voluntary placement agreement signature date (MM/DD/YY): ____/____/____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
15(a). Are title IV-E funds claimed for a period before the month the voluntary placement agreement is signed by the parent or legal guardian and the title IV-E agency?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is there a judicial determination regarding the child's best interests within 180 days of the date of foster care placement? Judicial finding date (MM/DD/YY): ____/____/____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
16(a). If Question 16 is <i>NO</i> , are title IV-E funds claimed for the period of ineligibility?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

## H. VALID REMOVALS

[Statutory Citations: §§ 472(a)1 & 2 of the Act; Regulatory Citation: 45 CFR § 1356.21(k)(2)]

Question 17	YES	NO	N/A
17. Is there a valid removal of the child from the home for the most recent foster care episode?	–	–	–
17(a). Is the child's removal the result of a court order or a voluntary placement agreement?	<input type="checkbox"/>	* <input type="checkbox"/>	–
17(b). If Question 17(a) is <i>YES</i> , does the child's physical removal coincide with the court order or voluntary placement agreement authorizing the removal? Physical removal date (MM/DD/YY): ____/____/____ Removal court order, or voluntary placement agreement date (MM/DD/YY): ____/____/____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
17(c). Are the requirements met for a valid removal?	<input type="checkbox"/>	* <input type="checkbox"/>	–
17(c)(1). If Question 17(c) is <i>NO</i> , are title IV-E payments claimed for the period of ineligibility?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):



# **I. ONGOING JUDICIAL ACTIVITY: Reasonable Efforts to Finalize the Permanency Plan (Applicable to Court-Ordered Removals Only)**

[Statutory Citation: § 472(a)(2) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

## **Judicial Determination for Reasonable Efforts to Finalize the Permanency Plan Chart**

Determination Date	Due Date for Next Determination	Date It Is Made	Is It Timely? (Yes or No)	Is Title IV-E Claimed? (Yes or No)

Questions 18–19	YES	NO	N/A
<p>18. What is the date that the child entered foster care?</p> <p style="text-align: right;">Entry date (MM/DD/YY): ____/____/____</p> <p><b>Relevant Dates:</b></p> <p>Date Removed (MM/DD/YY): ____/____/____</p> <p>Dates of PUR (MM/DD/YY):</p> <p style="text-align: center;">Begin date: ____/____/____ End date: (MM/DD/YY): ____/____/____</p>	–	–	–
19. Has the child been in foster care for 12 months or more prior to the last day of the PUR?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19(a). If Question 19 is YES, date of the last judicial determination immediately before the PUR (MM/YY): ____/____	–	–	<input type="checkbox"/>
19(b). Date the next judicial determination is due (MM/YY): ____/____	–	–	<input type="checkbox"/>
19(c). Date the Question 19(b) judicial determination is made (MM/YY): ____/____	–	–	<input type="checkbox"/>
19(d). Is the Question 19(c) judicial determination timely?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
19(e). Is the requirement met for the judicial finding of reasonable efforts to finalize the permanency plan?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
19(e)(1). If Question 19(e) is NO, are title IV-E payments improperly claimed for the period of ineligibility in the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

**J. AFDC ELIGIBILITY**

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(k) & (l) and 1356.71(d)(1)(v)]

Questions 20–24	YES	NO	N/A
20. Is the child judicially or voluntarily removed from a specified relative? Individual's relationship to child: _____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
21. If Question 20 is YES, has the child lived with the specified relative identified in Question 20 within 6 months of the initiation of court proceedings or signing of the voluntary placement agreement? Date child last lived with specified relative (MM/DD/YY): ____/____/____ Date court proceedings initiated for removal (MM/DD/YY): ____/____/____ Date voluntary placement agreement signed (MM/DD/YY): ____/____/____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
22. Are the removal from and living with requirements met by the same specified relative?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
23. Has the title IV-E agency completed a determination of AFDC eligibility?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
23(a). Is AFDC eligibility based on the home of the specified relative against whom the contrary to the welfare judicial determination is made or who has signed the voluntary placement agreement? AFDC eligibility home: _____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
23(b). Is AFDC eligibility based on the month the court proceedings are initiated or voluntary placement agreement is signed? AFDC eligibility month (MM/YY): ____/____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
24. Does the child meet the AFDC requirements for eligibility?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
24(a). If Question 24 is NO, are title IV-E payments claimed for the period of ineligibility?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

**K. AGE AND EXTENDED TITLE IV-E FOSTER CARE ASSISTANCE**

[Statutory Citation: §§ 406, 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR § 233.90(b)]

Question 25	YES	NO	N/A
25. Is the youth 18 years or older at any point during the PUR? Child's age (in years as of last day of the PUR): _____	<input type="checkbox"/>	<input type="checkbox"/>	–
25(a). If Question 25 is YES, does the title IV-E agency have an approved AFDC plan option to extend title IV-E coverage to youth 18–19 years old?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
25(b). Is the youth a full-time student in a secondary school or equivalent educational program?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
25(c). Is the youth expected to complete the educational program before the 19th birthday?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
25(d). Are the requirements met to extend eligibility under the AFDC plan option for youth 18–19 years old?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
25(d)(1). If Question 25(d) is NO, are title IV-E funds claimed for the period of ineligibility in the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

**L. TITLE IV-E AGENCY RESPONSIBILITY FOR PLACEMENT AND CARE OF CHILD**

[Statutory Citation: §§ 472(a)(2)(B)(i) of the Act; Regulatory Citation: 45 CFR § 1356.71(d)(1)(iii)]

Questions 26–27	YES	NO	N/A
26. Who has placement and care responsibility of the child for the entire period of the foster care episode that is within the PUR?	–	–	–
26(a). Does the title IV-E Agency have placement and care responsibility? Agency Name: _____ Dates of responsibility (MM/DD/YY): ____/____/____ – ____/____/____	<input type="checkbox"/>	* <input type="checkbox"/>	–
26(a)(1). Are title IV-E funds claimed for the period in 26(a)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26(b). Does Another Public Agency have placement and care responsibility? Agency Name: _____ Dates of responsibility (MM/DD/YY): ____/____/____ – ____/____/____	<input type="checkbox"/>	* <input type="checkbox"/>	–
26(b)(1). If Question 26(b) is YES, is there a title IV-E agreement in effect between this agency and the title IV-E agency that covers the period in 26(b)?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>

Questions 26–27, cont'd.	YES	NO	N/A
26(b)(2). Are title IV-E funds claimed for the period in 26(b)?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26(c). Does a Private Agency have placement and care responsibility? Agency Name: _____ Dates of responsibility (MM/DD/YY): ____/____/____ – ____/____/____	* <input type="checkbox"/>	<input type="checkbox"/>	–
26(c)(1). Are title IV-E funds claimed for the period in 26(c)?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26(d). Does an individual have placement and care responsibility? Relationship to child: _____ Dates of responsibility (MM/DD/YY): ____/____/____ – ____/____/____	* <input type="checkbox"/>	<input type="checkbox"/>	–
26(d)(1). Are title IV-E funds claimed for the period in 26(d)?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Are the requirements regarding placement and care met for the PUR?	<input type="checkbox"/>	* <input type="checkbox"/>	–
27(a). If Question 27 is NO, are title IV-E funds claimed for the period of ineligibility in the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	–

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

## M. PLACEMENT IN LICENSED FOSTER CARE SETTINGS

[Statutory Citation: §§ 472(b), (c), (j) & (k) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)].

### Child's Placement History Chart for the PUR, IV-E FC Maintenance Not Claimed:

Placement Name	Placement Type	Placement Start Date	Placement End Date
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Questions 28–34	YES	NO	N/A
28. Child's placement in the PUR for which IV-E FC maintenance is claimed:  Placement Name: _____  Placement Address: _____  _____	–	–	–
29. Date(s) of child's stay in the placement setting identified in Question 28. (MM/DD/YY):  ____/____/____ to ____/____/____  ____/____/____ to ____/____/____	–	–	–
30. Type of placement setting in Question 28:	–	–	–
30(a). Foster Family Home <input type="checkbox"/>	–	–	–
30(b). Child care institution <input type="checkbox"/> Check the type of child care institution: <ul style="list-style-type: none"> <li>• Group home <input type="checkbox"/></li> <li>• Public child care institution that houses 25 or fewer children <input type="checkbox"/></li> <li>• Private child care institution <input type="checkbox"/></li> <li>• Child care institution specializing in providing prenatal, post-partum, or parenting supports for youth <input type="checkbox"/></li> <li>• Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims <input type="checkbox"/></li> <li>• Supervised independent living setting for youth age 18 or older <input type="checkbox"/></li> <li>• Qualified residential treatment program <input type="checkbox"/></li> </ul>	–	–	–
30(c). Licensed Residential Family-Based Treatment Facility for Substance Abuse <input type="checkbox"/>	–	–	–
30(d). Other <input type="checkbox"/> Specify Other: _____	–	–	–
30(d)(1). If Question 30(d) is <i>Other</i> , are title IV-E funds claimed for the period that the child resided in the placement during the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 28–34, cont'd.	YES	NO	N/A
31. If the child's placement during the PUR is a child care institution, does the child's placement in this setting begin on or after October 1, 2019, or the title IV-E agency's delayed effective date for § 472(k) of the Act?  State's effective date: ____ / ____ / ____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31(a). If Question 31 is YES, is the child's stay in the placement longer than 14 days?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31(b). If Question 31(a) is YES, is the child care institution one of the specified placement settings as defined in § 472(k)(2) of the Act? Check all applicable settings describing this placement. <ul style="list-style-type: none"> <li>• Child care institution specializing in providing prenatal, post-partum, or parenting supports for youth <input type="checkbox"/></li> <li>• Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims <input type="checkbox"/></li> <li>• Supervised independent living setting for youth age 18 years or older <input type="checkbox"/></li> <li>• Qualified residential treatment program <input type="checkbox"/></li> </ul>	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
31(c). Are the general requirements met for the PUR for the child's placement in a child care institution on or after October 1, 2019, or the title IV-E agency's delayed effective date for § 472(k) of the Act?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
31(c)(1). If Question 31(c) is NO, are title IV-E payments claimed for the period of ineligibility in the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32. If the child's placement during the PUR is a specified setting as described in § 472(k)(2) of the Act, please mark <u>the one type</u> that applies to this child's placement. <ul style="list-style-type: none"> <li>• Child care institution specializing in providing prenatal, post-partum, or parenting supports for youth <input type="checkbox"/></li> <li>• Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims <input type="checkbox"/></li> <li>• Supervised independent living setting for youth age 18 years or older <input type="checkbox"/></li> <li>• Qualified residential treatment program <input type="checkbox"/></li> </ul>	–	–	–

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 28–34, cont'd.	YES	NO	N/A
32(a). If the answer to Question 32 is a qualified residential treatment program, did this placement begin on or after October 1, 2019, or the title IV-E agency's delayed effective date?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(a)(1). Does the qualified residential treatment program fully meet the requirements of a qualified residential treatment program as defined in § 472(k)(4)(A)-(F) of the Act?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(a)(2). Is the qualified residential treatment program accredited by one of the independent, not-for-profit organizations specified and in accordance with § 472(k)(4)(G) of the Act?  Dates of Accreditation (MM/DD/YY):  ____/____/____ to ____/____/____  ____/____/____ to ____/____/____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(b). Has the agency documented for the PUR, that within 30 days of the start of the child's placement into the qualified residential treatment program, a qualified individual completed an assessment of the appropriateness of the qualified residential treatment program?  Assessment Date (MM/DD/YY): ____/____/____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(b)(1). If Question 32(b) is NO, did the agency claim title IV-E for any of the dates that the child was in the qualified residential treatment program for the placement episode?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(b)(2). If the assessment was completed timely, did the qualified individual recommend the placement as being appropriate?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(b)(3). If the qualified individual completed the assessment timely and did not recommend the placement, did the IV-E agency claim title IV-E "transition payments"?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(b)(3)(a). If the agency claimed title IV-E "transition payments," was the child's next placement one of the following: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 28–34, cont'd.	YES	NO	N/A
<p>32(b)(3)(b). If Question 32(b)(3)(a) is <b>YES</b>, did the agency claim title IV-E “transition payments” for any dates that are more than 30 days after the qualified individual determined the placement was not appropriate?</p> <p>Dates claimed beyond the 30 days:</p> <p>(MM/DD/YY) ____/____/____ to ____/____/____</p> <p>All claimed title IV-E payments that were made for the child’s placement in the qualified residential treatment program more than 30 days after the date that the individual determined the placement was not appropriate are disallowed. Record ineligible periods in the attached Improper Payment Chart (Appendix 2).</p>	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>32(c). Has the agency documented for the PUR that a court or court-approved administrative body completed its review of the placement within 60 days?</p>	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(1). If Question 32(c) is <b>YES</b>, did the court or court-approved administrative body approve the child’s continued placement in the qualified residential treatment program?</p> <p>Enter the date the court or court-approved administrative body approved or disapproved the qualified residential treatment program placement:</p> <p>(MM/DD/YY) ____/____/____</p>	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(2). If Question 32(c)(1) is <b>NO</b>, did the child remain in the qualified residential treatment program?</p>	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(3). If Question 32(c)(2) is <b>YES</b>, did the IV-E agency claim title IV-E “transition payments”?</p>	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(3)(a). If Question 32(c)(3) is <b>YES</b>, was the child’s next placement: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?</p>	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(3)(b). If Question 32(c)(3)(a) is <b>YES</b>, did the agency claim title IV-E “transition payments” for more than 30 days after the disapproval date?</p> <p>If <b>YES</b>, calculate and write down how many days the child remained after the date of disapproval below.</p> <p>(MM/DD/YY) ____/____/____ to ____/____/____ = ____ (# of days)</p>	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):



Questions 28–34, cont'd.	YES	NO	N/A
32(d). If the child's placement in the qualified residential treatment program is longer than: <ul style="list-style-type: none"> <li>• 12 consecutive months, or 18 non-consecutive months for a child aged 13 or older,</li> <li>or</li> <li>• 6 consecutive or nonconsecutive months for a child under age 13</li> </ul> Has the title IV-E agency documented for the PUR that the title IV-E agency's chief executive has signed an approval for the continued placement in the qualified residential treatment program before the end of those specific timeframes?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(d)(1). If Question 32(d) is <i>NO</i> , did the child remain in the qualified residential treatment program after the end of the 12 <sup>th</sup> , 18 <sup>th</sup> , or 6 <sup>th</sup> month, as applicable?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(d)(2). If the title IV-E agency has documented for the PUR that the title IV-E agency's chief executive does not approve the child's continued placement in the qualified residential treatment program, before the end of those specific timeframes, did the child remain in the qualified residential treatment program after the end of the 12 <sup>th</sup> , 18 <sup>th</sup> , or 6 <sup>th</sup> month, as applicable?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(d)(3). If Question 32(d)(1) or 32(d)(2) is <i>YES</i> , did the IV-E agency claim title IV-E "transition payments"?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(d)(4). If the agency claimed title IV-E "transition payments," was the child's next placement: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(d)(5). If Question 32(d)(1) is <i>YES</i> , did the agency claim title IV-E "transition payments" for more than 30 days after the end of the 12 <sup>th</sup> , 18 <sup>th</sup> , or 6 <sup>th</sup> month in which the agency head's approval was due?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(e). Are the requirements met for the child's placement in a qualified residential treatment program during the PUR?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(e)(1). If Question 32(e) is <i>NO</i> , are title IV-E payments claimed for the period of ineligibility in the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 28–34, cont'd.	YES	NO	N/A
33. If the child's placement during the PUR is a residential family-based treatment facility for substance abuse, does the child's placement begin on or after October 1, 2018?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
33(a). Is the residential family-based treatment facility for substance abuse fully licensed for the period of the child's stay in this placement that falls within the PUR? If YES, licensure period(s) (MM/DD/YY): ____/____/____ to ____/____/____ ____/____/____ to ____/____/____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
33(a)(1). If Question 33(a) is NO, are title IV-E payments claimed for the period of ineligibility in the PUR?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33(b). Are title IV-E payments claimed for more than 12 months for the period of the child's stay in the residential family-based treatment facility for substance abuse that falls within the PUR?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. Is the child's placement fully licensed during the child's stay in the foster family home or child care institution that falls within the PUR? If YES, licensure period(s) (MM/DD/YY): ____/____/____ to ____/____/____ ____/____/____ to ____/____/____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
34(a). If Question 34 is NO, are title IV-E funds claimed for the period in the PUR the foster family home or child care institution is not fully licensed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

## N. SAFETY REQUIREMENTS

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

Questions 35–36	YES	NO	N/A
35. Is the child's placement during the PUR a foster family home?	<input type="checkbox"/>	<input type="checkbox"/>	–
35(a). If the foster family home is newly licensed before October 1, 2008, or the title IV-E agency's delayed effective date, and the title IV-E agency had not "opted out" of the 1997 criminal records check requirement, is a criminal records check completed satisfactorily on the foster parent(s)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
35(a)(1). If Question 35(a) is NO, are title IV-E funds claimed for the period in the PUR the criminal records check requirement is not satisfied for the foster parent(s)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Questions 35–36, cont'd.	YES	NO	N/A
35(b). If the foster family home is newly licensed before October 1, 2008, or the title IV-E agency's delayed effective date, and the title IV-E agency had "opted out" of the 1997 criminal records check requirement, are the safety requirements per 45 CFR § 1356.30(e) completed satisfactorily on the foster parent(s)?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
35(b)(1). If Question 35(b) is <i>NO</i> , are title IV-E funds claimed for the period in the PUR the safety requirements are not satisfied for the foster parent(s)?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35(c). If the foster family home is newly licensed on or after October 1, 2008, or the title IV-E agency's delayed effective date, is a fingerprint-based check of the national crime information databases (NCID) completed satisfactorily on the foster parent(s)?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
35(c)(1). If Question 35(c) is <i>NO</i> , are title IV-E funds claimed for the period in the PUR the fingerprint-based check of the NCID is not completed satisfactorily on the foster parent(s)?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 35–36, cont'd.	YES	NO	N/A
36. Is the child's placement during the PUR a child care institution?	<input type="checkbox"/>	<input type="checkbox"/>	–
36(a). If the child is residing in the child care institution on or after October 1, 2018, or the title IV-E agency's delayed effective date, have all adults working in the child care institution had fingerprint-based checks of the NCID completed?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
36(b). If Question 36(a) is <i>NO</i> , does the title IVE agency have alternative procedures to conduct criminal records checks?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
36(b)(1). If Question 36(b) is <i>YES</i> , are the alternative procedures completed satisfactorily for all adults working in the child care institution?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
36(c). Are the criminal records check requirements met in the PUR for the child residing in a child care institution on or after October 1, 2018, or the title IV-E agency's delayed effective date, consistent with § 471(a)(20)(D)?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
36(c)(1). If Question 36(c) is <i>NO</i> , are title IV-E funds claimed for the period in the PUR that the criminal records check requirements are not completed satisfactorily on all adult staff of the child care institution?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

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**ADDITIONAL NOTES/COMMENTS**

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Indicate question number and cite relevant case documentation, as applicable:

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## CASE FINDINGS GLOSSARY

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After the Review Instrument is completed, complete Section A on the first page of the instrument (instructions for Appendix 2 of the Review Instrument have additional information on determining and reporting improper payments).

**Eligible Child:** A child is considered eligible when all title IV-E eligibility criteria pertaining to the child and the child's foster care placement are met. The child must be in a foster care placement that is allowable under title IV-E in order for the otherwise eligible child to be considered as meeting all title IV-E criteria for eligibility.

**Ineligible Child:** A child is ineligible if a title IV-E eligibility criterion pertaining to the child or the child's foster care placement is not met.

**Ineligible Payment:** An ineligible payment refers to a title IV-E maintenance payment claimed for a child who is not eligible on the date of the claimed activity or when there is an unallowable program cost claimed for an eligible child.

**Non-Error Case with Ineligible Payment:** A non-error case with ineligible payment occurs when (1) an unallowable title IV-E maintenance payment is made for a period solely outside the PUR for an ineligible child or (2) an unallowable title IV-E maintenance payment is made for a period in or outside the PUR for an eligible child.

**Error Case:** An error case occurs when a title IV-E maintenance payment is made for a period within the PUR on behalf of an ineligible child. This includes the period within the PUR prior to the month the child meets an eligibility requirement.

**Underpayment:** An underpayment occurs when a title IV-E agency unintentionally fails to claim an allowable title IV-E maintenance payment for an eligible child and the 2-year filing period specified under 45 CFR § 95.7 has not expired. An underpayment has not occurred when the title IV-E agency intentionally does not claim the allowable payment, or the 2-year filing period has expired.

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## QUALITY ASSURANCE SIGNATURES AND DATES

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The Quality Assurance Reviewer will sign and enter the signature date in the space provided on the top of the first page of the Review Instrument to indicate at which level a quality assurance review has been completed.

## APPENDIX 1: LICENSING/SAFETY CHECKLIST FOR MULTIPLE PLACEMENTS

Complete Appendix 1 for each additional foster care placement during the PUR for which the title IV-E agency has claimed a title IV-E foster care maintenance payment. Directions for completing each question are explained in sections M and N, starting with Question 28 of the Review Instrument's Instructions.

Title IV-E Agency \_\_\_\_\_ Sample Number \_\_\_\_\_

### M. PLACEMENT IN LICENSED FOSTER CARE SETTINGS

[Statutory Citation: §§ 472(b), (c), (j) & (k) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)].

Questions 28–34	YES	NO	N/A
28. Child's placement in the PUR for which IV-E FC maintenance is claimed:  Placement Name: _____  Placement Address: _____  _____	–	–	–
29. Date(s) of child's stay in the placement setting identified in Question 28. (MM/DD/YY): _____/_____/_____ to _____/_____/_____ _____/_____/_____ to _____/_____/_____	–	–	–
30. Type of placement setting in Question 28:	–	–	–
30(a). Foster Family Home <input type="checkbox"/>	–	–	–
30(b). Child care institution <input type="checkbox"/> Check the type of child care institution: <ul style="list-style-type: none"> <li>• Group home <input type="checkbox"/></li> <li>• Public child care institution that houses 25 or fewer children <input type="checkbox"/></li> <li>• Private child care institution <input type="checkbox"/></li> <li>• Child care institution specializing in prenatal, post-partum, or parenting supports for youth <input type="checkbox"/></li> <li>• Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims <input type="checkbox"/></li> <li>• Supervised independent living setting for youth age 18 or older <input type="checkbox"/></li> <li>• Qualified residential treatment program <input type="checkbox"/></li> </ul>	–	–	–
30(c). Licensed Residential Family-Based Treatment Facility for Substance Abuse <input type="checkbox"/>	–	–	–

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 28–34, cont'd.	YES	NO	N/A
30(d). Other <input type="checkbox"/> Specify Other: _____	–	–	–
30(d)(1). If Question 30(d) is <i>Other</i> , are title IV-E funds claimed for the period that the child resided in the placement during the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31. If the child's placement during the PUR is a child care institution, does the child's placement in this setting begin on or after October 1, 2019, or the title IV-E agency's delayed effective date for § 472(k) of the Act?  State's effective date: ____ / ____ / ____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31(a). If Question 31 is <i>YES</i> , is the child's stay in the placement longer than 14 days?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31(b). If Question 31(a) is <i>YES</i> , is the child care institution one of the specified placement settings as defined in § 472(k)(2) of the Act? Check all applicable settings describing this placement. <ul style="list-style-type: none"> <li>Child care institution specializing in providing prenatal, post-partum, or parenting supports for youth <input type="checkbox"/></li> <li>Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims <input type="checkbox"/></li> <li>Supervised independent living setting for youth age 18 years or older <input type="checkbox"/></li> <li>Qualified residential treatment program <input type="checkbox"/></li> </ul>	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
31(c). Are the general requirements met for the PUR for the child's placement in a child care institution on or after October 1, 2019, or the title IV-E agency's delayed effective date for § 472(k) of the Act?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
31(c)(1). If Question 31(c) is <i>NO</i> , are title IV-E payments claimed for the period of ineligibility in the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32. If the child's placement during the PUR is a specified setting as described in § 472(k)(2) of the Act, please mark <u>the one type</u> that applies to this child's placement. <ul style="list-style-type: none"> <li>Child care institution specializing in providing prenatal, post-partum, or parenting supports for youth <input type="checkbox"/></li> <li>Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims <input type="checkbox"/></li> <li>Supervised independent living setting for youth age 18 or older <input type="checkbox"/></li> <li>Qualified residential treatment program <input type="checkbox"/></li> </ul>	–	–	–

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):



Questions 28–34, cont'd.	YES	NO	N/A
32(a). If the answer to Question 32 is a qualified residential treatment program, did this placement begin on or after October 1, 2019, or the title IV-E agency's delayed effective date?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(a)(1). Does the qualified residential treatment program fully meet the requirements of a qualified residential treatment program as defined in § 472(k)(4)(A)-(F) of the Act?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(a)(2). Is the qualified residential treatment program accredited by one of the independent, not-for-profit organizations specified and in accordance with § 472(k)(4)(G) of the Act?  Dates of Accreditation (MM/DD/YY): _____/_____/_____ to _____/_____/_____ _____/_____/_____ to _____/_____/_____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(b). Has the agency documented for the PUR, that within 30 days of the start of the child's placement into the qualified residential treatment program, a qualified individual completed an assessment of the appropriateness of the qualified residential treatment program?  Assessment Date (MM/DD/YY): _____/_____/_____	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(b)(1). If Question 32(b) is NO, did the agency claim title IV-E for any of the dates that the child was in the qualified residential treatment program for the placement episode?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(b)(2). If the assessment was completed timely, did the qualified individual recommend the placement as being appropriate?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(b)(3). If the qualified individual completed the assessment timely and did not recommend the placement, did the IV-E agency claim title IV-E "transition payments"?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(b)(3)(a). If the agency claimed title IV-E "transition payments," was the child's next placement one of the following: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 28–34, cont'd.	YES	NO	N/A
<p>32(b)(3)(b). If Question 32(b)(3)(a) is <b>YES</b>, did the agency claim title IV-E “transition payments” for any dates that are more than 30 days after the qualified individual determined the placement was not appropriate?</p> <p>Dates claimed beyond the 30 days:</p> <p>(MM/DD/YY) ____/____/____ to ____/____/____</p> <p>All claimed title IV-E payments that were made for the child’s placement in the qualified residential treatment program more than 30 days after the date that the individual determined the placement was not appropriate are disallowed. Record ineligible periods in the attached Improper Payment Chart (Appendix 2).</p>	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>32(c). Has the agency documented for the PUR that a court or court-approved administrative body completed its review of the placement within 60 days?</p>	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(1). If Question 32(c) is <b>YES</b>, did the court or court-approved administrative body approve the child’s continued placement in the qualified residential treatment program?</p> <p>Enter the date the court or court-approved administrative body approved or disapproved the qualified residential treatment program placement:</p> <p>(MM/DD/YY) ____/____/____</p>	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(2). If Question 32(c)(1) is <b>NO</b>, did the child remain in the qualified residential treatment program?</p>	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(3). If Question 32(c)(2) is <b>YES</b>, did the IV-E agency claim title IV-E “transition payments”?</p>	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(3)(a). If Question 32(c)(3) is <b>YES</b>, was the child’s next placement: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?</p>	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
<p>32(c)(3)(b). If Question 32(c)(3)(a) is <b>YES</b>, did the agency claim title IV-E “transition payments” for more than 30 days after the disapproval date?</p> <p>If <b>YES</b>, calculate and write down how many days the child remained after the date of disapproval below.</p> <p>(MM/DD/YY) ____/____/____ to ____/____/____ = ____ (# of days)</p>	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 28–34, cont'd.	YES	NO	N/A
32(d). If the child's placement in the qualified residential treatment program is longer than: <ul style="list-style-type: none"> <li>12 consecutive months, or 18 non-consecutive months for a child aged 13 or older,</li> <li>or</li> <li>6 consecutive or nonconsecutive months for a child under age 13</li> </ul> Has the title IV-E agency documented for the PUR that the title IV-E agency's chief executive has signed an approval for the continued placement in the qualified residential treatment program before the end of those specific timeframes?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(d)(1). If Question 32(d) is <i>NO</i> , did the child remain in the qualified residential treatment program after the end of the 12 <sup>th</sup> , 18 <sup>th</sup> , or 6 <sup>th</sup> month, as applicable?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(d)(2). If the title IV-E agency has documented for the PUR that the title IV-E agency's chief executive does not approve the child's continued placement in the qualified residential treatment program, before the end of those specific timeframes, did the child remain in the qualified residential treatment program after the end of the 12 <sup>th</sup> , 18 <sup>th</sup> , or 6 <sup>th</sup> month, as applicable?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(d)(3). If Question 32(d)(1) or 32(d)(2) is <i>YES</i> , did the IV-E agency claim title IV-E "transition payments"?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(d)(4). If the agency claimed title IV-E "transition payments," was the child's next placement a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(d)(5). If Question 32(d)(1) is <i>YES</i> , did the agency claim title IV-E "transition payments" for more than 30 days after the end of the 12 <sup>th</sup> , 18 <sup>th</sup> , or 6 <sup>th</sup> month in which the agency head's approval was due?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32(e). Are the requirements met for the child's placement in a qualified residential treatment program during the PUR?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
32(e)(1). If Question 32(e) is <i>NO</i> , are title IV-E payments claimed for the period of ineligibility in the PUR?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 28–34, cont'd.	YES	NO	N/A
33. If the child's placement during the PUR is a residential family-based treatment facility for substance abuse, does the child's placement begin on or after October 1, 2018?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
33(a). Is the residential family-based treatment facility for substance abuse fully licensed for the period of the child's stay in this placement that falls within the PUR? If YES, licensure period(s) (MM/DD/YY): ____/____/____ to ____/____/____ ____/____/____ to ____/____/____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
33(a)(1). If Question 33(a) is NO, are title IV-E payments claimed for the period of ineligibility in the PUR?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33(b). Are title IV-E payments claimed for more than 12 months for the period of the child's stay in the residential family-based treatment facility for substance abuse that falls within the PUR?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. Is the child's placement fully licensed during the child's stay in the foster family home or child care institution that falls within the PUR? If YES, licensure period(s) (MM/DD/YY): ____/____/____ to ____/____/____ ____/____/____ to ____/____/____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
34(a). If Question 34 is NO, are title IV-E funds claimed for the period in the PUR the foster family home or child care institution is not fully licensed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

## N. SAFETY REQUIREMENTS

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

Questions 35–36	YES	NO	N/A
35. Is the child's placement during the PUR a foster family home?	<input type="checkbox"/>	<input type="checkbox"/>	–
35(a). If the foster family home is newly licensed before October 1, 2008, or the title IV-E agency's delayed effective date, and the title IV-E agency had not "opted out" of the 1997 criminal records check requirement, is a criminal records check completed satisfactorily on the foster parent(s)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
35(a)(1). If Question 35(a) is NO, are title IV-E funds claimed for the period in the PUR the criminal records check requirement is not satisfied for the foster parent(s)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Questions 35–36, cont'd.	YES	NO	N/A
35(b). If the foster family home is newly licensed before October 1, 2008, or the title IV-E agency's delayed effective date, and the title IV-E agency had "opted out" of the 1997 criminal records check requirement, are the safety requirements per 45 CFR § 1356.30(e) completed satisfactorily on the foster parent(s)?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
35(b)(1). If Question 35(b) is <i>NO</i> , are title IV-E funds claimed for the period in the PUR the safety requirements are not satisfied for the foster parent(s)?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35(c). If the foster family home is newly licensed on or after October 1, 2008, or the title IV-E agency's delayed effective date, is a fingerprint-based check of the national crime information databases (NCID) completed satisfactorily on the foster parent(s)?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
35(c)(1). If Question 35(c) is <i>NO</i> , are title IV-E funds claimed for the period in the PUR the fingerprint-based check of the NCID is not completed satisfactorily on the foster parent(s)?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

Questions 35–36, cont'd.	YES	NO	N/A
36. Is the child's placement during the PUR a child care institution?	<input type="checkbox"/>	<input type="checkbox"/>	–
36(a). If the child is residing in the child care institution on or after October 1, 2018, or the title IV-E agency's delayed effective date, have all adults working in the child care institution had fingerprint-based checks of the NCID completed?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
36(b). If Question 36(a) is <i>NO</i> , does the title IV-E agency have alternative procedures to conduct criminal records checks?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
36(b)(1). If Question 36(b) is <i>YES</i> , are the alternative procedures completed satisfactorily for all adults working in the child care institution?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
36(c). Are the criminal records check requirements met in the PUR for the child residing in a child care institution on or after October 1, 2018, or the title IV-E agency's delayed effective date, consistent with § 471(a)(20)(D)?	<input type="checkbox"/>	* <input type="checkbox"/>	<input type="checkbox"/>
36(c)(1). If Question 36(c) is <i>NO</i> , are title IV-E funds claimed for the period in the PUR that the criminal records check requirements are not completed satisfactorily on all adult staff of the child care institution?	* <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS** (Record reason for a response above, indicate question number and cite relevant case documentation):

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**ADDITIONAL NOTES/COMMENTS**

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Indicate question number and cite relevant case documentation, as applicable:

## APPENDIX 2: IMPROPER PAYMENT CHART

Appendix 2 is used to record all improper payments identified during the IV-E Review. Improper payments are overpayments, duplicate payments, erroneous and otherwise ineligible title IV-E maintenance payments, and underpayments. Directions for completing this chart are explained in the Review Instrument's instructions.

Title IV-E Agency \_\_\_\_\_ Sample Number \_\_\_\_\_

Review Instrument Question #	Eligibility Issue or Payment Issue	Start Date	End Date	Payment Amount



## Appendix B: Instrument Instructions

### Title IV-E Foster Care Eligibility Review Instrument Instructions

#### A. CASE FINDINGS

Complete this section after completing the entire instrument (check all applicable boxes).

Case Type:                      Non-Error Case ☐                      Error Case ☐

For either case type, case includes:                      Underpayments ☐                      Ineligible Payments ☐

#### B. GENERAL INSTRUCTIONS

Complete this TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW INSTRUMENT (Review Instrument) for each foster care episode in the 6-month period under review (PUR). Use pencil and write legibly. Information in this Review Instrument is *confidential* and must not be disclosed for any purposes outside the Title IV-E Foster Care Eligibility Review (IV-E Review).

**Each question must be answered.** Read the INSTRUCTIONS FOR COMPLETING THE TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW INSTRUMENT for an explanation of each question and how to answer it. The Review Instrument may be annotated with additional information regarding eligibility, as necessary. ***Response boxes with an asterisk (\*) and outlined in bold indicate potential case errors and/or other improper payments.***

#### C. GENERAL CASE INFORMATION

1. **Review PUR:** Record the beginning and ending dates (month/day/year) of the 6-month AFCARS period that is the focus of this IV-E Review.
2. **State Abbreviation and Random Sample Selection number:** Record the two-letter postal code of the state that is being reviewed; then enter the sample number of the case that is being reviewed (typically 1–80). Or, if the case is drawn from the oversample, enter OS and the number of the oversample case. For example, if this is the first oversample case, enter state postal code and OS-1.
3. **Case ID:** Record the case identification number that the title IV-E agency assigns to the child.
4. **County or Local office:** Record the name of the county or local office where the child's case is based.
5. **Review Date:** Record the date (month/day/year) that you are reviewing the case.
6. **Reviewed by:** Write your name. If you are reviewing the case with another reviewer, write both of your names.

#### D. CHILD INFORMATION

7. **Child's Name:** Record the first and last name of the child whose sample case you are reviewing. Particularly if a case file includes information for a child and siblings, use the payment and placement histories to ensure that you are reviewing eligibility requirements regarding the child who is in the sample.
8. **Child's Date of Birth:** Record the child's birthday (month/day/year). Note in the comments where you found the child's birthday (e.g., birth certificate or equivalent birth record).

- 9. Child's Age (in years) on the First day of the PUR:** Record the child's age as of the first day of the PUR. This will either be the child's age as of April 1 or October 1. If the child is under 12 months old on the first day of the PUR, enter 0 (zero) as the child's age.

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## ADDITIONAL INSTRUCTIONS

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- Read each question's instructions before answering it and recording the answer. Do not leave any question blank unless instructed to do so.
- Indicate "**YES**," "**NO**," or "**N/A**" as appropriate for the question. "**YES**" and "**NO**" responses with an asterisk (\*) and outlined in bold cell border are potential case errors or improper payments (ineligible payments or underpayments).
- Verify that the title IV-E agency documented each eligibility factor and, where applicable, record in "Comments" case documentation supporting your response to the question.
- Record additional placements during the PUR in Appendix 1 of the Review Instrument, "Licensing/Safety Checklist for Multiple Placements."
- Record data for improper payments in Appendix 2 of the Review Instrument, "Improper Payment Chart."
- Refer to the "Title IV-E Foster Care Eligibility Review Guide" for additional guidance on review policy and procedures.
- Statutory citations refer to the applicable section of the Social Security Act (the Act).
- Commentaries are used to clarify and explain issues, concepts, or challenges and to present concrete examples of typical situations. Examples are not to be read more broadly than the expressed facts presented and may not be applied to factual situations different from those specifically described.

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## E. REMOVAL DATE

[Statutory Citation: § 472(a) of the Social Security Act (the Act)]

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- 10. Date child is removed from home:** Record the date (month/day/year) that the child is physically removed from home. Or, if constructively removed, record the date that the child is constructively removed. The constructive removal date is the date the court sanctioned the judicial removal from home, or the date that the parent or legal guardian and the title IV-E agency signed the voluntary placement agreement.

A "constructive removal" occurs when a child is with an interim caregiver (related or unrelated) on the date that the court finds it is contrary to the welfare for that child to remain in the home of a parent or another individual. Similarly, a constructive removal occurs when a parent or legal guardian enters into a voluntary placement agreement with the title IV-E agency. In short, in a constructive removal, the child's removal takes place on paper because an actual physical removal from the removal home at the time of the court order or voluntary placement agreement is not possible because the child is with an interim caregiver.

There are some acceptable circumstances in which the title IV-E agency does not physically remove the child from the parent or other specified relative immediately after the judge makes a contrary to the welfare finding against the parent or specified relative or after the voluntary placement agreement is signed. For example, a child who is judicially removed from home while living with a parent in a licensed, residential family-based treatment facility for substance abuse does not need to be physically removed from the child's parent. Regardless of the reason for the lack of an immediate physical removal, reviewers should record the date that the judge made the contrary to the welfare determination, or the date that the voluntary placement agreement was signed.

*Example:* The child was hospitalized on 03-06-2018 due to serious injuries and had to stay in the hospital until 04-12-2018. Following a call from the attending physician, an investigation was conducted, and the child was placed in the agency's legal custody on 03-11-2018. The judge on that day entered a finding that removal from the parent and placement in foster care was necessary to protect the child from further parental harm. The child was placed in a foster home on 04-12-2018. The date the child is removed from home is 03-11-2018, which is the date of the judicial authorization for removal. The child is considered constructively removed because the child was hospitalized at the time of the judicial order authorizing removal, therefore a physical removal from the parental home of removal was not possible.

## **F. JUDICIAL REMOVALS**

[Statutory Citation: § 472(a)(2) of the Act; Regulatory Citations: 45 CFR §§ 1356.21(b), (c), & (d)]

The child must be removed from home in accordance with the federal statutory and regulatory requirements at § 472(a)(2)(A) of the Act, 45 CFR § 1355.20, 45 CFR § 1356.21 and 45 CFR § 1356.22. As such, the child is not eligible for title IV-E foster care maintenance payments if the child has not been removed in accordance with either a judicial determination of contrary to the welfare or a voluntary placement agreement.

### **11. Is the child's removal the result of a court order?**

- Mark *YES* if a court sanctioned the child's removal from home by a court order.
- Mark *NO* if a court did not sanction the child's removal from home.

For title IV-E eligibility purposes, the judicial removal must be explicitly documented in a valid court order or an official court transcript. A court order is considered valid if it is valid pursuant to the state or title IV-E agency's requirements for valid court orders.

### **12. If Question 11 is *YES*, what is the date of the court order removing the child from home?**

- Mark *N/A* if the child is not removed from home via court order.
- If the child is removed from home pursuant to a court order, enter the date (month/day/year) of the court order (or court transcript) that sanctions the child's removal from home.

The date the court ruling is rendered typically is used to establish time frames for judicial determinations related to a child's eligibility for title IV-E foster care. However, if the mandates governing court procedures with regard to the title IV-E agency specify that a court decision becomes effective based on a different occurrence, such as the date the judge signs the court order, then that mandate is followed for determining the date a finding is made.

## General Instructions, Questions 12(a) to 13(c): Judicial Determinations

For title IV-E eligibility purposes, when a child is removed from home via a court order, the court order must include judicial determinations: (1) to the effect that it is contrary to the child's welfare to remain in the home, and (2) that the title IV-E agency has made reasonable efforts to prevent the child's removal from home (or that reasonable efforts need not be made). The judicial determinations do not need to include the exact terms "reasonable efforts" or "contrary to the welfare," but reviewers may not infer findings based on the facts included in the court order. There must be a statement in the court order that explicitly verifies that the required type of judicial determination has been made. It is acceptable, for example, for a judge to find that it is in the best interests of the child to be removed from home (satisfying the contrary to the welfare requirement), or for a judge to find that the title IV-E agency took all possible action to prevent the child from being removed from home (satisfying the reasonable efforts requirement).

**Documentation Requirements.** These judicial determinations must be documented in valid court orders. If the title IV-E agency does not provide a valid court order that contains the requisite judicial determinations, the only alternative that can be used to satisfy the requirements is an official transcript of the court proceeding pertaining to the removal. Affidavits, *nunc pro tunc* court orders, and other similar-purpose documents are not acceptable documentation to support a judicial finding, except as provided in § 479B of the Act for a limited period for a tribal title IV-E agency.

When a title IV-E agency relies on the transcript of a court proceeding instead of a written court order, there must be a statement in the transcript that explicitly verifies that the required type of judicial determination has been made. An acceptable transcript is a true reproduction of the court's proceedings, and as such can include an audio recording of the proceedings, a written reproduction that derives directly from an audio recording of the proceedings, or a written reproduction that was established during the proceedings. A transcription of the court proceedings by the title IV-E agency is not acceptable.

Judicial determinations made pursuant to 45 CFR § 1356.21(d) must be made on a case-by-case basis; child-specific (e.g., naming the child who is the subject of the order); explicitly stated in the court order (e.g., finding is definitive, reviewers may not infer the court's meaning) and in conformity with federal regulatory time frames. The basis of the court's finding needs not be included in the court order. However, including in the court order the facts upon which the "contrary to the welfare" and "reasonable efforts" determinations are based significantly improves the quality of the court order.

Examples of unacceptable court findings that require the Children's Bureau (CB) to review a court transcript include:

- Affidavits that attest that the judicial determination was rendered sufficiently and/or timely in the absence of a sufficient court order;
- Judicial determinations that reference a statute, but do not have the requisite "contrary to the welfare" or "reasonable efforts" findings;
- *Nunc pro tunc* judicial findings that change the substance of a prior judicial determination; change the date that a hearing occurred or finding was made; or include a judicial determination not previously made;
- Inexplicit or non-child-specific judicial findings; and
- Judicial findings that restrict the "reasonable efforts" and "contrary to the welfare" findings to reasons of "federal funding" purposes.

**12(a). Is this court order the first order that sanctions the child's removal?**

- Mark *N/A* if the child is not removed via court order.
- Mark *YES* if the child is removed via court order and the court order recorded in Question 12 is the first court order that sanctions the child's removal from the specified relative from whom the child is physically removed or from whom the child is constructively removed.
- Mark *NO* if this is not the first court order sanctioning the physical or constructive removal.

The judicial determination regarding contrary to the welfare must be made in the first court ruling (as evidenced by a court order or court transcript) that substantively addresses, even temporarily, the child's removal from the home. (A court hearing is not required.) The first court ruling applies to the judicial order stemming from the first court proceeding that decides whether the child should be removed for purposes of foster care. This requirement applies even when the order is an emergency order, a weekend order, or a "pick-up" order. State law or policy will inform how a verbal court authorization to remove a child from home is treated for title IV-E eligibility determinations. If the title IV-E agency does not document that the court made the required contrary to the welfare determination, the child is not eligible for title IV-E and federal reimbursement of foster care maintenance payments is unallowable for the child for the duration of the foster care episode.

*Example:* The title IV-E agency petitions the court to remove a child from home before physically removing the child. The parties go to court, but one of the parties requests a continuance before the parties discuss the case. The court grants the continuance. The next day, the parties come back to court and discuss whether the child should be removed from home. The court order that stems from the hearing at the second court appearance is the relevant order for determining whether the contrary to the welfare requirement has been met.

*Example:* A state law requires that a title IV-E agency get verbal authorization from a judge before it physically removes a child from home. The agency calls the judge at 3 AM on a Friday morning, and the judge agrees that the agency may remove the child immediately from the parents. On Monday, the parents and the agency go to court to discuss whether the child should remain out of the home. After hearing the facts of the case, the judge enters a finding pertaining to the child's removal over the weekend and generates a court order including that finding. For title IV-E eligibility purposes, the court order that memorializes the first court proceeding sanctioning the child's removal from home pursuant to the verbal authorization is considered the first court order that must document the judicial finding of contrary to the welfare. The first court proceeding in this case is the one held on that Monday.

**12(b). Does this court order have a finding of contrary to the welfare?**

- Mark *N/A* if the child is not removed via a court order.
- Mark *YES* if the court order (or official court transcript) in Question 12 contains a finding to the effect that it is contrary to the child's welfare to remain in the home.
- Mark *NO* if the court order (or court transcript) does not contain such a finding.

For title IV-E purposes, the court-ordered removal must include a judicial determination to the effect that continuation in the home from which the child is physically or constructively removed would be contrary to the child's welfare, or that foster care placement is in the child's best interests [see 45 CFR § 1356.21(c)].

**12(c). Is the judicial requirement met regarding contrary to the welfare?**

- Mark *N/A* if the child is not removed via court order.
- Otherwise, review answers to Questions 12(a) and 12(b).
- Mark *YES* if the title IV-E agency has satisfied the contrary to the welfare requirement [Questions 12(a) and 12(b) are marked *YES*].
- Mark *NO* if the agency has not satisfied the requirement [Question 12(a) or 12(b) is marked *NO*].

**12(d). Are title IV-E funds claimed for a period before the month the contrary to the welfare requirement is met?**

- Mark *N/A* if the child is not removed via court order.
- Otherwise, review the child's payment history.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for a period before the month in which the agency met the contrary to the welfare requirement.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for a period before the month in which it met the contrary to the welfare requirement.

**When payments may begin and when payments must end.** If the title IV-E agency claims title IV-E foster care maintenance payments without securing the required contrary to the welfare judicial determination in the first court order that sanctions the child's removal from home, title IV-E eligibility for the child is not met for the entire foster care episode. The case is in error, and the title IV-E foster care maintenance payments are disallowed.

A title IV-E agency may claim title IV-E foster care maintenance payments from the first day of the child's placement in the month that all requirements have been met (CB Child Welfare Policy Manual [CWPM] at 8.3A.15, Question 1). However, if the agency claims title IV-E foster care maintenance payments for a period prior to the month the eligibility requirement is met and the ineligible period is in the PUR, the child's sample case is in error with ineligible payments that are disallowed. If the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**13. If Question 11 is *YES*, is there a judicial finding regarding reasonable efforts to prevent removal?**

- Mark *N/A* if the child is not removed pursuant to a court order.
- Mark *YES* if the child is removed via court order and the court makes a judicial determination that the title IV-E agency has made reasonable efforts to prevent the child's removal from home (or that reasonable efforts are not necessary to prevent the removal).
- Mark *NO* if the court does not make such a finding.

In order for the child to be eligible for title IV-E, the title IV-E agency must secure a judicial determination to the effect that the agency made reasonable efforts, or the agency was not required to make efforts, to prevent the child from being removed from home.

Although specific terminology is not required, the Departmental Appeals Board (DAB) of the U.S. Department of Health and Human Services (HHS) has held that the use of the term “explicit” in the regulations at 45 CFR § 1356.21(d) means that it is not sufficient if the court order merely implies that reasonable efforts are made. Therefore, a listing of the agency’s efforts to prevent the child from being removed or the court’s adoption of a report that details the agency’s efforts absent the court’s specific finding about those efforts, does not equate to an explicit judicial determination that the agency’s efforts were reasonable. The court order or the court transcript must reflect that the judge has determined whether such efforts were reasonable or were not required (DAB Decision1998).

**13(a). Is this judicial finding within 60 days of the child’s removal?**

- Mark *N/A* if the child is not removed via court order or Question 13 is marked *NO*.
- Mark *YES* at Question 13(a) if the reasonable efforts determination is made within 60 days of the date that the child is physically or constructively removed from home and record the judicial finding date (month/day/year).
- Mark *NO* if the determination is not made within 60 days of the child being physically or constructively removed from home.

For title IV-E eligibility purposes, this judicial finding must be made no later than 60 days from the date the child is removed from the home [45 CFR § 1356.21(b)(1)]. The title IV-E agency may obtain this judicial determination earlier than 60 days from the date of removal. However, if the agency does not secure the finding timely, the child is ineligible for title IV-E foster care maintenance payments for the duration of the foster care episode. The “clock” for the 60-day period begins the day after the child is physically removed. If the child is constructively removed, the “clock” begins on the date the court sanctions the removal.

**13(b). Is the judicial requirement met regarding reasonable efforts to prevent removal?**

- Mark *N/A* if the child is not removed via court order.
- Otherwise, review answers to Questions 13 and 13(a).
- Mark *YES* if the title IV-E agency has satisfied the reasonable efforts to prevent removal requirement (i.e., Questions 13 and 13(a) are marked *YES*).
- Mark *NO* if the agency has not satisfied the requirement, i.e., Question 13 or 13(a) is marked *NO*.

**13(c). Are title IV-E funds claimed for a period before the month the reasonable efforts to prevent removal requirement is met?**

- Mark *N/A* if the child is not removed via court order.
- Otherwise, review the child’s payment history.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for a period before the month in which the agency secured the reasonable efforts judicial determination.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments before the month in which it secured the reasonable efforts judicial determination.

**When payments may begin and when payments must end.** If the title IV-E agency claims title IV-E foster care maintenance payments without securing the required reasonable efforts judicial determination timely, title IV-E eligibility for the child is not met for the entire foster care episode. The case is in error, and the title IV-E foster care maintenance payments are disallowed.

A title IV-E agency may claim title IV-E foster care maintenance payments from the first day of the child's placement in the month that all removal requirements have been met (CWPM at 8.3A.15, Question 1). However, if the agency claims title IV-E foster care maintenance payments for a period prior to the month the eligibility requirement is met and the ineligible period is in the PUR, the child's sample case is in error with ineligible payments that are disallowed. If the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

*Example:* A title IV-E agency secures a contrary to the welfare judicial determination against a child's parents on December 16, and the child is removed from home that day under the agency's placement and care responsibility. The agency secures a judicial finding of reasonable efforts to prevent removal on January 4. Claims for title IV-E foster care maintenance payments are allowed for the otherwise eligible child beginning on January 1 because that is the month in which the agency has satisfied both required judicial determinations for the removal. If the agency claims title IV-E foster care maintenance payments for the period of December 16–December 31, the claims will be disallowed. If that period falls during the PUR, the case will be in error with ineligible payments for the claimed dates in that period. If that period does not occur during the PUR, the case will be a non-error case with ineligible payments for the claimed dates in that period.

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## **G. Voluntary Placements**

[Statutory Citation: §§ 472(a)(2)(A)(i),(d)–(g) of the Act; Regulatory Citation: 45 CFR § 1356.22]

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### **14. Is the child's removal the result of a voluntary placement agreement?**

- Mark *YES* if the child is removed via a voluntary placement agreement.
- Mark *NO* if the child is not removed via a voluntary placement agreement.

§ 472(f) of the Act allows a title IV-E agency to claim title IV-E foster care maintenance payments on behalf of the otherwise eligible child who is removed from the home pursuant to a voluntary placement agreement. A voluntary placement agreement is an out-of-home placement of a minor child where the title IV-E agency and the child's parents or legal guardians agree that the child should be in the care of the title IV-E agency. In order for the child to be eligible for title IV-E, the legal guardian must be a specified relative (as defined by § 406 of the Act as it was in effect in 1996) and the child must be AFDC-eligible based on that specified relative's home. In a removal through a voluntary placement agreement, the court does not authorize the child's removal from the home, nor are the court-ordered judicial determinations of contrary to the welfare and reasonable efforts required for title IV-E eligibility.

**Documentation Requirements, Questions 14–15(a).** In order to claim title IV-E foster care maintenance payments, the title IV-E agency must furnish the voluntary placement agreement that includes the signatures of the relevant parties, dates of signature and an indication that the parties mutually agree that the child will be in the care of the agency. (Whether the agency has placement and care authority for the child through the voluntary placement agreement is examined later in Section L.)



**15. If Question 14 is YES, is the voluntary placement agreement signed by the parent or legal guardian and the title IV-E agency representative(s)?**

- Mark *N/A* if the child is not removed via voluntary placement agreement.
- Mark *YES* if the voluntary placement agreement is signed by both the parent or legal guardian and the agency. Record the date (month/day/year) that the voluntary placement agreement is signed.
- Mark *NO* if the voluntary placement agreement is not signed by all parties.

For purposes of the IV-E Review, a voluntary placement agreement becomes valid on the date that it is signed by the parent or legal guardian and the title IV-E agency representative. If signings occur on different dates, the voluntary placement agreement becomes valid on the date of the final signature. Electronic signatures are permissible.

**15(a). Are title IV-E funds claimed for a period before the month the voluntary placement agreement is signed by the parent or legal guardian and the title IV-E agency?**

- Mark *N/A* if the child is not removed via voluntary placement agreement.
- Mark *YES* if the agency claimed title IV-E funds for a period before the month in which the last party signed the voluntary placement agreement.
- Mark *NO* if the agency did not claim title IV-E funds for a period before the month the last party signed the voluntary placement agreement.

**When payments may begin and when payments must end.** If all required parties did not sign the voluntary placement agreement, title IV-E eligibility for the child is not met for the entire foster care episode. The case is in error, and the title IV-E foster care maintenance payments are disallowed.

The title IV-E agency may claim title IV-E foster care maintenance payments from the first day of the child's placement in the month all title IV-E eligibility criteria are met for the child (CWPM at 8.3A.15, Question 1). However, if the agency claims title IV-E foster care maintenance payments for a period prior to the month the eligibility requirement is met and the ineligible period is in the PUR, the child's sample case is in error with ineligible payments that are disallowed. If the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

*Example:* The voluntary placement agreement is signed on May 31, and the child is placed in a foster family home on June 1. The title IV-E foster care maintenance payment may begin on June 1 for the otherwise eligible child.

*Example:* The otherwise eligible child has been in the foster care placement since May 15. The voluntary placement agreement is signed on May 31. The title IV-E agency can claim title IV-E payments back to May 15 for the otherwise eligible child.

**16. Is there a judicial determination regarding the child's best interests within 180 days of the date of foster care placement?**

- Mark *N/A* if the child is not removed via voluntary placement agreement. Or mark *N/A* if the child is removed via a voluntary placement agreement, the child has been in care fewer than 180 days and no judicial determination has been made before the last day of the PUR. The 180-day period begins with the date the child is physically placed in foster care or the date the voluntary placement agreement is signed if the child is constructively removed.
- Mark *YES* if, within 180 days of the child's placement, the title IV-E agency acquires the judicial determination that it is within the child's best interests to remain in care.
- Record the date (month/day/year) that the judicial determination is made.
- Mark *NO* if the agency does not acquire the required judicial determination within 180 days of the child's placement. Record the date (month/day/year) that the judicial finding is made.

In order for a child to remain eligible for title IV-E foster care maintenance payments when the child has been voluntarily removed, the title IV-E agency must secure a judicial determination within 180 days to the effect that the placement is in the best interests of the child [§ 472(e) of the Act]. The "clock" for the first 180 days of the foster care episode begins on the date the child is physically placed in foster care. If the child is constructively removed, the "clock" for the first 180 days of the foster care episode begins the date the voluntary placement agreement is signed by all necessary parties.

The best interests judicial ruling does not change the nature of the child's removal from voluntary to court-ordered for the foster care episode, the child's eligibility requirements remain tied to the voluntary nature of the child's removal.

**Documentation Requirements.** The title IV-E agency must provide the court order (or court transcript) that memorializes the court's determination that it is in the best interests of the child to remain in care. This judicial determination, as noted, must be made within the first 180 days of the foster care episode.

**16(a). If Question 16 is *NO*, are title IV-E funds claimed for the period of ineligibility?**

- Mark *N/A* if the child is not removed via a voluntary placement agreement or Question 16 is *YES*.
- Mark *YES* if the agency claimed title IV-E foster care maintenance payments after the 180<sup>th</sup> day that the child is placed without securing the required "best interests" determination.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for a period after the 180<sup>th</sup> day.

**When payments may begin and when payments must end.** If more than 180 days of the child's placement in foster care have elapsed and there has been no judicial determination of "best interests," the child's title IV-E eligibility for the foster care episode ceases on the 181<sup>st</sup> day and the child is ineligible for title IV-E foster care maintenance payments for the remainder of the foster care episode. The case will be in error beginning on the 181<sup>st</sup> day and the associated ineligible payments will be disallowed.

Title IV-E eligibility also ends on the day the voluntary placement agreement is revoked because a revocation ends the agency's legal justification for the child's removal and foster care placement. If the agreement is revoked within 180 days of the agreement and before the title IV-E agency obtains the judicial determination regarding the child's best interests, the child's foster care episode ends, and the child is not eligible for title IV-E for the remainder of the foster care episode. If the voluntary placement agreement expires (meaning it is not revoked) within 180 days of the agreement and before the title IV-E agency secures the best interests judicial determination, the agency temporarily loses placement and care authority for the child, and therefore, title IV-E eligibility ends on the day the voluntary placement agreement expires (Review Instrument, Section L). If this otherwise eligible child remains in foster care, title IV-E eligibility can begin again on the first of the month, for the entire month of placement, the agency obtains the required best interests judicial determination, unless the 180-day timeframe has expired [§ 472(g) of the Act].

If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

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## **H. VALID REMOVALS**

[Statutory Citations: §§ 472(a)1 & 2 of the Act; Regulatory Citation: 45 CFR § 1356.21(k)(2)]

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### **17. Is there a valid removal of the child from the home for the most recent foster care episode?**

The questions in this section evaluate whether there is a valid removal of the child in accordance with the regulatory requirements for title IV-E eligibility.

For title IV-E eligibility purposes, a valid removal occurs when a child's court-ordered or voluntary removal results in and coincides with the child's physical removal from the specified relative who is the subject of the contrary to the welfare determination, or the signatory to the voluntary placement agreement. Consistent with 45 CFR § 1356.21(k)(2), a removal is not valid for title IV-E purposes when the child is judicially or voluntarily removed from a specified relative and the child remains in the home with that specified relative under the relative's responsibility.

**Documentation Requirements.** In order to demonstrate that the child has been validly removed, the title IV-E agency must provide documentation that substantiates both when the court made its contrary to the welfare judicial determination or when the voluntary agreement is signed and when the child is physically removed. Such documentation would include: a court order or voluntary placement agreement to establish when the child was legally removed. The placement history and case notes can be used to establish any extenuating circumstances if the child was not removed immediately after the date of the contrary to the welfare determination or voluntary placement agreement authorizing the child's removal.

#### **17(a). Is the child's removal the result of a court order or a voluntary placement agreement?**

- Mark *YES* if the child was removed via court order or voluntary placement agreement, i.e., Question 11 or 14 previously marked *YES*.
- Mark *NO* if not, i.e., Questions 11 and 14 previously marked *NO*.

**17(b). If Question 17(a) is YES, does the child's physical removal coincide with the court order or voluntary placement agreement authorizing the removal?**

- Mark *N/A* if the child's removal is not the result of a court order or voluntary placement agreement.
- Mark *YES* if the child's physical removal coincides with the court order or voluntary placement agreement that authorizes the removal. Record the date (month/day/year) of the physical removal and the date (month/day/year) of the removal court order or the voluntary placement agreement. Mark *YES* also if the child's only placement during the foster care episode is a licensed, family-based residential treatment facility for substance abuse and the removal is according to a court order or voluntary placement agreement and in the "Comments" section on the Review Instrument indicate this placement arrangement as the reason for the *YES* response to Question 17(b). Whether the child's physical removal coincides with the judicial or voluntary removal is immaterial in this instance.
- Mark *NO* if the child's physical removal does not so coincide.

The title IV-E agency must physically remove the child from the home of the specified relative who is the subject of the contrary to the welfare judicial determination or who signed the voluntary placement agreement by the end of the next day, after the judicial determination is made or the voluntary placement agreement is signed. However, a child who is judicially or voluntarily removed while living with a parent in a licensed, residential family-based treatment facility for substance abuse does not need to be physically removed from the parent if the child's only placement during the foster care episode is that placement setting. The child's placement in a licensed, residential family-based treatment facility for substance abuse must have begun on or after October 1, 2018. The only other circumstance in a judicial removal under which it is permissible for a child to remain with that specified relative longer is if the court order specifies an alternative time frame for removal, as allowed for in DAB Decision 2017 or there are extenuating circumstances delaying the immediate removal of the child. If a reviewer identifies a delayed removal with an extenuating circumstance, advise the CB Review Lead immediately.

Similarly, if the child is removed via a voluntary placement agreement, the child must be physically removed by the end of the next day, unless the agreement specifies a removal date or there are extenuating circumstances delaying the immediate removal of the child. A qualifying extenuating circumstance may be one that relates to the child's unavailability, such as a child who has run away or a child whose parent has absconded with the child. If a reviewer identifies a delayed removal with an extenuating circumstance, advise the CB Review Lead immediately.

**17(c). Are the requirements met for a valid removal?**

- Mark *YES* if the title IV-E agency meets the valid removal requirement.
- Mark *NO* if (1) the child is not removed through a court order or voluntary placement agreement; (2) the child remains in the home of and in the care of the specified relative from whom removed through a court-order or voluntary placement agreement; or (3) the child's physical removal from the specified relative does not coincide with the judicial determination or voluntary placement agreement that sanctions the child's removal.

**17(c)(1). If Question 17(c) is *NO*, are title IV-E payments claimed for the period of ineligibility?**

- Mark *N/A* if the title IV-E agency meets the valid removal requirement.
- Mark *YES* if the answer to Question 17(c) is *NO* and the agency claimed title IV-E foster care maintenance payments.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments.

**When payments may begin and when payments must end.** If the title IV-E agency does not meet the valid removal requirement, the child is not title IV-E eligible for the entire foster care episode, and this is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**I. ONGOING JUDICIAL ACTIVITY: Reasonable Efforts to Finalize the Permanency Plan (Applicable to Court-Ordered Removals Only)**

[Statutory Citation: § 472(a)(2) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

The “Judicial Determination for Reasonable Efforts to Finalize the Permanency Plan Chart,” (see grayed out sample below from the Review Instrument), is not required to be completed, but may be useful to determine the most recent judicial finding that the title IV-E agency attained prior to the PUR and to determine whether a judicial finding is required during the 12-month period that includes the PUR. If, after completing the chart, the reviewer finds that a judicial determination is not timely and the title IV-E agency has claimed title IV-E for the late period, record the ineligible period(s) on the Improper Payment Chart, Appendix 2 of the Review Instrument.

**Judicial Determination for Reasonable Efforts to Finalize the Permanency Plan Chart**

<b>Determination Date</b>	<b>Due Date for Next Determination</b>	<b>Date It Is Made</b>	<b>Is It Timely?</b>	<b>Is Title IV-E Claimed? (Yes or No)</b>

**General Instructions, Questions 18–19(e)(1).** Section I addresses whether the title IV-E agency has secured a judicial determination that it has made reasonable efforts to finalize the permanency plan for the child on whose behalf the agency claimed title IV-E foster care maintenance payments for the 12-month period that includes the PUR.

In order to maintain the title IV-E eligibility of a child who has been judicially removed, the title IV-E agency must secure a judicial determination to the effect that the title IV-E agency has made reasonable efforts to finalize the child's permanency plan. The initial judicial determination of reasonable efforts to

finalize the permanency plan must be made no later than 12 months from the date the child enters foster care (Question 18) and at least once every 12 months thereafter while the child is in foster care [45 CFR § 1356.21(b)(2)]. The timeframe is based on calendar months and the timeliness period ends on the last day of the 12<sup>th</sup> month.

**Documentation Requirements:** The judicial determination of reasonable efforts to finalize the permanency plan, pursuant to 45 CFR § 1356.21(d), must be: (1) made in a valid court order; (2) made on a case-by-case basis and be child-specific (e.g., naming the child who is the subject of the order); (3) explicitly stated in the court order (e.g., judicial finding is definitive, reviewers may not infer the court's meaning); and (4) in conformity with federal regulatory time frames to satisfy compliance with the title IV-E requirements for court-ordered removals.

Affidavits, *nunc pro tunc* court orders, and other similar-purpose documents are not acceptable documentation to support a judicial finding, except as provided in § 479B of the Act for a limited period for Tribes. If the title IV-E agency does not provide an acceptable court order during the IV-E Review to substantiate a child's title IV-E eligibility, the only documentation acceptable as alternate documentation is an official transcript of the court proceeding [45 CFR § 1356.21(d)]. While the precise words "reasonable efforts to finalize the permanency plan" do not have to be included in the court ruling, DAB Decision 1998 held that the use of the term "explicit" in the regulations at 45 CFR § 1356.21(d) means that it is not sufficient if the court order merely implies that reasonable efforts are made. There must be an expressed statement in the court order or court transcript that can be clearly understood as a determination that the title IV-E agency has made reasonable efforts, as required for title IV-E eligibility. A list of the efforts that an agency has made or the court's adoption of a report that details the agency's efforts without the resulting judicial determination that such efforts are reasonable, is not sufficient to satisfy this requirement. Similarly, a judicial determination that the agency has made reasonable efforts to provide services or meet the needs of the child does not satisfy the judicial requirement of reasonable efforts to finalize the permanency plan. Although a provision of services is one of the activities the title IV-E agency undertakes to finalize the plan, the judicial determination needs to convey whether the court finds that the services and other agency activities reasonably advanced the implementation of the permanency plan toward finalization.

Examples of unacceptable court findings that require the CB to review a court transcript include:

- Affidavits that attest that the judicial determination was rendered sufficiently and/or timely in the absence of a sufficient court order;
- Judicial determinations that reference a statute, but do not have the requisite "reasonable efforts" findings;
- *Nunc pro tunc* judicial findings that change the substance of a prior judicial determination; change the date that a hearing occurred or finding is made; or include a judicial determination not previously made;
- Inexplicit or non-child-specific judicial findings; and
- Judicial findings that restrict the "reasonable efforts" finding to reasons of "federal funding" purposes.

Questions 18–19(e)(1) walk the reviewer through the steps necessary to determine whether the title IV-E agency has met the judicial requirement for the PUR.

**18. What is the date that the child entered foster care?**

- Mark *N/A* if the child is removed via voluntary placement agreement, or if the child’s foster care episode does not last for 60 days, and a judicial finding of child abuse or neglect is not rendered prior to the end of the foster care episode.
- Otherwise, record the date (month/day/year) that the child entered foster care as defined below.

As defined in § 475(5)(F) of the Act and 45 CFR § 1355.20(a), the date the child is considered to have entered foster care is the date that is the earlier of either a conclusive judicial finding to the effect that the child has been subjected to child abuse or neglect or 60 calendar days after the date the child is physically or constructively removed from the home through a court order or voluntary placement agreement (see also DAB Decision 1903).

The date the child entered foster care usually is not the date that the child is placed into a foster care placement setting, nor is it usually the same date that the child is judicially removed (Question 10).

The date recorded in Question 18 is the date used to determine when the title IV-E agency is required to have obtained the initial judicial determination of reasonable efforts to finalize the permanency plan.

In the Review Instrument’s “Relevant Dates” chart, record the date that the child is judicially removed from home; and the beginning and ending dates of the PUR for this IV-E Review. See sample below for reference.

**Relevant Dates:**

**Date Removed (MM/DD/YY):** \_\_\_\_/\_\_\_\_/\_\_\_\_

**Dates of PUR(MM/DD/YY):**

Begin date: \_\_\_\_/\_\_\_\_/\_\_\_\_ End date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Answer Questions 19–19(e)(1) in sequential order and read the instructions completely for each question before answering to verify whether the title IV-E agency has satisfied the judicial determination of reasonable efforts to finalize the permanency plan requirement for the 12-month period that includes the PUR.

**19. Has the child been in foster care for 12 months or more prior to the last day of the PUR?**

- Mark *N/A* if the child is not removed via court order.
- Mark *YES* if the child has been in foster care 12 months or more prior to the last day of the PUR.
- Mark *NO* if the child has not.

A *YES* or *NO* response is based on the date that is 12 months from the foster care entry date recorded in Question 18. If the *NO* box is checked for Question 19, a judicial determination of reasonable efforts to finalize the permanency plan is not due for the PUR.

**19(a). If Question 19 is YES, date of the last judicial determination immediately before the PUR (MM/YY):**

- Mark *N/A* if: (1) the removal is the result of a voluntary placement agreement; (2) the response to Question 19 is *NO*; (3) the due date of the initial judicial determination falls within the PUR; or (4) the due date for the judicial determination falls within the 12-month period immediately before the PUR but is not made prior to the beginning of the PUR.
- If the *N/A* box is checked, leave blank the space provided for recording a date. Explain below in “Comments” the specific reason for the *N/A* response.
- Otherwise, record the date (month/year) of the last judicial determination that is obtained before the beginning of the PUR.

This question establishes whether a reasonable effort to finalize the permanency plan judicial finding is required for the 12-month period that includes the PUR.

**19(b). Date the next judicial determination is due (MM/YY):**

- Mark *N/A* if the removal is the result of a voluntary placement agreement or the response to Question 19 is *NO*.
- Otherwise, record the date (month/year) of the judicial determination that is due 12 months from the date recorded in Question 19(a).
- If a date is not recorded in Question 19(a) because the required judicial determination is not made before the PUR, record the date it should have been made immediately before the PUR or should be made during the PUR and note below in Comments the reason for the recorded date.

**19(c). Date the Question 19(b) judicial determination is made (MM/YY):**

- Mark *N/A* if: (1) the removal is the result of a voluntary placement agreement; (2) the response to Question 19 is *NO* or (3) the due date recorded in Question 19(b) is after the end of the PUR and the judicial determination is not made during the PUR.
- Explain below in “Comments” the specific reason for the *N/A* response.
- Otherwise, record in Question 19(c) the date (month/year) that the judicial determination referenced at Question 19(b) is made. If the judicial determination is due after the PUR but is made in the PUR, record that date. If the judicial determination is due for the PUR but is not made, record “Not made” in the date space, and explain below in Comments the reason for the response.

**19(d). Is the Question 19(c) judicial determination timely?**

- Mark *N/A* if: (1) the removal is the result of a voluntary placement agreement; (2) the response to Question 19 is *NO*; or (3) if Question 19(c) is *N/A*.
- Explain below in Comments the specific reason for the *N/A* response.
- Otherwise, mark *YES* or *NO* based on the date recorded in Question 19(c).



A judicial determination is considered timely if the finding is made by the last day of the month of the required 12-month time frame. The date of the latest judicial determination is used to determine the date the subsequent one must be made. An untimely judicial determination renders the child ineligible beginning on the first day of the month after it is due and continuing to the first day of the month it is attained. Explain below in Comments the specific reason the requirement is not satisfied.

**19(e). Is the requirement met for the judicial finding of reasonable efforts to finalize the permanency plan?**

- Mark *N/A* if: (1) the child is removed via voluntary placement agreement, (2) the response to Question 19 is *NO*, or (3) if the answer to Question 19(c) is *N/A*.
- Otherwise, consider the answers to Questions 18–19(d).
- Mark Question 19(e) *YES* if (1) the due date in Question 19(b) is after the end of the PUR or (2) the judicial determination recorded in Question 19(c) is (a) child specific; (b) to the effect the title IV-E agency made reasonable efforts to finalize the child's permanency plan; (c) explicitly stated in the court order or court transcript; and (4) timely within the PUR.
- Mark *NO* if the agency has not met the requirement.

**19(e)(1). If Question 19(e) is *NO*, are title IV-E payments improperly claimed for the period of ineligibility in the PUR?**

- Mark *N/A* if: (1) the child is removed via voluntary placement agreement; (2) the answer to Question 19(c) is *N/A*; or (3) the answer to Question 19(e) is *YES*.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for the period that the judicial requirement is not met by the last day of the month of the required 12-month time frame that falls within the PUR, Question 19(d) and Question 19(e).
- Mark *NO* if the title IV-E agency did not claim title IV-E foster care maintenance payments for the period of ineligibility during the PUR.

**When payments may begin and when payments must end.** In the instance of an untimely judicial determination, if the title IV-E agency secures the judicial determination in the month immediately following the month it is due, the child regains eligibility beginning on the first day of that month. In such a circumstance, the agency may claim title IV-E foster care maintenance payments without a break in claim and claims made for that period are considered properly paid for the entire month regardless of the date in the month the judicial determination requirement is satisfied. On the other hand, if the agency does not secure the untimely judicial finding within the month immediately following the month it is due, the child is considered ineligible for title IV-E foster care maintenance payments beginning on the first day of the month after the finding is due [45 CFR § 1356.21(b)(2)].

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

## **J. AFDC ELIGIBILITY**

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(k) & (l) and 1356.71(d)(1)(v)]

### **General Instructions, Section J.**

The purpose of the title IV-E foster care program is to provide financial assistance to title IV-E agencies for the care of children in foster care who meet the eligibility requirements for the former Aid to Families with Dependent Children (AFDC) program. Thus, a child's eligibility for title IV-E is predicated partially on the child's eligibility for AFDC. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Public Law 104–193), which repealed the AFDC program, requires title IV-E agencies to apply the AFDC eligibility requirements that were in place in the state's title IV-A plan for AFDC on July 16, 1996 (disregarding any Section 1115(a) waivers that may have been in effect on that date), when determining whether children are eligible for title IV-E foster care assistance.

For purposes of the IV-E Review, in or for the month of the voluntary placement agreement or initiation of removal court proceedings, the title IV-E agency is expected to document that the child is: (1) removed from the home of a specified relative; (2) living with that same specified relative within 6 months of removal; and (3) AFDC-eligible in that home in the month of the removal petition, court order, or voluntary placement agreement. In the home from which the child is removed, the child also must have been (1) financially needy and (2) deprived of parental support or care. If the title IV-E agency does not document that the child has met the AFDC requirements, the agency may reconstruct the AFDC factors to verify the child's eligibility. (Reconstruction of the eligibility determination is further discussed at Question 24.)

The Family First Prevention Services Act (the Family First Act), signed into law on February 9, 2018, permits title IV-E foster care maintenance payments for an otherwise eligible child removed via court order or via a voluntary placement and placed with the child's parent(s) in a family-based residential treatment center while in foster care. The Family First Act's requirements that relate to this title IV-E provision took effect for children whose placements in a family-based residential treatment center began on or after October 1, 2018. If the child's only placement during the foster care episode is a licensed, family-based residential treatment setting, the child need not be eligible for AFDC in order for the title IV-E agency to claim title IV-E foster care maintenance payments [§ 472(j)(1) of the Act]. Therefore, for such a child, reviewers will not assess whether the child is eligible for AFDC.

However, if the child also is placed anywhere other than a family-based residential treatment center during the foster care episode, in order to claim title IV-E foster care maintenance payments, the title IV-E agency will need to ensure that the child would have been eligible for AFDC according to the state's title IV-A AFDC plan (as it was in effect on July 16, 1996) in the home of the specified relative from whom the child is removed.

### **20. Is the child judicially or voluntarily removed from a specified relative?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the child is removed from a specified relative.
- Mark *NO* if the child is not removed from a specified relative.

In the blank space, write the relationship of the individual to the child (e.g., mother, aunt, family friend, schoolteacher). The reviewer should not include the individual's name.

In order for a title IV-E agency to claim title IV-E foster care maintenance payments on behalf of an otherwise eligible child, the child must be removed via court order or voluntary placement agreement from a specified relative. A specified relative is 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)].

These are:

- Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces; persons of preceding generations as denoted by the prefixes grand, great, or great-great;
- Stepfather, stepmother, stepbrother, and stepsister;
- Persons who legally adopt a child or the child's parent as well as the biological and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; and
- Spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce.

In order to determine whether the child is removed from a specified relative, the reviewer should examine the removal court order to determine against whom the contrary to the welfare judicial determination is made or should review the voluntary placement agreement to determine who has signed it, and verify that the individual is a specified relative to the child. The reviewer also should write the relationship (but not the name) of the individual to the child in the blank space on the Review Instrument.

**21. If Question 20 is YES, has the child lived with the specified relative identified in Question 20 within 6 months of the initiation of court proceedings or signing of the voluntary placement agreement?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse. Also mark *N/A* if the answer to Question 20 is *NO*.
- Mark *YES* if the child has lived with the specified relative at Question 20 within 6 months of the title IV-E agency filing a petition to initiate the child's removal or within 6 months of the parent or legal guardian signing the voluntary placement agreement for removal. Also, mark *YES* for a removal on or after October 1, 2018, if the child has lived with a kin caregiver for more than 6 months and during the stay has received title IV-E prevention services prior to being removed for the foster care placement [§ 471(e)(10)(B) of the Act].
- Mark *NO* if the child has not lived with the specified relative within the 6 months described above.
- For a judicial removal, record (1) the date (month/day/year) that the child last lived with the specified relative and (2) the date (month/day/year) the court proceedings are initiated for the removal. For a removal through a voluntary placement agreement, record the date (month/day/year) the agreement is signed. For judicial removals, the date the court proceedings are initiated to judicially remove the child is usually the date the removal petition is filed with the court. However, the date of the removal court order should be recorded as the date court

proceedings are initiated if a removal petition is not filed for the foster care episode or is filed after the removal court order.

In order for the title IV-E agency to claim title IV-E foster care maintenance payments on behalf of an otherwise eligible child, the child must have been living with the specified relative within 6 months of the judicial removal or voluntary placement agreement to physically or constructively remove the child from that specified relative. If the child is living with an interim caregiver during the month of the voluntary placement agreement or initiation of court removal proceedings, but has lived with the specified relative (from whom judicially removed or voluntarily placed) at some point during the 6 months before the voluntary placement agreement or initiation of court proceedings, the child is considered to have been living with and constructively removed from the home of the specified relative from whom he or she is judicially or voluntarily removed [472(a)(3)(A)(II) of the Act and 45 CFR § 1356.21(l)(2)]. Calculation of the 6-month period for the living with requirement is based on calendar months and the period ends on the last day of the 6<sup>th</sup> month.

The Family First Act established one exception to the requirement that the child must have lived with the specified relative within 6 months of the judicial removal or voluntary placement agreement to physically or constructively remove the child from the specified relative. The living with requirement is considered to have been met for a foster care candidate who has received title IV-E prevention services in accordance with § 471(e)(10)(B) of the Act while residing with a kin caregiver for more than 6 months and who is placed in foster care on or after October 1, 2018. The kin caregiver need not be a specified relative as defined at 45 CFR § 233.90(c)(1)(v). Instead, the kin caregiver must be considered kin under the governing state or tribal law or policy.

## **22. Are the removal from and living with requirements met by the same specified relative?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the requirements are met by the same specified relative (Question 20 and Question 21).
- Mark *NO* if the requirements are not met by the same specified relative.

The "removal from" and "living with" requirements must be satisfied by the same specified relative and AFDC eligibility must be based on that relative's home. The statute did not contemplate the "living with" and "removal from" requirement to be satisfied by two discrete individuals. In a judicial removal, the AFDC eligibility is based on the home of the specified relative who is the subject of the "contrary to the welfare" judicial determination. In a voluntary placement removal, the AFDC eligibility is based on the home of the specified relative who signs the voluntary placement agreement.

## **23. Has the title IV-E agency completed a determination of AFDC eligibility?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency has documented that it completed a determination of AFDC eligibility.
- Mark *NO* if the agency has not documented such a determination.

**Documentation Requirements.** During the IV-E Review, the title IV-E agency must document for the most recent foster care episode that it made a determination that the child is financially needy and deprived of parental support or care during or for the month the court proceedings are initiated, or voluntary placement agreement is signed for the child's removal.

Reviewers may not independently make an AFDC eligibility determination of the child's eligibility; instead, the reviewer is to ensure that the title IV-E agency has documented that it completed a determination of AFDC eligibility.

**23(a). Is AFDC eligibility based on the home of the specified relative against whom the contrary to the welfare judicial determination is made or who has signed the voluntary placement agreement?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency has documented that it based the child's AFDC eligibility on the home of the relevant specified relative (Question 20).
- Mark *NO* if the agency did not base AFDC eligibility on the relevant specified relative.
- Enter in the blank space the relationship of the child to the individual on whose home the AFDC determination is based (e.g., mother, aunt, family friend, schoolteacher). The reviewer should not enter the individual's name.

The provisions at § 472(a)(2)(A) of the Act and 45 CFR § 1356.21(k) mandate that the removal occur according to a court order or voluntary placement agreement authorizing a physical or constructive removal of the child from the home of the specified relative who enters into a voluntary placement agreement with the title IV-E agency or who is the basis of the judicial determination of contrary to the welfare. The agency must determine the child's AFDC eligibility based on that specified relative's home. To determine the removal home, the reviewer should examine the removal court order to determine against whom the contrary to the welfare judicial determination is made or examine the voluntary placement agreement to check who signed the agreement. Then the reviewer should examine the title IV-E agency's eligibility certification to verify whether the agency based the AFDC determination on the correct home.

**23(b). Is AFDC eligibility based on the month the court proceedings are initiated or voluntary placement agreement is signed?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency-based AFDC eligibility on the month in which the removal court proceedings were initiated or the voluntary placement agreement was signed.
- Mark *NO* if the agency did not base AFDC eligibility on this month.
- Record the month and year that the agency used to determine the first month of AFDC eligibility.

Consistent with § 472(a) of the Act, the AFDC determination must be made for and AFDC eligibility must be met in either the month the court proceeding leading to the requisite judicial determination is initiated

through a removal petition or removal court order or the month the voluntary placement agreement is signed.

The reviewer should examine the voluntary placement agreement or the removal petition (or removal court order if a petition is not filed before the removal order) and review the title IV-E agency's AFDC eligibility determination to verify whether the agency based the AFDC determination on the correct month.

**24. Does the child meet the AFDC requirements for eligibility?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency documented that the child met the AFDC eligibility requirements.
- Mark *NO* if the agency did not document that the child met the AFDC eligibility requirements.

Consider your answers to Questions 20–23. If any of the answers are *NO*, the title IV-E agency did not document that child has met the overall AFDC requirements.

However, the title IV-E agency may reconstruct the AFDC factors to verify the child's initial eligibility if (1) it has not determined a child's AFDC eligibility; (2) the title IV-E agency conducted the child's AFDC determination on the wrong specified relative or used the wrong AFDC month; or (3) the title IV-E agency subsequently received information that will change the agency's previous determination regarding the child's initial eligibility.

To reconstruct AFDC eligibility, the title IV-E agency must retrospectively establish the case facts that existed for the eligibility month using the state's AFDC eligibility criteria in effect as of July 16, 1996. Any familial or economic changes that occur after the eligibility month may not be considered when determining the child's AFDC eligibility for the foster care episode. Perfunctory check-off of an AFDC worksheet without the title IV-E agency fully exploring and documenting the pertinent case facts will not suffice for establishing eligibility.

The title IV-E agency must demonstrate that the child is AFDC eligible for either the month the court proceeding leading to the requisite judicial determination is initiated through a removal petition, or removal court order, **or** the month the voluntary placement agreement is signed. If the title IV-E agency is unable to demonstrate with certainty that the child is AFDC eligible, any title IV-E payments made for the questionable determination are disallowed and the case will be in error for the life of the foster care episode. The reviewer should complete the instrument using the corrected, reconstructed information that the agency has provided.

Similarly, if the title IV-E agency is able to reconstruct the AFDC eligibility, but determines the initial eligibility requirements are not met, the case is in error and the title IV-E payments are disallowed.

**24(a). If Question 24 is *NO*, are title IV-E payments claimed for the period of ineligibility?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Also mark *N/A* if the answer to Question 24 is *YES*.

- If the answer to Question 24 is *NO*, mark *YES* to question 24(a), if the title IV-E agency claimed title IV-E foster care maintenance payments for period during the PUR.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the period during the PUR.

**When payments may begin and when payments must end.** If the title IV-E agency has not established a child's AFDC eligibility, as reviewed in Questions 20–24, the child is not title IV-E eligible for the entire foster care episode. The sample case is in error and the title IV-E foster care maintenance payments are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

## **K. AGE AND EXTENDED TITLE IV-E FOSTER CARE ASSISTANCE**

[Statutory Citation: §§ 406, 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR § 233.90(b)]

### **25. Is the youth 18 years or older at any point during the PUR?**

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the youth is 18 or older during the PUR.
- Mark *NO* if the youth has not reached age 18 at any point during the PUR.
- Also, record the child's age (in years as of the last day of the PUR).

Federal regulations at 45 CFR § 233.90(b)(2) allow a state to elect in its title IV-A AFDC plan (as in effect July 16, 1996) to provide coverage for eligible youth up to 19 years of age. The AFDC plan option permits eligibility for otherwise-eligible children who are over the age of 18 and under 19 and who are full-time students expected to complete their secondary schooling or equivalent training before reaching age 19 [§ 406 (a) of the Act]. This provision is not related to a title IV-E agency's option to extend title IV-E foster care maintenance payments to a youth up to age 21 pursuant to § 475(8)(B)(iii) of the Act.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110–351), among other things, amended the Social Security Act (the Act) at § 475(8) to create a title IV-E plan option to extend eligibility for title IV-E foster care to age 21. A youth covered under this title IV-E plan option is not subject to the IV-E Review at this time and is excluded from the case review sample. This exclusion applies even if the AFDC plan option also is exercised by the title IV-E agency. However, if a youth is in foster care until their 19<sup>th</sup> birthday pursuant only to the state's title IV-A plan, the youth could be in the case review sample. Compliance with the age and school attendance requirements for the title IV-E plan option is covered under regulations at 45 CFR § 1355.32(d), which provide for a partial review process.

The reviewer can determine the youth's exact age by the youth's birth certificate or other reliable sources within the title IV-E agency's files maintained on the youth.

### **25(a). If Question 25 is *YES*, does the title IV-E agency have an approved AFDC plan option to extend title IV-E coverage to youth 18–19 years old?**

- Mark *N/A* if the youth is under the age of 18 as of the last day of the PUR.

- Mark *N/A* also for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency has an approved AFDC plan for coverage to youth between the ages of 18 and 19.
- Mark *NO* if the agency does not have such a plan.

Prior to the onsite review, the title IV-E agency and CB Review Leads will determine whether this provision will be relevant for the IV-E Review; CB Review Leads will advise reviewers whether the age requirement is applicable during the PUR.

**25(b). Is the youth a full-time student in a secondary school or equivalent educational program?**

- Mark *N/A* if the title IV-E agency does not have the AFDC plan described above, the child who is being reviewed is under 18 years old during the entire PUR, or the removal is on or after October 1, 2018, and the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the youth is a full-time student in a secondary school or equivalent educational program.
- Mark *NO* if the youth is not a full-time student in a secondary school or equivalent educational program.

The conditions for continued title IV-E payments for these youth are that the youth: (1) must be a full-time student in a secondary school or its equivalent level of vocational training or technical training; and (2) is expected to complete the educational program before reaching age 19.

**Documentation Requirements, Questions 25(b) and (c).** When a title IV-E agency's AFDC plan provides for foster care for youth ages 18–19, and it claims title IV-E foster care maintenance payments on behalf of such a youth, the agency must document the youth's school attendance and progress toward graduation. School records, independent living plans, court orders, case notes, or other equivalent documentation are examples of evidence that may be used to satisfy the school attendance requirement.

**25(c). Is the youth expected to complete the educational program before the 19th birthday?**

- Mark *N/A* if the title IV-E agency does not have the AFDC plan described above, the child who is being reviewed is under 18 years old during the entire PUR, or the removal is on or after October 1, 2018, and the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the youth is expected to complete the educational program prior to turning 19 years old.
- Mark *NO* if the youth is not expected to complete the educational program prior to turning 19 years old.

**25(d). Are the requirements met to extend eligibility under the AFDC plan option for youth 18–19 years old?**

- Mark *N/A* if the child who is being reviewed is under 18 years old during the entire PUR, the title IV-E agency does not have the AFDC plan option described above, or the removal is on or after



October 1, 2018, and the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.

- Mark *YES* if the agency has satisfied the requirements to extend eligibility to a youth prior to the youth turning 19 years old.
- Mark *NO* if the agency has not satisfied the requirements to extend eligibility to a youth prior to the youth turning 19 years old.

If Questions 25–25(c) have all been answered *YES*, the title IV-E agency has satisfied the requirements for this provision. If any of the answers to Questions 25(a)–25(c) is *NO*, the agency has not satisfied the requirements for this provision, and any associated payments will be disallowed.

For extended title IV-E eligibility coverage under the AFDC plan option, the title IV-E agency must (1) have an approved AFDC plan to extend eligibility up to age 19; (2) document that the youth is a full-time student in a secondary school or its equivalent and (3) document that the youth is expected to complete the educational program before age 19 [Question 25(c)].

**25(d)(1). If Question 25(d) is *NO*, are title IV-E funds claimed for the period of ineligibility in the PUR?**

- Mark *N/A* if the child who is being reviewed is under 18 years old during the entire PUR or Question 25(d) is *YES*.
- Mark *YES* for Question 25(d)(1) if the agency claimed title IV-E foster care maintenance payments for the period of the youth's ineligibility during the PUR.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments during the period of the youth's ineligibility during the PUR.

**When payments may begin and when payments must end.** Eligibility for the older youth being reviewed ends on the last day of the month in which the youth: (1) leaves school; (2) the title IV-E agency determines the youth will not complete the educational program before reaching age 19 or; (3) the otherwise eligible youth turns 19, whichever occurs earlier.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**L. TITLE IV-E AGENCY RESPONSIBILITY FOR PLACEMENT AND CARE OF CHILD**

[Statutory Citation: §§ 472(a)(2)(B)(i) of the Act; Regulatory Citation: 45 CFR § 1356.71(d)(1)(iii)]

26. Who has placement and care responsibility of the child for the entire period of the foster care episode that is within the PUR?

Section L addresses whether the title IV-E agency or another public agency has had responsibility for the placement and care of the child for the entire period of the foster care episode that is within the PUR for which the title IV-E agency claimed title IV-E foster care maintenance payments.

§ 472(a)(2)(B) of the Act requires that responsibility for placement and care of a child is vested with the title IV-E agency, or another public agency or Tribe (also referred to as “public agency”) that has a written agreement, as provided for under § 472(a)(2)(B)(ii), that is in effect with the title IV-E agency.

The term “placement and care” means that the title IV-E agency is legally accountable for the day-to-day care and protection of the child who has been placed in foster care through either the requisite judicial determination or a voluntary placement agreement. Placement and care responsibility allows the title IV-E agency to make placement decisions about the child. It also ensures that the title IV-E agency provides the child with the mandated statutory and regulatory protections, including those regarding case plans, administrative reviews, permanency hearings, and updated health and education records.

**Documentation Requirements:** Evidence that the title IV-E agency has responsibility for placement and care of the child must be documented explicitly in the court order or court transcript or by the voluntary placement agreement. The title IV-E agency must provide documentation for the IV-E Review that it or another public agency with which it has a title IV-E agreement has had placement and care responsibility for the child during the period of the foster care placement in the PUR and title IV-E foster care maintenance payments are properly claimed.

**General Instructions:** Mark *YES* or *NO* to indicate whether each of the below entities reviewed in Questions 26(a)–26(d) has had responsibility for placement and care of the child during the PUR. If the response is *YES*, record the name of the entity, the dates (month/day/year) of the responsibility and whether the title IV-E agency claimed title IV-E foster care maintenance payments for the period.

**26(a). Does the title IV-E Agency have placement and care responsibility?**

- Mark *YES* if the title IV-E agency has had placement and care responsibility for the child during the PUR.
- Enter the name of the title IV-E agency and the date (month/day/year) that the agency’s placement and care responsibility of the child began and ended.
- Mark *NO* if the title IV-E agency has not had this responsibility during the PUR.

**26(a)(1). Are title IV-E funds claimed for the period in 26(a)?**

- Mark *N/A* if the title IV-E agency has not had placement and care responsibility for the child during the PUR.
- Mark *YES* if the title IV-E agency has had placement and care responsibility for the child during the PUR and claimed title IV-E foster care maintenance payments for the period.
- Mark *NO* if the title IV-E agency did not so claim.

**26(b). Does Another Public Agency have placement and care responsibility?**

- Mark *YES* if another public agency has had placement and care responsibility of the child for a period of the foster care episode that is within the PUR.
- Enter the name of that agency and the date (month/day/year) that the agency’s placement and care responsibility of the child began and ended.
- Mark *NO* if another public agency has not had this responsibility.

**26(b)(1). If Question 26(b) is YES, is there a title IV-E agreement in effect between this agency and the title IV-E agency that covers the period in 26(b)?**

- Mark *N/A* if another public agency has not had placement and care responsibility of the child for a period of the foster care episode that is within the PUR.
- If the answer to Question 26(b) is *YES*, mark *YES* if there is a title IV-E agreement in effect between the agency and the title IV-E agency that covers the relevant period.
- Mark *NO* if there is not an agreement in effect. The CB Review Lead will advise the reviewer whether the title IV-E agency has placement and care agreements in effect with another public agency.

When a public agency enters into an agreement with the title IV-E agency under § 472(a)(2)(B) of the Act, a properly executed agreement permits the public agency to operate as a title IV-E agency for a specified population of children in foster care. This agreement is not merely an interagency agreement or service contract that addresses activities that are carried out by the title IV-E agency and the other public agency. The placement and care agreement gives the public agency responsibility to administer the title IV-E foster care program on the title IV-E agency's behalf for children under the placement and care of the public agency.

The public agency that enters into a § 472(a)(2)(B) agreement with the title IV-E agency must be authorized under the governing state or Tribal law to operate as a child-placing agency and must be operating as such during the period that the agreement is in effect.

**26(b)(2). Are title IV-E funds claimed for the period in 26(b)?**

- Mark *N/A* if the title IV-E agency has placement and care responsibility for the child during the entire period of the foster care placement during the PUR.
- If the answer to Question 26(b) is *YES*, mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for the child during the period of the foster care placement in the PUR.
- Mark *NO* if the title IV-E agency did not so claim.

**26(c). Does a Private Agency have placement and care responsibility?**

- Mark *YES* if a private agency has had placement and care responsibility for the child during the PUR. Enter the name of the private agency and the dates (month/day/year) that its placement and care responsibility for the child began and ended.
- Mark *NO* if a private agency has not had this responsibility.

**26(c)(1). Are title IV-E funds claimed for the period in 26(c)?**

- Mark *N/A* if a private agency has not had placement and care responsibility for the child during the period of the foster care placement in the PUR.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for the child for the recorded period of the foster care placement in the PUR.

- Mark *NO* if the title IV-E agency did not claim title IV-E foster care maintenance payments for that period.

**26(d). Does an individual have placement and care responsibility?**

- Mark *YES* if an individual, related or unrelated to the child, has had placement and care responsibility of the child during the period of the foster care placement in the PUR.
- Enter the individual's relationship to the child and the dates (month/day/year) that his or her placement and care responsibility for the child began and ended.
- Mark *NO* if an individual has not had this responsibility.

**26(d)(1). Are title IV-E funds claimed for the period in 26(d)?**

- Mark *N/A* if an individual has not had placement and care responsibility of the child during the period of the foster care placement in the PUR.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for the recorded period.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for that period.

**27. Are the requirements regarding placement and care met for the PUR?**

- Mark *YES* if the title IV-E agency or another public agency that has a title IV-E agreement with the title IV-E agency has had placement and care responsibility of the child during the entire period of the foster care placement in the PUR that title IV-E foster care maintenance payments were claimed.
- Mark *NO* if the title IV-E agency has not satisfied the placement and care requirements for the child during the PUR.

**27(a). If Question 27 is *NO*, are title IV-E funds claimed for the period of ineligibility in the PUR?**

- Mark *N/A* if the answer to Question 27 is *YES*.
- Mark *YES* if the agency claimed title IV-E foster care maintenance payments for the period of ineligibility during the PUR.
- Mark *NO* if the agency did not claim title IV-E funds for the period of ineligibility during the PUR.

**When payments may begin and when payments must end.** Placement and care responsibility may be granted at removal or at any point in the foster care episode. However, title IV-E maintenance payments may not be claimed (1) before the month the eligibility requirement is met or (2) for the period beginning on the day in the month the title IV-E agency loses placement and care authority for the child. The otherwise eligible child can become eligible again as of the first day of the child's placement in the month that the agency regains placement and care authority for the child.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

## M. PLACEMENT IN LICENSED FOSTER CARE SETTINGS

[Statutory Citation: §§ 472(b), (c), (j) & (k) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)].

### General Instructions, Section M

Section M is completed for every place where the child resided during the PUR. There may be some placement settings for which the title IV-E agency does not claim title IV-E foster care maintenance payments for the child's period of stay. First, consult the child's placement history and payment history to determine each of the child's placement settings during the PUR for which the title IV-E agency **has not** claimed title IV-E foster care maintenance payment (IV-E FC Maintenance) for the period of the child's stay. For each such placement, record in the "Child's Placement History Chart for the PUR, IV-E FC Maintenance Not Claimed" (see sample chart below from section M of the Review Instrument) the placement setting's name, placement type, and start and end dates (month/day/year) of the child's stay in this setting. If the title IV-E agency claimed title IV-E foster care maintenance payments for all of the child's placement settings during the PUR, leave the chart blank.

All personal information recorded in the placement history chart and in Question 28 is confidential and must not be disclosed for any purposes outside of the title IV-E Review.

### Child's Placement History Chart for the PUR, IV-E FC Maintenance Not Claimed:

Placement Name	Placement Type	Placement Start Date	Placement End Date
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

For the child's placement during the PUR for which the title IV-E agency **has** claimed foster care maintenance payments, complete the rest of Section M, beginning with Question 28. Use the "Licensing/Safety Checklist for Multiple Foster Care Placements," Appendix 1 of the Review Instrument, provided to record each additional placement during the PUR for which the title IV-E agency has claimed a title IV-E foster care maintenance payment. Do not complete the placement information in Section M, Questions 28–30(d)(1) if the agency did not claim title IV-E foster care maintenance payments for the period that the child was in a placement during the PUR.

- 28. Child's placement in the PUR for which IV-E FC maintenance is claimed:** Record the name of the foster family home (the name of the foster parent(s) on the license) and address, or the name and address of the child care institution or the name and address of another setting where the child resided during the PUR for which the title IV-E agency claimed foster care maintenance payments. Record information on the most recent placement setting and use the "Licensing/Safety Checklist for Multiple Foster Care Placements," Appendix 1 of the Review Instrument, to record each additional placement during the PUR for which the title IV-E agency has claimed a title IV-E foster care maintenance payment.
- 29. Date(s) of child's stay in the placement setting identified in Question 28.** Record the beginning and ending dates (month/day/year) that cover the entire time that the child resided in this setting (including the time period that falls during the PUR, as well as any periods before or after the PUR). If the child is placed in the setting multiple times during the foster care episode, record those dates for each period of stay. Only one Appendix 1 sheet need be used for this placement.
- 30. Type of placement setting in Question 28.** In Question 30, mark the specific type of placement setting recorded in Question 28, including the applicable subcategory if the placement is a child care institution, where the child has lived during the PUR, as instructed below. Use the licensing certificate, approval letter, or other official documentation for the placement to determine in what type of placement setting the child is placed.

In order for a title IV-E agency to claim title IV-E foster care maintenance payments for a child, the child's placement must be one specified at § 472(c) of the Act. These placements are a foster family home; a child care institution [as permitted under § 472(k) of the Act]; or a residential family-based treatment facility for substance abuse with a parent [as permitted under § 472(j) of the Act]. Only mark the "Other" category when the child has not lived in one of the title IV-E allowable foster care placement types during the PUR.

**30(a). Foster Family Home.**

**30(b). Child care institution.**

- Check the type of child care institution:
  - Group home
  - Public child care institution that houses 25 or fewer children
  - Private child care institution
  - Child care institution specializing in providing prenatal, post-partum or parenting supports for youth
  - Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims
  - Supervised independent living setting for youth age 18 or older
  - Qualified residential treatment program

**30(c). Licensed Residential Family-Based Treatment Facility for Substance Abuse.**

**30(d). Other (Specify Other).**

- Choose 30(d) if the placement in Question 28 is not one of the types of placement settings listed in Questions 30(a)–(c) for this placement period.
- Record the "Other" placement setting where the child has lived during the PUR.

**30(d)(1). If Question 30(d) is *Other*, are title IV-E funds claimed for the period that the child resided in the placement during the PUR?**

- Mark *N/A* if Question 30(d) is not checked.
- Mark *YES* if the payment history reflects that the title IV-E agency claimed title IV-E foster care maintenance payments for the period that the child resided in the placement during the PUR.
- Mark *NO* if title IV-E foster care maintenance payments were not claimed.

A child is ineligible for title IV-E while in a placement marked “Other,” and the claimed title IV-E foster care maintenance payments are disallowed. Generally, a child is not eligible for title IV-E if the child is in a placement setting such as a: detention center; hospital or other medical facility; public institution of more than 25 children; pre-adoptive family home that is not licensed as a foster family home; supervised setting in which the child under age 18 is living independently or the child is at home in the care of a parent. (Refer below to “When payments may begin and when payments must end during a temporary absence” for limited conditions permitting title IV-E foster care maintenance payments.)

**When payments may begin and when payments must end during a temporary absence:** The title IV-E agency may claim for a full month's title IV-E foster care maintenance payment for an eligible child's stay in an allowable foster care placement if a child is temporarily absent from that placement for a portion of the month. For example, the child has run away, goes on a weekend home visit, or is hospitalized for medical treatment during some part of the month. This applies if the brief absence does not exceed 14 days and the child returns to the same foster care placement after the absence. Otherwise, the title IV-E agency must prorate its claims if the child is away from the foster care placement for more than 14 days. The prorated amount is based on the period of time the child is in the foster care placement prior to the absence from it (CWPM at 8.3B, Question 7).

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**General Instructions, placements in child care institutions.** For the placement setting indicated at Question 30(b): Answer Questions 31–31(c)(1) if the child is residing in a child care institution during the PUR and the title IV-E agency claimed title IV-E maintenance payments for the placement period. Mark *N/A* for Questions 31–31 (c)(1) if the child is not residing in a child care institution for this placement or the title IV-E agency has not claimed title IV-E maintenance payments for the placement period during the PUR.

**31. If the child's placement during the PUR is a child care institution, does the child's placement in this setting begin on or after October 1, 2019, or the title IV-E agency's delayed effective date for § 472(k) of the Act?**

- Mark *N/A* if the child's placement is not a child care institution.
- Mark *YES* if the child is placed in a child care institution on or after October 1, 2019, or the title IV-E agency's delayed effective date.
  - Enter the State's effective date.
- Mark *NO* if the child is placed in the child care institution prior to October 1, 2019, or prior to the agency's delayed effective date.

The Family First Act's requirements that relate to child care institutions took effect for children whose placements in a child care institution began on or after October 1, 2019, or the title IV-E agency's approved delayed effective date. The CB Review Leads will advise what date applies for the purpose of reviewing these requirements.

Consult the child's placement history to determine when the child was placed in the child care institution.

**31(a). If Question 31 is *YES*, is the child's stay in the placement longer than 14 days?**

- Mark *N/A* if the child's placement is not a child care institution.
- Mark *YES* if the child is placed in the child care institution for longer than 14 calendar days.
- Mark *NO* if the child is not placed in the child care institution for longer than 14 calendar days.

Title IV-E agencies may claim up to 14 days of title IV-E foster care maintenance payments each time a child is placed in a child care institution on or after October 1, 2019, (or the title IV-E agency's delayed effective date). The agency may continue to claim title IV-E foster care maintenance payments after the child's 14th day of placement in the child care institution only if the child care institution is one of the specified placement settings described in § 472(k)(2) of the Act and also listed below in Question 31(b). The first day of the child's placement is considered day 1.

*Example:* A child is placed in a child care institution at 10 PM on April 4. April 4 is considered day 1. April 17 is considered day 14.

The 14-day setting limitations apply to new placements in child care institutions that are not one of the specified placement settings made on or after October 1, 2019, (or the title IV-E agency's delayed effective date). Title IV-E agencies may claim title IV-E foster care maintenance payments for more than 14 days for a child placed in a child care institution prior to the effective date of § 472(k) of the Act for as long as the eligible child continuously remains placed in that setting. If the child leaves this setting after the effective date of § 472(k) of the Act and enters a different non-foster family home setting, the title IV-E agency must apply § 472(k) of the Act (ACYF-CB-PI-18-07).



**31(b). If Question 31(a) is YES, is the child care institution one of the specified placement settings as defined in § 472(k)(2) of the Act? Check all applicable settings describing this placement.**

- Mark *N/A* if the child is not placed in a child care institution or if the answer to Question 31(a) is *NO*.
- Mark *YES* if the child care institution in which the child is placed for this placement period during the PUR is one of the settings listed below.
  - Child care institution specializing in providing prenatal, post-partum or parenting supports for youth
  - Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims
  - Supervised independent living setting for youth age 18 years or older
  - Qualified residential treatment program
- Mark *NO* if the child is not placed in one of these settings.

There are four types of child care institutions for which a title IV-E agency may claim a title IV-E foster care maintenance payment when the child has been placed in the child care institution for longer than 14 days: (1) a setting specializing in prenatal, post-partum, or parenting supports for youth; (2) a setting specializing in services for children and youth at risk of becoming, or who are, sex trafficking victims; (3) a supervised independent living setting for youth age 18 years or older; or (4) a qualified residential treatment program. *It is possible that the child care institution is classified as more than one type of child care institution; in that case, mark all that apply.* The title IV-E agency must provide an assurance or certification from the agency head that confirms the setting is consistent with one of these allowable child care institution settings. (Question 32 has additional information on a qualified residential treatment program.)

**31(c). Are the general requirements met for the PUR for the child's placement in a child care institution on or after October 1, 2019, or the title IV-E agency's delayed effective date for § 472(k) of the Act?**

- Mark *N/A* if the child is not placed in a child care institution.
- Review your answers for Questions 31, 31(a), and 31(b).
- Mark *YES* at Question 31(c) if the answers to Questions 31–31(b) are *YES*; the title IV-E agency has met these requirements for claiming title IV-E foster care maintenance payments for the child whose placement in a child care institution began on or after October 1, 2019, (or the agency's delayed effective date).
- Mark *NO* if the answers to Question 31 and 31(a) are *YES*, and the answer to Question 31(b) is *NO*; the agency has not met these requirements for claiming title IV-E while the child is placed in this placement setting.

**31(c)(1). If Question 31(c) is NO, are title IV-E payments claimed for the period of ineligibility in the PUR?**

- Mark *N/A* if the answer to Question 31(c) is *YES*.
- Mark *YES* if the answer to Question 31(c) is *NO* and title IV-E foster care maintenance payments are claimed for periods during the PUR for which the child is ineligible.

- Mark *NO* if the answer to Question 31(c) is *NO*, but the agency did not claim title IV-E foster care maintenance payments for the period of ineligibility.

**When payments may begin and when payments must end:** If the child is placed in the child care institution for more than 14 days, the title IV-E agency may claim title IV-E foster care maintenance payments only for the first 14 days of the placement. Day one of the 14-day placement limitation starts on the first day that the child is placed in the setting. Beginning with day 15, the agency may not claim title IV-E foster care maintenance unless the child's placement is in one of the settings specified in Question 31(b) or the eligible child was placed in the setting prior to October 1, 2019, (or the title IV-E agency's delayed effective date) and continuously remains placed in that setting.

If the 15<sup>th</sup> day (or after) falls during the PUR, the case will be an error case with ineligible payments that are disallowed. If the 15<sup>th</sup> day (or after) falls outside of the PUR, the case will be a non-error case with disallowed payments.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**32. If the child's placement during the PUR is a specified setting as described in § 472(k)(2) of the Act, please mark the one type that applies to this child's placement.**

- Child care institution specializing in providing prenatal, post-partum or parenting supports for youth
- Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims
- Supervised independent living setting for youth age 18 years or older
- Qualified residential treatment program

Mark N/A if the child is not placed in a child care institution.

If the answer to Question 32 is *N/A* or is **not** a qualified residential treatment program, mark questions 32(a)–32(e)(1) *N/A* too because all of these pertain to the qualified residential treatment program type of placement.

**32(a). If the answer to Question 32 is a qualified residential treatment program, did this placement begin on or after October 1, 2019, or the title IV-E agency's delayed effective date?**

- Mark *N/A* if the child is not placed in a child care institution or the child care institution is not a qualified residential treatment program.
- Mark *YES* if the child's placement in the qualified residential treatment program began on or after October 1, 2019, or the title IV-E agency's delayed effective date.
- Mark *NO* if the child's placement in this setting began before October 1, 2019, or before the title IV-E agency's delayed effective date.

Note that for a child placed in a child care institution that meets qualified residential treatment program requirements during the child's stay, the date that the child care institution meets qualified residential treatment program requirements is the child's placement date into the qualified residential treatment program for title IV-E eligibility purposes.

*Example:* [Questions 32(a)(2)–32(d) that follow this example explain the qualified residential treatment program statutory provisions related to accreditation and the statutory protections that consist of the 30-day individualized assessment; the 60-day judicial review; and the agency head approval for placements in excess of 6 consecutive or nonconsecutive months for a child under 13 or 12 consecutive/18 nonconsecutive months for a child 13 and over.]

- *October 15, 2021:* A 16-year-old youth is placed in a child care institution after the title IV-E agency's delayed effective date. The child care institution is not a qualified residential treatment program.
- *October 15–October 28, 2021:* Agency may claim foster care maintenance payments for 14 days.
- *October 29, 2021:* This is the 15th day that the youth has been in the child care institution; the agency may not claim title IV-E foster care maintenance payments on behalf of the youth.
- *March 8, 2022:* Child care institution meets all qualified residential treatment program requirements, including accreditation and licensing. *This is the youth's placement date into the qualified residential treatment program.* The statutory "clock" begins for the statutory protections. Foster care maintenance payments may be claimed for the eligible child retroactively to March 1, 2022, because the child has resided in the child care institution since then and the placement is considered a qualified residential treatment program for the entire calendar month.
- *April 6, 2022:* Agency must have secured a 30-day individual assessment about the most appropriate placement for the child.
- *May 6, 2022:* Agency must have secured a 60-day judicial review that approves the continued placement of the child in order to continue claiming title IV-E foster care maintenance payments.
- *February 28, 2023:* This ends the 12th month of placement in the qualified residential treatment program. Agency must secure head of agency's signed approval in order to continue claiming beyond this date.

**32(a)(1). Does the qualified residential treatment program fully meet the requirements of a qualified residential treatment program as defined in § 472(k)(4)(A)–(F) of the Act?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the placement setting is consistent with the definition of a qualified residential treatment program as specified at § 472(k)(4)(A)–(F) of the Act.
- Mark *NO* if the placement is not consistent with these provisions in the definition of a qualified residential treatment program.

In order to be considered a qualified residential treatment program, a child care institution must meet certain requirements delineated at § 472(k)(4)(A)–(F) of the Act and described in ACYF-CB-PI-18-07. These include but are not limited to: whether the qualified residential treatment program has a trauma-informed treatment model; has nursing staff that meets specific requirements; includes the child's family as described in the Act; and provides discharge planning. (See below for documentation requirements.)

**32(a)(2). Is the qualified residential treatment program accredited by one of the independent, not-for-profit organizations specified and in accordance with § 472(k)(4)(G) of the Act?**

- Mark *N/A* if the child's placement is not a qualified residential treatment program.

- Mark **YES** if the program is accredited for the entire period of the child’s placement that covers the PUR.
- Mark **NO** if the qualified residential treatment program is not accredited for the entire PUR.
- Also record the dates (month/day/year) that the facility is accredited. If there are two accreditation periods that cover the PUR for the period of time that the child’s placement is a qualified residential treatment program, enter both dates.

Note that the qualified residential treatment program needs to be accredited as described above, but the accrediting body does not have to accredit the facility as a qualified residential treatment program. In addition to the requirements at § 472(k)(4)(A)–(F) of the Act, a qualified residential treatment program must meet the requirements at § 472(k)(4)(G). The Act at § 472(k)(4)(G) requires that a qualified residential treatment program be licensed in accordance with the applicable state or Tribal standards, and accredited by an independent, not-for-profit accrediting body that the Secretary of HHS approves. (See below for documentation requirements. Licensing requirements are covered at Question 34.)

**Documentation Requirements.** Prior to, or during, the onsite title IV-E Review, the CB Review Leads will determine whether the child care institution meets the qualified residential treatment program requirements and will advise the review team. Documentation that the child care institution meets the requirements of a qualified residential treatment program may include, but is not limited to: a copy of the accreditation documentation, licensing agency checklist and/or other official documentation that verifies that the child care institution: (1) has a trauma-informed treatment model addressing serious emotional or behavioral disorders or disturbances; (2) has registered or licensed clinical staff available 24 hours a day, 7 days a week; (3) facilitates and documents appropriate family participation in the child’s treatment; (4) provides discharge planning and family-based aftercare for 6 months after discharge and (5) is accredited by one of the independent, not-for-profit organizations delineated in federal statute or approved by the CB (HHS). Although the IV-E Review will verify that the title IV-E agency has furnished this documentation, the IV-E Review will not evaluate the substance of each qualified residential treatment program requirement.

**When payments may begin and when payments must end:** A title IV-E agency may claim title IV-E foster care maintenance payments on behalf of an otherwise eligible child for the entire month that a qualified residential treatment program is accredited, if: (1) the child was placed in the qualified residential treatment program for the entire month; and (2) all of the qualified residential treatment program requirements delineated at § 472(k)(4)(A)–(G) of the Act are met. A child care institution that is accredited as a qualified residential treatment program on any day in the month is considered to be accredited for the entire month. (See generally CWPM, section 8.3A.8c, QA#11.) However, if the child care institution that is accredited as a qualified residential treatment program loses its accreditation during the month, the child in that placement becomes ineligible beginning on the day of the month that the accreditation is suspended, revoked, or otherwise invalidated.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which all of the requirements are not met in accordance with § 472(k)(4)(A) –(G) of the Act, the child is not eligible for title IV-E foster care. If the period during which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the

ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**32(b). Has the agency documented for the PUR, that within 30 days of the start of the child's placement into the qualified residential treatment program, a qualified individual completed an assessment of the appropriateness of the qualified residential treatment program?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if the 30-day assessment is not due because the child has not been in the placement for 30 days before the end of the PUR.
- Mark *YES* if the title IV-E agency has documented that a qualified individual conducted the assessment within 30 days of the child being placed in the qualified residential treatment program.
- Mark *NO* if the qualified individual did not conduct the assessment timely.
- Record the date (month/day/year) of the assessment.

**Documentation Requirements:** In order to determine that a “qualified individual” has assessed the child's placement in the qualified residential treatment program timely, the reviewer will confirm that the agency considers the individual to be a “qualified individual,” and the date that the qualified individual made the assessment. The reviewer is not to assess the individual's qualifications nor the basis for the qualified individual's assessment.

**32(b)(1) If Question 32(b) is NO, did the agency claim title IV-E for any of the dates that the child was in the qualified residential treatment program for the placement episode?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the title IV-E agency claimed title IV-E for any of the dates the child was in the qualified residential treatment program for the placement episode.
- Mark *NO* if the title IV-E agency did not claim title IV-E for any of the dates the child was in the qualified residential treatment program for the placement episode.

Within 30 days of the start of each placement in a qualified residential treatment program, the title IV-E agency must document that a qualified individual has assessed the child's needs and whether the child's placement in the qualified residential treatment program is appropriate for that child [§ 475A(c)(1)(A) of the Act]. The agency may secure the qualified individual's assessment prior to the child entering the qualified residential treatment program, but the assessment must be completed no later than by the end of the 30-day period (ACYF-CB-PI-18-07). Reviewers will not consider whether the individual who conducts the assessment is qualified, nor will reviewers consider whether the substance of the assessment is sufficient.

**When payments may begin and when payments must end:** The 30-day limitation starts on the first day of the child's placement in the qualified residential treatment program setting, regardless of whether the title IV-E agency has claimed title IV-E funds during the first 30 days (ACYF-CB-PI-18-07).

*Example:* A child is placed in a qualified residential treatment program on April 4 at 10 PM, but the title IV-E agency does not claim title IV-E funds until April 17. April 4 is day one for purposes of calculating when the assessment is due. The agency must secure the individual's qualified assessment no later than May 3.

If the qualified individual's assessment is not completed within 30 days, the title IV-E agency cannot claim title IV-E foster care maintenance payments for the entirety of the child's placement in the qualified residential treatment program, including not for the first 14 days as specified for child care institutions that are not qualified residential treatment programs [ §§ 475A(c)(1)(A) and 472(k)(3)(A) of the Act and ACYF-CB-PI-18-07]. If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**32(b)(2). If the assessment was completely timely, did the qualified individual recommend the placement as being appropriate?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if the 30-day assessment is not due because the child has not been in the placement for 30 days before the end of the PUR; or if the assessment was not completed timely.
- Mark *YES* if the title IV-E agency has documented that the qualified individual recommended the placement.
- Mark *NO* if the title IV-E agency has documented that the qualified individual did not recommend the placement.

**32(b)(3). If the qualified individual completed the assessment timely and did not recommend the placement, did the IV-E agency claim title IV-E "transition payments"?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the IV-E agency claimed title IV-E transition payments.
- Mark *NO* if the agency did not claim title IV-E transition payments.

**32(b)(3)(a). If the agency claimed title IV-E "transition payments," was the child's next placement one of the following: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?**

- Mark *N/A* if the agency did not claim title IV-E "transition payments."
- Mark *YES* if the agency claimed title IV-E "transition payments" and the child's next placement was a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.
- Mark *NO* if the agency claimed title IV-E "transition payments" and the child's next placement was **not**: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.

If the answer is *NO*, the transition payments are disallowed. This is a potential error case if transition payments were incorrectly made during the PUR.

**32(b)(3)(b). If Question 32(b)(3)(a) is *YES*, did the agency claim title IV-E “transition payments” for any dates that are more than 30 days after the qualified individual determined the placement was not appropriate?**

- Mark *N/A* if the agency did not claim title IV-E transition payments for more than 30 days after the qualified individual determined the placement was not appropriate.
- Mark *YES* if the title IV-E agency claimed title IV-E transition payments for more than 30 days after the qualified individual determined the placement was not appropriate.

The reviewer should calculate and record the total number of days claimed on the instrument in the designated area. All claimed title IV-E payments that were made for the child’s placement in the qualified residential treatment program more than 30 days after the date that the individual determined the placement was not appropriate are disallowed. Record ineligible periods on the attached Improper Payment Chart (Appendix 2).

- Mark *NO* if the title IV-E agency did not claim title IV-E transition payments for more than 30 days after the qualified individual disapproved the placement.

**When payments may begin and when payments must end:** If the qualified individual determines the qualified residential treatment program placement not appropriate, the title IV-E agency may claim title IV-E funds for up to an additional 30 days while the child transitions to one of the settings specified in § 472(k)(3)(B) of the Act, i.e., return home, placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home. The agency may not claim title IV-E for more than 30 days after the date that the qualified individual determined the qualified residential treatment program placement not appropriate.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the attached Improper Payment Chart (Appendix 2).

**32(c). Has the agency documented for the PUR that a court or court-approved administrative body completed its review of the placement within 60 days?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if the 60-day review is not due because the child has not been in the placement for 60 days before the end of the PUR.
- Mark *YES* if the title IV-E agency has documented that the judicial determination, or administrative review of the child’s placement in the qualified residential treatment program has been made within 60 days of the child’s placement.
- Mark *NO* if the agency has not documented that a judicial or administrative review of the child’s placement has been completed within 60 days of the child’s placement into the qualified residential treatment program.

**32(c)(1). If Question 32(c) is YES, did the court or court-approved administrative body approve the child's continued placement in the qualified residential treatment program?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if the 60-day review is not due because the child has not been in the placement for 60 days before the end of the PUR or the court or court-approved administrative body did not review the placement within 60 days of placement.
- Mark *YES* if the title IV-E agency has documented that the court or court-approved body approved the qualified residential treatment program.
- Mark *NO* if the court or court-approved body did not approve the child's continued placement in the qualified residential treatment program.

Enter the date the court or court-approved body approved or disapproved the qualified residential treatment program placement.

**32(c)(2). If Question 32(c)(1) is NO, did the child remain in the qualified residential treatment program ?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if the 60-day review is not due because the child has not been in the placement for 60 days before the end of the PUR.
- Mark *YES* if the child remained in the qualified residential treatment program after the court or court-approved body did not approve continued placement in the qualified residential treatment program.
- Mark *NO* if the child did not remain in the qualified residential treatment program.

**32(c)(3). If Question 32(c)(2) is YES, did the IV-E agency claim title IV-E "transition payments"?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the IV-E agency claimed title IV-E "transition payments."
- Mark *NO* if the agency did not claim title IV-E "transition payments."

**32(c)(3)(a). If Question 32(c)(3) is YES, was the child's next placement: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?**

- Mark *N/A* if the agency did not claim title IV-E "transition payments."
- Mark *YES* if the agency claimed title IV-E "transition payments" and the child's next placement was a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.
- Mark *NO* if the agency claimed title IV-E "transition payments" and the child's next placement was **not**: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.

If the answer is *NO*, the transition payments are disallowed. This is a potential error case if transition payments were incorrectly made during the PUR.



**32(c)(3)(b). If Question 32(c)(3)(a) is YES, did the agency claim title IV-E “transition payments” for more than 30 days after the disapproval date?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if the 60-day review is not due because the child has not been in the placement for 60 days before the end of the PUR; or if the court approved the placement.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments in the qualified residential treatment program for more than 30 days after the disapproval date.

The reviewer should calculate and record how many days the child remained in the qualified residential treatment program after the date of disapproval. The reviewer should calculate and record the total number of days claimed on the instrument in the designated area.

- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for more than 30 days after the disapproval date.

**Documentation Requirements:** Within 60 days of the start of each placement in a qualified residential treatment program, the title IV-E agency must document that a court or court-approved administrative body has considered the qualified individual's assessment of the appropriateness of the qualified residential treatment program for the child; determined whether the child's needs can be met in a foster family home or qualified residential treatment program; and approved or disapproved the placement [§§ 472(k)(1)(B) and 475A(c)(2) of the Act]. In order to document that the agency has satisfied this requirement, the agency must provide an official determination that memorializes the approval or disapproval and includes the information and assessments described above. Such documentation could include a court order or a written report of the court or appointed administrative body. Reviewers will not consider whether the court or court-approved administrative body's approval or disapproval decision on the qualified individual's assessment is appropriate.

**When payments may begin and when payments must end:** For the otherwise eligible child, the title IV-E agency may claim title IV-E funds for any period during the first 60 days of the child's placement in a qualified residential treatment program if it has documented whether the court or court-approved administrative body has approved or disapproved the child's placement within the first 60 days of the child's placement in the qualified residential treatment program. If, however, the court or administrative body does not make its decision regarding the qualified individual's assessment of the placement within the 60-day timeframe, or it disapproves the child's continued placement in the qualified residential treatment program, the title IV-E agency may claim title IV-E foster care maintenance payments only for the first 60 days of the placement in the qualified residential treatment program [§§ 472(k)(1)(B) of the Act and ACYF-CB-PI-18-07]. Note that this requirement applies regardless of when the agency begins to claim title IV-E funds on behalf of the child placed in the qualified residential treatment program. The 60-day restriction starts on the first day of placement in the qualified residential treatment program setting.

*Example:* A child is placed into a qualified residential treatment program at 11:30 PM on April 4, which is day one for purposes of calculating this requirement. The title IV-E agency does not claim title IV-E foster care maintenance payments until August 1. For purposes of meeting this requirement, the agency still must have secured the 60-day judicial review no later than June 2, even though it did not begin to claim title IV-E funds until well after the 60-day timeframe has passed.

If the judicial or administrative review approving the placement is not completed prior to the 61<sup>st</sup> day of the child's placement in the qualified residential treatment program, this requirement is not met. The title IV-E agency may only claim title IV-E foster care maintenance payments for the first 60 days of placement in the qualified residential treatment program [§ 472(k)(1)(B) of the Act].

If the court or court-approved administrative body does not approve such a placement (either because it disapproves the placement or did not make a timely determination) by the 60<sup>th</sup> day, as required by § 475A (c)(2), the title IV-E agency may only claim title IV-E funds for up to an additional 30 days if the child transitions to one of the placements specified in § 472(k)(3)(B) of the Act, i.e., return home, placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

*Example:* On August 1, the family court determines that the child's continued placement in the qualified residential treatment program is inappropriate and disapproves the placement. The agency determines that the child should be placed in a foster family home. Beginning on August 1, the title IV-E agency may claim title IV-E for up to 30 days while the child remains in the qualified residential treatment program, until August 30, in order to transition the child out of the qualified residential treatment program into the foster family home. The agency may not claim title IV-E funds as of August 31 if the child remains in the qualified residential treatment program.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**32(d). If the child's placement in the qualified residential treatment program is longer than:**

- **12 consecutive months, or 18 nonconsecutive months for a child aged 13 or older,**  
**or**
- **6 consecutive or nonconsecutive months for a child under age 13**

**Has the title IV-E agency documented for the PUR that the title IV-E agency's chief executive has signed an approval for the continued placement in the qualified residential treatment program before the end of those specific timeframes?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if a child under 13 years of age has not been placed in the qualified residential treatment program for 6 consecutive or nonconsecutive months before the last day of the PUR; or if a child 13 years old or older has not been placed in the qualified residential treatment program for 12 consecutive, or 18 nonconsecutive months before the last day of the PUR.
- Mark *YES* if the title IV-E agency has documented the title IV-E agency's chief executive has signed an approval for the continued placement of the child in the qualified residential treatment program.
- Mark *NO* if the agency has not so documented.

**32(d)(1). If Question 32(d) is *NO*, did the child remain in the qualified residential treatment program after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month, as applicable?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if a child 13 years old or older has not been placed in the qualified residential treatment program for 12 consecutive, or 18 nonconsecutive months before the last day of the PUR; or if a child under 13 years of age has not been placed in the qualified residential treatment program for 6 consecutive or nonconsecutive months before the last day of the PUR.
- Mark *YES* if the child remained in the qualified residential treatment program after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month, as applicable.
- Mark *NO* if the child did not remain in the qualified residential treatment program after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month, as applicable.

If the child's placement in a qualified residential treatment program lasts longer than 12 consecutive months or 18 nonconsecutive months for a child age 13 or older, or 6 consecutive or nonconsecutive months for a child under age 13, the title IV-E agency must document the signature of the title IV-E agency's chief executive consenting to the continued placement of the child in that setting [§ 475A(c)(5) of the Act]. If the agency does not meet the time frame as required in federal statute, the title IV-E agency may claim title IV-E foster care maintenance payments only until the last day of the month of the specified time frame and therefore is expected to make the determination before then to extend the continued placement. The "clock" starts on the first day of placement in the setting and ends on the last day of the month of the applicable timeframe.

*Example:* If a 14-year-old child has been placed in the qualified residential treatment program continuously since January 15, the 12-month period would end on January 31 of the next year.

**Documentation Requirements:** In order to document that the title IV-E agency has satisfied this requirement regarding the child's continued placement in the qualified residential treatment program, it must furnish a signed letter or certification from the head of the agency approving or disapproving the child's continued placement in the qualified residential treatment program.

**32(d)(2). If the title IV-E agency has documented for the PUR that the title IV-E agency's chief executive does not approve the child's continued placement in the qualified residential treatment program, before the end of those specific timeframes, did the child remain in the qualified residential treatment program after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month, as applicable?**

- Mark *N/A* if the title IV-E agency chief executive approved the child's continued placement or the IV-E agency did not timely approve the child's continued placement in the qualified residential treatment program.
- Mark *YES* if the child remained in the qualified residential treatment program after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month.
- Mark *NO* if the child did not remain in the qualified residential treatment program after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month, as applicable.

**32(d)(3). If Questions 32(d)(1) or 32(d)(2) are YES, did the IV-E agency claim title IV-E “transition payments”?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the IV-E agency claimed title IV-E “transition payments.”
- Mark *NO* if the agency did not claim title IV-E “transition payments.”

**32(d)(4). If the agency claimed title IV-E “transition payments,” was the child’s next placement: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?**

- Mark *N/A* if the agency did not claim title IV-E “transition payments.”
- Mark *YES* if the agency claimed title IV-E “transition payments” and the child’s next placement was a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.
- Mark *NO* if the agency claimed title IV-E “transition payments” and the child’s next placement was **not**: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.

If the answer is *NO*, the transition payments are disallowed. This is a potential error case if transition payments were incorrectly made during the PUR.

**32(d)(5). If Question 32(d)(1) is YES, did the agency claim title IV-E “transition payments” for more than 30 days after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month in which the agency head’s approval was due?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if a child under 13 years of age has not been placed in the qualified residential treatment program for 6 consecutive or nonconsecutive months before the last day of the PUR; or if a child 13 years old or older has not been placed in the qualified residential treatment program for 12 consecutive, or 18 nonconsecutive months before the last day of the PUR.
- Mark *YES* if the agency claimed title IV-E transition payments for more than 30 days after the date of disapproval or 30 days after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month when the agency head’s approval was due.

The reviewer should calculate and record the number of days that transition payments were made beyond the allowable 30 days after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month in which the agency approval was due. Those payments are likely disallowed/in error.

- Mark *NO* if the agency did not claim title IV-E “transition payments” for more than 30 days after the end of the 12<sup>th</sup>, 18<sup>th</sup>, or 6<sup>th</sup> month, as applicable.

**When payments may begin and when payments must end:** The title IV-E agency may claim title IV-E on behalf of an otherwise eligible child when it has timely met requirements related to: (1) the 30-day qualified individual assessment; (2) the 60-day judicial review; and (3) chief executive approval for a placement lasting more than 12 consecutive months; more than 18 nonconsecutive months; or more than six consecutive or nonconsecutive months for a child under age 13.

If the title IV-E agency's chief executive does not timely approve the child's continued placement for a longer term, or the agency's chief executive disapproves the child's continued placement in the qualified residential treatment program, the agency must stop claiming title IV-E as of the last day of the month in which the chief executive is required to make the determination for the specified timeframe, or the last day of the month in which the chief executive disapproves the child's continued placement.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**Documentation Requirements:** In order to demonstrate that the title IV-E agency has satisfied the requirement of the agency chief executive's approval or disapproval of the child's placement in the qualified residential treatment program, it may submit whatever official document memorializes the approval or disapproval of the child's placement into, or continued placement in, the qualified residential treatment program.

**32(e). Are the requirements met for the child's placement in a qualified residential treatment program during the PUR?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program. This question summarizes whether the title IV-E agency has met the requirements detailed in the Question 32 series.
- Mark *YES* if the agency has met all of the requirements for a child placed in a qualified residential treatment program.
- Mark *NO* if the agency has not met all of the requirements.

**32(e)(1). If Question 32(e) is *NO*, are title IV-E payments claimed for the period of ineligibility in the PUR?**

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if Question 32(e) is answered *YES*.
- Mark *YES* if the answer to Question 32(e) is *NO* and the title IV-E agency claimed title IV-E payments for the period of ineligibility.
- Mark *NO* if the agency did not claim title IV-E payments for the period of ineligibility.

**When payments may begin and when payments must end:** The title IV-E agency may claim title IV-E in accordance with the requirements described in Questions 32(b)–(d) but must stop claiming if one of the entities disapproves the placement. However, the title IV-E agency may claim up to 30 days of title IV-E foster care maintenance payments to transition a child from the qualified residential treatment program when: (1) the qualified individual or court/court-appointed administrative body, or agency head determines the qualified residential treatment program is not appropriate [§ 475A(c)] and the child is returned home or placed with a fit and willing relative, a legal guardian, an adoptive parent, or in a foster family home [§ 472(k)(3)(B) of the Act]. Title IV-E claims for foster care maintenance payments must end

on the 31st day if the child remains placed in the qualified residential treatment program during the transition period. The 30-day period begins on the date a determination is made that the placement is no longer recommended or approved for the child or, if the determination is not made timely, on the date that such a determination was due. On the 31<sup>st</sup> day after the disapproval, title IV-E claims are ineligible.

If the title IV-E agency continues to pay title IV-E for more than 30 days after the child's placement in the qualified residential treatment program has been disapproved, the child becomes ineligible for title IV-E. If those payments have been claimed for a period in the PUR, the sample case will be in error with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**33. If the child's placement during the PUR is a residential family-based treatment facility for substance abuse, does the child's placement begin on or after October 1, 2018?**

- Mark *N/A* if the child's placement is a foster family home or a child care institution.
- Mark *YES* if the child is placed in a residential family-based treatment facility for substance abuse on or after October 1, 2018.
- Mark *NO* if the child is placed in the facility prior to October 1, 2018.

As of October 1, 2018, the Family First Act allowed a title IV-E agency to claim title IV-E payments for a different type of placement setting that is a residential family-based substance abuse treatment facility in which a child lives with the parent in the facility while in foster care. Such a placement is neither a foster family home nor a child care institution, but instead, is a unique type of placement that has distinct requirements.

**33(a). Is the residential family-based treatment facility for substance abuse fully licensed for the period of the child's stay in this placement that falls within the PUR?**

- Mark *N/A* if the child is not placed in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the facility is fully licensed.
- Record the dates (month/day/year) of the facility's period of licensure. If there are two licenses that cover the entire PUR during the time that the child is placed there, enter the dates of both periods.
- Mark *NO* if the title IV-E agency has not presented documentation to demonstrate that the facility is fully licensed during the entire time that the child is placed there during the PUR.

The title IV-E agency may claim title IV-E foster care maintenance payments on behalf of a child placed with the child's parent in a residential family-based treatment facility only if the facility is fully licensed for the entire period of claiming on behalf of the child placed there. The facility may be licensed by whichever entity within the state or Tribe is responsible for licensing such facilities; it need not be licensed as a child care institution or by the entity responsible for licensing child care institutions.

**Documentation Requirements:** The title IV-E agency must present a copy of the provider license, certificate, letter of approval or other official evidence of permission that verifies licensure status and type throughout the child's stay in the placement, even when the facility is located in another jurisdiction. The licensing documentation must reflect the name of the residential family-based treatment facility where the child is placed, whether the placement is fully licensed, and period of licensure.

**33(a)(1). If Question 33(a) is *NO*, are title IV-E payments claimed for the period of ineligibility in the PUR?**

- Mark *N/A* if the child is not placed in a residential family-based treatment facility for substance abuse or the answer to Question 33(a) is *YES*.
- Mark *YES* to Question 33(a)(1) if the answer to Question 33(a) is *NO* and the title IV-E agency claimed title IV-E foster care maintenance payments for the period of time that the facility is not licensed.
- Mark *NO* if the agency did not claim title IV-E payments for that ineligible period.

**When payments may begin and when payments must end:** The title IV-E agency may claim title IV-E foster care maintenance payments for the entire month on behalf of an otherwise eligible child that is placed in a licensed, residential family-based treatment facility for substance abuse if the provider is fully licensed for at least one day of the month, unless the licensing status is lost during the month.

If the treatment facility's license expires or is not renewed timely, reviewers will consider the governing licensing agency's policy regarding when and how licenses expire. If the licensing agency's law, policy, or regulation allows a residential family-based treatment facility for substance abuse to remain fully licensed when the license lapses or expires, then the facility is considered fully licensed for purposes of title IV-E eligibility. In contrast, if licensing mandates are silent on continuous licensure, the residential family-based treatment facility for substance abuse is not considered fully licensed for title IV-E eligibility.

If during a month, the treatment facility's license lapses or expires on its own terms and the facility is not considered fully licensed in accordance with the licensing agency's requirements, the child is ineligible beginning on the first day of the next month if the child remains in the placement until such time (see generally CWPM at 8.3A.8c, Question 17). The otherwise eligible child placed in such facility can become eligible again under title IV-E for the entire month in which the residential family-based treatment facility for substance abuse comes into full compliance with the licensing requirements. If the license is suspended, revoked, or otherwise invalidated because the licensing agency determines that the treatment facility is not meeting a requirement for full licensure, the child in that placement becomes ineligible beginning on the day of the month that the license is invalidated for non-conformity with a licensing requirement (see generally CWPM at 8.3A.8c, Question 16). The otherwise eligible child placed in such facility can become eligible again under title IV-E for the entire month in which it comes into full compliance with the licensing requirements.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**33(b). Are title IV-E payments claimed for more than 12 months for the period of the child's stay in the residential family-based treatment facility for substance abuse that falls within the PUR?**

- Mark *N/A* if the child is not placed in a residential family-based treatment facility for substance abuse or the child has not been in the placement for more than 12 months before the end of the PUR.
- Mark *YES* if the child has been in the placement for more than 12 months and the title IV-E agency claimed title IV-E foster care maintenance for periods after 12 months of the child's stay in the placement that falls within the PUR.
- Mark *NO* if the agency did not claim title IV-E for more than 12 months for the period of stay.

If the child's placement is in a licensed, residential family-based substance abuse treatment facility, consistent with § 472(j) of the Act, the title IV-E agency may claim title IV-E foster care maintenance payments for up to 12 months [§ 472(k)(2)(A) of the Act] each time a child is placed in this type of setting. The placement setting must meet all the requirements specified in statute.

**When payments may begin and when payments must end:** The title IV-E agency may claim title IV-E foster care maintenance payments until the last day of the 12<sup>th</sup> month of the placement in a licensed, residential family-based substance abuse treatment facility. The "clock" for the 12 months begins to run on the first day of the placement with the parent in this type setting. The clock restarts with each new placement into a licensed, residential family-based substance abuse treatment facility [§ 472(j)(1) of the Act].

*Example:* A child is placed with the child's parent in a licensed, residential family-based treatment facility for substance abuse in June. The child remains there for 2 months until August at which time the title IV-E agency places the child in a licensed foster family home. In November, the child is again placed with the parent in the same or in a different family-based treatment facility for substance abuse. The title IV-E agency may claim title IV-E payments on behalf of the otherwise eligible child for 12 months beginning in November.

*Example:* A child is placed with the child's parent in a licensed, residential family-based treatment facility for substance abuse in June. The title IV-E agency claims title IV-E payments while the child and parent remain there for 11 months. In May of the following year, the child and parent move to a different family-based residential treatment facility for substance abuse. The agency may claim title IV-E payments on behalf of the otherwise eligible child for 12 months beginning in May while the child and parent reside there.

The "clock" for the 12 months ends on the last day of the 12<sup>th</sup> month, regardless of the day in the month that the child is placed with the parent in that facility 12 months prior. For example, if a child is placed in the licensed, residential family-based treatment facility for substance abuse with the parent on January 10<sup>th</sup>, the 12-month period would end on January 31<sup>st</sup> of the next year.

If the title IV-E agency continues to pay title IV-E for more than 12 months after the child's placement in the licensed, residential family-based substance abuse treatment facility, the child becomes ineligible for title IV-E. If those payments are claimed for a period outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).



**34. Is the child's placement fully licensed during the child's stay in the foster family home or child care institution that falls within the PUR?**

- Mark *N/A* if the child is placed in a supervised independent living placement setting; in a residential family-based treatment facility for substance abuse; or "*Other*" is the response to Question 30(d) for the placement setting during the PUR.
- Mark *YES* if the child's placement is a foster family home or child care institution and that foster family home or child care institution is fully licensed during the child's stay in the foster care placement that falls within the PUR.
- Record the dates (month/day/year) of the periods of licensure that cover the child's stay during the entire PUR. If there are two licenses that cover the PUR, enter the date of both of the relevant licenses.
- Mark *NO* if the foster family home or child care institution is not fully licensed during that period.

To be eligible for title IV-E foster care maintenance payments, the child must be in a foster care placement that meets the standards for full licensure or approval established by the licensing agency of the state or Tribe where the foster care placement is located [§§ 472(b) & (c) of the Act]. The title IV-E agency must document that the child's foster care placement is fully licensed for the duration of the child's placement in the PUR, even when the placement is an out-of-jurisdiction foster care setting. For the IV-E Review, the term "fully licensed" refers to foster care settings that are officially designated by the licensing agency as meeting all of the applicable licensing requirements for full licensure, approval, certification, or other synonymous term (45 CFR § 1355.20, "foster family home," and CWPM at 8.3A.8c).

The reviewer may not verify the title IV-E agency's compliance with the title IV-E plan requirement that prohibits the foster parent from providing care in the foster family home to more than six children in foster care unless a statutory exception applies [472(c)(1)(A)(ii)(III) of the Act]. If the CB becomes aware that a title IV-E agency is issuing foster family home licenses in violation of the numerical restriction, the CB will consider this a title IV-E plan issue that could result in a partial review and financial penalty pursuant to 45 CFR § 1355.32(d).

**Documentation Requirements.** Licensing documentation for the foster family home or child care institution where the child resides during the PUR must include a copy of the provider license, certificate, letter of approval, or other official evidence of permission that verifies licensure status and type throughout the child's stay in the placement, even when the foster care provider is located in another jurisdiction. The licensing documentation must reflect the name of the foster parent(s) with whom the child is placed, or the name of the child care institution where the child is placed, whether the placement is fully licensed and period of licensure.

**34(a). If Question 34 is *NO*, are title IV-E funds claimed for the period in the PUR the foster family home or child care institution is not fully licensed?**

- Mark *N/A* if the answer to Question 34 is *N/A* or *YES*.
- Mark *YES* to Question 34(a), if the title IV-E agency has claimed title IV-E foster care maintenance payments for a period in the PUR when the foster care provider is not fully licensed.
- Mark *NO* if the agency has not claimed title IV-E foster care maintenance payments for the period during the PUR when the provider is not fully licensed.

**When payments may begin and when payments must end:** The title IV-E agency may claim title IV-E foster care maintenance payments for the entire month on behalf of an otherwise eligible child who is placed in a foster family home or child care institution if the provider is fully licensed for at least one day of the month unless the licensing status is lost during the month.

If the foster family home or child care institution license expires or is not renewed timely, reviewers will consider the governing licensing agency's policy regarding when and how licenses expire. If the licensing agency's law, policy, or regulation allows a foster family home or child care institution to remain fully licensed when the license lapses or expires, then the foster care placement is considered fully licensed for purposes of title IV-E eligibility. In contrast, if licensing mandates are silent on continuous licensure, the foster family home or child care institution is not considered fully licensed for title IV-E eligibility.

If during a month, the foster family home or child care institution's license lapses or expires on its own terms and is not considered fully licensed in accordance with the licensing agency's requirements, the child is ineligible beginning on the first day of the next month if the child remains in the placement until such time (CWPM at 8.3A.8c, Question 17). The otherwise eligible child placed in such foster care setting can become eligible again under title IV-E for the entire month in which the foster care setting comes into full compliance with the licensing requirements. If a foster care placement's license is suspended, revoked, or otherwise invalidated because the licensing agency determines that the foster care placement is not meeting a requirement for full licensure, the child in that placement becomes ineligible beginning on the day of the month that the license is invalidated for non-conformity with a licensing requirement (CWPM at 8.3A.8c, Question 16).

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

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## **N. SAFETY REQUIREMENTS**

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

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**Complete for the placement reviewed at Question 34 in Section M. If the child has multiple placements during the PUR, complete a separate Licensing/Safety Checklist for Multiple Foster Care Placements, Appendix 1 of the Review Instrument, for each placement.**

**General instructions for a child placed in a foster family home.** In order for the title IV-E agency to claim title IV-E foster care maintenance payments on behalf of an otherwise eligible child, the foster family home where the child is placed must comport with the criminal records check requirements described at § 471(a)(20)(A) of the Act; 45 CFR § 1356.30; and ACYF-CB-PI-10-02 or for former opt out states, the background safety requirements described in 45 CFR § 1356.30(e) and ACYF-CB-PI-10-02.

The title IV-E agency must document that each foster parent named on the foster family home license meets the applicable criminal records check requirements, or background safety requirements (for former opt out states), for the period that the title IV-E foster care maintenance payments are claimed on behalf of the child residing in that foster family home during the PUR.

§ 471(a)(20)(A) of the Act requires that the criminal records check requirements for prospective foster parents be met prior to licensure. However, reviewers will not assess whether the foster family home has met the applicable requirements prior to the home being licensed as it is not a title IV-E eligibility requirement. Similarly, reviewers will not assess whether the title IV-E agency has checked any child abuse and neglect registries for prospective foster parents.

Criminal records check requirements differ depending on when the foster family home is newly licensed. In addition to a first-time license, a “newly licensed” foster family home is one where: (1) the previous license expires and cannot be renewed pursuant to the licensing authority’s requirements; or (2) the previous license is terminated or otherwise rescinded for any reason. In those cases, foster parent(s) are considered “prospective” with any new application for licensure, and a new criminal records check or background safety checks for former opt out states must be conducted in connection with the new license. Reviewers must examine each license and licensing period to determine which documentation requirements related to background safety apply to a foster family home.

A license alone is not sufficient documentation of compliance with the applicable background safety requirement. The title IV-E agency must provide documentation of the type described below, it must demonstrate that a foster family home has met applicable safety requirements (dependent on whether the state opted in or opted out), and it must demonstrate that the applicable requirement was met satisfactorily for the period for which the foster care maintenance payment was made on behalf of the child in the foster care placement during the PUR. Once it is determined that the applicable safety requirement was met for the PUR, the reviewer may not verify subsequent compliance with the requirement during the licensing renewal process.

*Foster family homes that were newly licensed prior to October 1, 2008:* Reviewers will need to know whether the title IV-E agency: (1) opted into the criminal records check requirement at 45 CFR § 1356.30(a) on or after November 19, 1997, but before October 1, 2008, or the title IV-E agency’s delayed effective date to implement the fingerprint-based check of the national crime information databases (NCID); or (2) opted-out of those requirements, and instead established its own safety requirements per 45 CFR § 1356.30(e).

*For states that did not opt out of federal criminal records check requirements of November 1997:* Reviewers will need to verify that the title IV-E agency completed a criminal records check of the foster family home at the local, state, or federal level prior to claiming title IV-E on behalf of the child placed in the home.

The 1997 criminal records check requirements authorized by § 471(a)(20)(A) of the Act and 45 CFR § 1356.30(a) mandate the state to have conducted a criminal records check for foster parents who were newly licensed or approved on or after November 19, 1997 (the effective date of the enactment of the law) or the state’s approved delayed effective date for the 1997 requirement. The criminal records check may be conducted at either the local, state, or federal law enforcement level. The authority requiring the criminal records check ended on October 1, 2008, or on the state’s approved delayed effective date for implementing the fingerprint-based criminal records check requirement.

*For states that opted out of federal criminal records check requirement of November 1997:* Reviewers will need to know what the state mandated [per 45 CFR § 1356.30(e)] for safety requirements for foster parents who were newly licensed on or after March 27, 2000, but before October 1, 2008, (or the title IV-E agency’s delayed effective date). Prior to the onsite review, the title IV-E agency will document this information. The CB Review Leads will advise the reviewers of the relevant requirements during the onsite review.

Federal regulations at 45 CFR § 1356.30(e) permitted a state to opt out of the November 1997 criminal records check requirement at 45 CFR § 1356.30. Opt-out states were exempt from § 471(a)(20)(A) of the Act and 45 CFR § 1356.30(a) until October 2008. A state may have opted out by notifying the Secretary of HHS or enacting state legislation to comply. If the state had opted out of the criminal records check requirement of 1997, the state must have ensured that the safety measures pertaining to background checks established by the licensing agency in accordance with 45 CFR § 1356.30(e) had been fully addressed for a foster parent who was newly licensed or approved on or after November 19, 1997 (the effective date of the enactment of the law) or the state's approved delayed effective date for the 1997 requirement. The state was responsible for determining the type of background checks necessary to meet the safety standards established by the state. The authority permitting states to opt out of the 1997 criminal records check requirement ended on October 1, 2008, or on the state's delayed effective date for implementing the fingerprint-based criminal records check requirement.

For foster family homes that were newly licensed on or after October 1, 2008, (or the title IV-E agency's delayed effective date): Reviewers will determine whether the title IV-E agency completed a fingerprint-based check of the NCID.

The Adam Walsh Child Protection and Safety Act of 2006 was signed into law on July 27, 2006, and amended § 471(a)(20) of the Act to require States to institute procedures for conducting criminal records checks of foster parents. Consequently, a state's procedures for criminal record checks of newly licensed foster parents as specified in § 471(a)(20) of the Act must include conducting fingerprint-based checks of the NCID for the foster parent. The law also removed a state's ability to opt out of the criminal records check requirement.

### **General documentation requirements for a child placed in a foster family home.**

The documentation requirements for the criminal records check, or background safety requirements (for former opt out states) for foster family homes differ based on whether a foster parent becomes newly licensed before or after October 1, 2008, (or the title IV-E agency's delayed effective date). The reviewer, therefore, must examine each new license and licensing period to determine which criminal records check or background safety documentation requirements apply to a foster family home for the PUR. Note that a license alone is not sufficient verification of compliance with the applicable safety requirement.

For purposes of the IV-E Review, a "completed" safety or criminal record check means one for which the title IV-E agency has received and addressed the results of the checks from the relevant authority conducting the check as follows:

- For a former opt-out state, documentation must be consistent with requirements related to safety requirements that the state has established pursuant to 45 CFR § 1356.30(e).
- For an opt-in state, documentation must reflect that a local, state, or federal criminal records check has been completed pursuant to 45 CFR § 1356.30(a).
- For a foster family home that is newly licensed on or after October 1, 2008, (or the delayed effective date), documentation must reflect that a fingerprint-based check of the NCID is completed, and the title IV-E agency has analyzed the results. See § 471(a)(20)(a).

The preferred documentation to demonstrate that the title IV-E agency has complied with the background safety or criminal records check requirement are the actual results of the relevant checks. However, other acceptable documentation may include official material, such as a letter or report signed by

appropriate licensing staff that details the results of the background checks or electronic data maintained in the title IV-E agency's automated information system that records the results of the evidence examined to determine compliance with the governing safety requirements.

The documentation must clearly specify: (1) the background safety check(s) completed, (2) the date completed, (3) the name of the foster parent(s) on whom the background safety check is completed, (4) the evidence reviewed, and (5) official authentication of the check, such as an agency signature or the name of the official completing or furnishing the results of the background check. A general statement that simply declares something like "the criminal records checks were completed, and persons cleared" is not sufficient documentation. The results of a background safety check must be tied to the specific foster parent. A request for a background safety check without the results of the record search is not sufficient documentation of compliance.

The Federal Bureau of Investigation (FBI) has made clear that title IV-E agencies are not prohibited from disseminating criminal history record information (CHRI) to governmental agencies that have audit and oversight responsibilities. The CB is one such agency. The FBI has addressed this issue in its publication: *National Crime Prevention and Privacy Compact Council's Noncriminal Justice Online Policy Resource—Dissemination of FBI Criminal History Record Information for Noncriminal Justice Purposes* (2015). Therefore, a law or practice governing the title IV-E agency that prohibits dissemination of CHRI records to the CB for purposes of the IV-E Review is not sufficient reason to exclude review of these records. The title IV-E agency is expected to make available to review team members the results provided them through the criminal background checks completed for foster care parents, regardless of whether the agency has a negative finding on this issue from a previous FBI audit.

For title IV-E eligibility purposes, once the title IV-E agency has documented that the relevant criminal record or safety check has been completed prior to claiming title IV-E for the PUR, it is not required to provide any additional or future information related to these checks, regardless of state law or policy; reviewers may not request such documentation.

The documentation requirements apply to a child's foster care placement during the PUR regardless of the jurisdiction in which the foster care placement is located. Therefore, if the child is placed in an out-of-state foster family home, the title IV-E agency must provide documentation consistent with the type described above. That is, the documentation must verify that the foster parent(s) where the child is placed during the PUR has complied with the criminal records check, or background safety requirements (for former opt-out states) established by the jurisdiction in which the foster care provider is located. The documentation will be accepted based upon the degree to which the documentation clearly specifies the safety measures completed, the date completed, and the evidence reviewed.

### **35. Is the child's placement during the PUR a foster family home?**

- Mark *YES* if the child's placement reviewed in Section M, Question 34, is a foster family home.
- Mark *NO* if the child's placement is not a foster family home.
- If the answer to Question 35 is *NO*, mark *N/A* for Questions 35(a)–35(c)(1). If *YES*, answer Question 35(a), 35(b) or 35(c), as appropriate, and the applicable sub-questions.

**35(a). If the foster family home is newly licensed before October 1, 2008, or the title IV-E agency's delayed effective date, and the title IV-E agency had not "opted out" of the 1997 criminal records check requirement, is a criminal records check completed satisfactorily on the foster parent(s)?**

Questions 35(a) and (a)(1) apply to: (1) a title IV-E agency that opted into the criminal record check requirements between November 19, 1997, and October 1, 2008, (or the title IV-E agency's delayed effective date for the fingerprint-based check); and (2) the foster family home in which the child was residing during the PUR was newly licensed before October 1, 2008, and remained continuously licensed.

- Mark *N/A* if these do not apply, or the child is not placed in a foster family home.
- Mark *YES* if the title IV-E agency documented completion of a criminal records check of the foster parent(s) identified on the foster family home's license. The criminal records check must be completed at the local, state, or federal law enforcement level prior to the title IV-E agency claiming of title IV-E on behalf of the child placed in the home.
- Mark *NO* if the agency does not document that it completed a criminal records check on the foster parent(s) in accordance with federal requirements.

For purposes of the IV-E Review, the criminal records check requirement is considered satisfied for the PUR for foster family homes newly licensed between November 19, 1997, and October 1, 2008, (or the title IV-E agency's approved delayed effective date for the fingerprint-based check in either case) if the documentation clearly verifies that: (1) a criminal records check is completed at either the local, state or federal law enforcement level, regardless of the licensing agency's requirements for these homes; (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 claimed for a period in the PUR prior to these conditions being met. For foster family homes, federal requirements mandate the title IV-E agency to document the results of a criminal records check [45 CFR § 1356.30(b) and (c) and ACYF-CB-PI-10-02]. If the title IV-E agency does not meet the requirements as prescribed, the child is not eligible for title IV-E while placed in the foster family home.

**35(a)(1). If Question 35(a) is *NO*, are title IV-E funds claimed for the period in the PUR the criminal records check requirement is not satisfied for the foster parent(s)?**

- Mark *N/A* if the answer to Question 35(a) is *YES*.
- Mark *YES* if the answer to Question 35(a) is *NO* and the title IV-E agency claimed title IV-E foster care maintenance payments for the period the criminal records check is not completed satisfactorily.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the ineligible period.

**When payments may begin and when payments must end.** If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not met.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**35(b). If the foster family home is newly licensed before October 1, 2008, or the title IV-E agency's delayed effective date, and the title IV-E agency had "opted out" of the 1997 criminal records check requirement, are the safety requirements per 45 CFR § 1356.30(e) completed satisfactorily on the foster parent(s)?** Questions 35(b) and (b)(1) apply to: (1) a title IV-E agency that opted out of the November 1997 CRC requirement at 45 CFR § 1356.30(a), and (2) the foster family home in which the child was residing during the PUR was newly licensed on or after March 27, 2000 (or the title IV-E agency's delayed effective date), but before October 1, 2008, and remained continuously licensed.

- Mark *N/A* if these conditions do not apply, or the child is not placed in a foster family home.
- Mark *YES* if the title IV-E agency documented completion of the safety check(s) in accordance with the licensing agency's requirements established to comply with 45 CFR § 1356.30(e).
- Mark *NO* if the agency did not document completion of each required check. If the safety checks are not met as required, the child is not eligible for title IV-E while placed in the foster family home.

For a title IV-E agency that opted out of the November 1997 CRC requirement at 45 CFR § 1356.30(a), the state must have ensured that each of the safety requirements established by the licensing agency in accordance with 45 CFR § 1356.30(e) is fully addressed for a foster parent who is newly licensed on or after March 27, 2000, but before October 1, 2008, or the title IV-E agency's approved delayed effective date to implement the fingerprint-based check of the national crime information databases (NCID). The licensing agency where the foster family home is located is responsible for determining the type and frequency of background checks necessary to meet the established safety requirements. The licensing agency's safety requirements in effect at the time that the home is licensed determine what safety check is required.

The IV-E Review will examine the governing licensing agency's policies to determine how to review for the safety requirements under 45 CFR § 1356.30(e). Accordingly, reviewers will examine the title IV-E agency's documentation to determine: (1) whether all of the licensing agency's established policies are fully completed; and (2) whether the safety check requirements are satisfied completely for the period in the PUR the title IV-E foster care maintenance payment is made for the child residing in the foster family home. For example, if the licensing agency's safety policy requires a check of the state child abuse registry, domestic violence registry and the state criminal history database, then the documentation must substantiate that each condition is satisfied for the period a title IV-E foster care maintenance payment is made on behalf of a child placed in the foster family home.

**35(b)(1). If Question 35(b) is *NO*, are title IV-E funds claimed for the period in the PUR the safety requirements are not satisfied for the foster parent(s)?**

- Mark *N/A* if the answer to Question 35(b) is *YES*.
- Mark *YES* if the answer to Question 35(b) is *NO* and the title IV-E agency claimed title IV-E foster care maintenance payments for the period the safety requirements are not satisfied for the foster parent(s) during the PUR.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the ineligible period.

**When payments may begin and when payments must end.** If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is

outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not met.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**35(c). If the foster family home is newly licensed on or after October 1, 2008, or the title IV-E agency's delayed effective date, is a fingerprint-based check of the national crime information databases (NCID) completed satisfactorily on the foster parent(s)?**

- Mark *N/A* if the child's placement is not a foster family home, or the foster family home is newly licensed prior to October 1, 2008, (or the title IV-E agency's delayed effective date) and remained continuously licensed.
- Mark *YES* if the title IV-E agency documents that a fingerprint-based check of the NCID is completed on the foster parent(s) prior to claiming title IV-E foster care maintenance payments on behalf of the child placed in the home.
- Mark *NO* if the agency does not document that a fingerprint-based check of the NCID is completed prior to claiming title IV-E foster care maintenance payments on behalf of the child placed in the home.

For the IV-E Review, the criminal check requirement is completed satisfactorily for the PUR for those foster family homes newly licensed on or after October 1, 2008, (or the title IV-E agency's delayed effective date for the fingerprint-based check of the NCID), if the documentation clearly verifies that: (1) a criminal records check is completed that includes a fingerprint-based check of the NCID; (2) the foster parent has not been convicted of any of the prohibited felonies listed in §§ 471(a)(20)(A)(i) and (ii) of the Act; and (3) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met.

**35(c)(1). If Question 35(c) is *NO*, are title IV-E funds claimed for the period in the PUR the fingerprint-based check of the NCID is not completed satisfactorily on the foster parent(s)?**

- Mark *N/A* if the answer to Question 35(c) is *YES*.
- Mark *YES* if the answer to Question 35(c) is *NO*, and the title IV-E agency claimed title IV-E foster care maintenance payments.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the ineligible period. If the agency does not meet the requirements as prescribed, the child is not title IV-E eligible while placed in the foster family home.

**When payments may begin and when payments must end.** If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not met.



Consistent with §§ 471(a)(20)(A) and (D) of the Social Security Act (the Act), a title IV-E agency only may claim title IV-E FCMPs on behalf of a child placed in a foster family home or child care institution for the days that the results of the criminal record checks have been received as described in the Act. Further, as specified in CWPM 8.4F, Q/A #8, title IV-E foster care maintenance payments may be paid on behalf of an otherwise eligible child placed in a foster family home only for the days that the foster parents' criminal records check have been completed, the records reveal that the parents did not commit any prohibited felonies in §§ 471(a)(20)(A)(i) and (ii) of the Act, and the foster family home is licensed (CWPM 8.4F, Q/A #38).

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**General instructions for a child placed in a child care institution.** Questions 36–36(c)(1) apply to the criminal records check requirements for all adults working in child care institutions.

The Family First Act modified title IV-E at § 471(a)(20)(D) of the Act to add new criminal records check requirements for children placed in child care institutions on or after October 1, 2018, (or the title IV-E agency's delayed effective date). For such placements, reviewers will determine whether each employee of the child care institution working during the PUR while the child was placed there has had a fingerprint-based check of the NCID, or alternate procedures, completed before the title IV-E agency claimed title IV-E foster care maintenance payments on behalf of the child.

For the IV-E Review, regardless of the licensure date of the child care institution, reviewers will examine the criminal records check documentation to determine for the PUR: whether the requirements are fully satisfied for the period in the PUR the title IV-E foster care maintenance payment is made for the child residing in the child care institution. The documentation must clearly specify for each applicable child care institution's staff: (1) the background check completed, (2) the date completed, (3) the individual on whom completed, (4) official authentication of the check such as an agency signature or the name of the official furnishing the result of the background check, and (5) the evidence reviewed.

For a IV-E Review, a "completed" criminal records check means one for which the title IV-E agency has received the results from the relevant authority conducting the check (CWPM at 8.4F, Question 34).

**Documentation Requirements:** Consistent with federal regulations at 45 CFR § 1356.30(f), the licensing file must consist of proof that the criminal records checks or alternative procedures required by § 471(a)(20)(D) of the Act for all adults working at the child care institution are completed. Documentation will consist of a list of each adult working at the child care institution during the child's stay throughout the PUR. The list is to include the date that the fingerprint-based check is completed. Similarly, if the title IV-E agency elected to use alternative criminal records check procedures, the list will include the alternative procedures completed and completion date for each adult working at the child care institution during the child's stay throughout the PUR. A review of, or reference to, statute, administrative rule or policy is not sufficient to document compliance with the criminal records check requirement. A letter simply stating "all criminal records checks or alternative procedures had been completed and persons cleared" also is not sufficient. The results of the check or alternative procedures must be tied to a specific employee. A request for a criminal records check without the results of the record search is not sufficient documentation of compliance.

The documentation requirements apply to a child's foster care placement during the PUR regardless of the jurisdiction in which the foster care placement is located. Therefore, if the child is placed in an out-of-

state child care institution, the title IV-E agency must provide documentation consistent with the type described above. That is, the documentation must verify that the caregiver staff in the child care institution where the child is placed during the PUR has complied with the fingerprint-based check or alternative procedures established by the jurisdiction in which the foster care provider is located. The documentation will be accepted based upon the degree that the documentation clearly specifies the safety measures completed, the date completed, and the evidence reviewed.

**When payments may begin and when payments must end.** If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not fully met.

Consistent with §§ 471(a)(20)(A) and (D) of the Social Security Act (the Act), a title IV-E agency only may claim title IV-E FCMPs on behalf of a child placed in a foster family home or child care institution for the days that the results of the criminal record checks have been received as described in the Act. Specifically, a title IV-E agency may only claim title IV-E FCMP on behalf of an otherwise eligible child placed in a child care institution for the days that the agency has received criminal records checks for all adults working in the child care institution (CWPM 8.4F, Q/A #34 and 38).

Record all ineligible periods on the Improper Payment Chart (Appendix 2 of the Review Instrument).

**36. Is the child's placement during the PUR a child care institution?**

- Mark *YES* if the child's placement reviewed in Section M, Question 34, is a child care institution.
- Mark *NO* if the child's placement is not a child care institution.
- Mark *N/A* for Questions 36(a) – 36(b)(3) if the answer to Question 36 is *NO*.
- Answer Question 36(a) or Question 36(b), as appropriate, and the applicable sub-questions if the answer to Question 36 is *YES*.

**36(a). If the child is residing in the child care institution on or after October 1, 2018, or the title IV-E agency's delayed effective date, have all adults working in the child care institution had fingerprint-based checks of the NCID completed?**

- Mark *N/A* if the child is not residing in the child care institution on or after October 1, 2018, (or the agency's delayed effective date).
- Mark *YES* if all adults working in the child care institution have had fingerprint-based checks of the NCID completed consistent with § 471(a)(20)(D) and 45 CFR § 1356.30(f).
- Mark *NO* if the agency did not meet the criminal record check requirements as to each adult working in the child care institution.

In order to claim title IV-E foster care maintenance payments for a period during the PUR on behalf of an otherwise eligible child who is residing in a child care institution on or after October 1, 2018, (or the agency's delayed effective date for the fingerprint-based check of the NCID), the agency must document that all of the adults working in the child care institution have had a fingerprint-based check of the NCID

completed (or an approved alternative procedure). All adults, including adults who do not work directly with children, are subject to the background check requirements when working in a child care institution. In sum, the criminal records check requirement is considered met for the PUR if the documentation clearly verifies that (1) the fingerprint-based check of the NCID is completed for all adults working at the child care institution during the child's stay in the PUR and (2) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met.

The FBI has made clear that title IV-E agencies are not prohibited from disseminating criminal history record information (CHRI) to governmental agencies that have audit and oversight responsibilities. The CB is one such agency. The FBI has addressed this issue in its publication: *National Crime Prevention and Privacy Compact Council's Noncriminal Justice Online Policy Resource—Dissemination of FBI Criminal History Record Information for Noncriminal Justice Purposes* (2015). Therefore, a law or practice governing the title IV-E agency that prohibits dissemination of CHRI records to the CB for purposes of the IV-E Review is not sufficient reason to exclude review of these records. The title IV-E agency is expected to make available to review team members the results provided them through the criminal background checks completed for adults working in child care institutions in which children have been placed, regardless of whether the agency has a negative finding on this issue from a previous FBI audit.

**36(b). If Question 36(a) is *NO*, does the title IV-E agency have alternative procedures to conduct criminal records checks?**

- Mark *N/A* if the child was not residing in the child care institution on or after October 1, 2018, (or the agency's delayed effective date) or the answer to Question 36(a) is *YES*.
- Mark *YES* at Question 36(b), if the answer to Question 36(a) is *NO*, and the title IV-E agency has reported to the CB the alternative criminal records check procedures for all adults working in the child care institution.
- Mark *NO* if the answer to Question 36(a) is *NO*, and the agency has not reported to the CB the alternative criminal records check procedures for all adults working in the child care institution.

A title IV-E agency may elect to use alternative criminal records check procedures. If the agency elects to use an alternative procedure, the agency must report the procedure to the CB (HHS) and describe why the procedures required in § 471(a)(20)(D) of the Act for conducting criminal record checks are inappropriate for the agency. The alternative procedures must be completed for all of the adults working in the child care institution.

**36(b)(1). If Question 36(b) is *YES*, are the alternative procedures completed satisfactorily for all adults working in the child care institution?**

- Mark *N/A* if Question 36(b) is *N/A* or *NO*.
- Mark *YES* if the title IV-E agency's reported alternative procedures are completed satisfactorily for the adults working in the child care institution.
- Mark *NO* if the agency's reported alternative procedures are not completed satisfactorily for the adults working in the child care institution.

For the IV-E Review, the criminal records check requirement is considered met for the PUR if the documentation clearly verifies that (1) the title IV-E agency's alternative procedures are reported to the

CB (2) the alternative procedures are fully completed for all adults working at the child care institution during the child's stay in the PUR and (3) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met.

**36(c). Are the criminal records check requirements met in the PUR for the child residing in a child care institution on or after October 1, 2018, or the title IV-E agency's delayed effective date, consistent with § 471(a)(20)(D)?**

- Mark *N/A* if the child was not residing in the child care institution on or after October 1, 2018, (or the agency's delayed effective date).
- Mark *YES* if the agency has met all of the relevant criminal records check requirements for a child residing in a child care institution on or after October 1, 2018, (or the agency's delayed effective date).
- Mark *NO* if the agency has not met all of the relevant requirements.

As explained in ACYF-CB-PI 18-07, the licensing file must consist of proof that the fingerprint-based check of the NCID or alternative procedures required by § 471(a)(20)(D) of the Act are completed for all adults working at child care institution during the child's placement in the PUR.

**36(c)(1). If Question 36(c) is *NO*, are title IV-E funds claimed for the period in the PUR that the criminal records check requirements are not completed satisfactorily on all adult staff of the child care institution?**

- Mark *N/A* if the child is not residing in a child care institution on or after October 1, 2018, (or the title IV-E agency's delayed effective date).
- Also mark *N/A* if Question 36(c) is answered *YES*.
- Mark *YES* at Question 36(c)(1), if the agency did not document that the child care institution met requirements as to each staff, and the agency claimed title IV-E foster care maintenance payments for the ineligible period during the PUR.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the ineligible period.

**When payments may begin and when payments must end.** If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not fully met. The otherwise eligible child can become eligible again as of the first day of the child's placement in the month in which the criminal record check(s) are completed for all adults working in the child care institution where the child is residing during the PUR.

Record all ineligible periods on the Improper Payment Chart (Appendix 2 of the Review Instrument).

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## ADDITIONAL NOTES/COMMENTS

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Use this space to record additional notes and comments regarding a question on the Review Instrument. The question number and description of supporting case documentation also should be included.

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## CASE FINDINGS GLOSSARY

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After the Review Instrument is completed, determine whether the sample case is a non-error case or an error case and mark this on the first page of the Review Instrument, Section A. Also, for either a non-error case or an error case, indicate whether improper payments, which consist of underpayments and/or ineligible payments, are identified. (Instructions for Appendix 2 of the Review Instrument, that follow, have additional information on reporting improper payments.)

**Eligible Child:** A child is considered eligible when all title IV-E eligibility criteria pertaining to the child and the child's foster care placement are met. The child must be in a foster care placement that is allowable under title IV-E in order for the otherwise eligible child to be considered as meeting all title IV-E criteria for eligibility.

**Ineligible Child:** A child is ineligible if a title IV-E eligibility criterion pertaining to the child or the child's foster care placement is not met.

**Ineligible Payment:** An ineligible payment refers to a title IV-E maintenance payment claimed for a child who is not eligible on the date of the claimed activity or when there is an unallowable program cost claimed for an eligible child.

**Non-Error Case with Ineligible Payment:** A non-error case with ineligible payment occurs when (1) an unallowable title IV-E maintenance payment is made for a period solely outside the PUR for an ineligible child or (2) an unallowable title IV-E maintenance payment is made for a period in or outside the PUR for an eligible child.

**Error Case:** An error case occurs when a title IV-E maintenance payment is made for a period within the PUR on behalf of an ineligible child. This includes the period within the PUR prior to the month the child meets an eligibility requirement.

**Underpayment:** An underpayment occurs when a title IV-E agency unintentionally fails to claim an allowable title IV-E maintenance payment for an eligible child and the 2-year filing period specified under 45 CFR § 95.7 has not expired. An underpayment has not occurred when the title IV-E agency intentionally does not claim the allowable payment, or the 2-year filing period has expired.

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## QUALITY ASSURANCE SIGNATURES AND DATES

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The CB Review Leads for the IV-E Review are responsible for ensuring that a quality assurance check of the Review Instrument is performed after the reviewer completes the instrument. First and second level quality checks are conducted independently on each Review Instrument to ensure consistency, objectivity, and accuracy in reviewing cases. (See Review Guide, Appendix F, "Quality Control Tasks for the Title IV-E Foster Care Eligibility Review.") Each Quality Assurance Reviewer will sign and enter the signature date in the space provided on the top of the first page of the Review Instrument to indicate at which level a quality assurance review has been completed.

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## **APPENDIX 1: LICENSING/SAFETY CHECKLIST FOR MULTIPLE PLACEMENTS**

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Appendix 1 of the Review Instrument is used to record an additional foster care placement where the child has resided during the PUR for which the title IV-E agency has claimed title IV-E foster care maintenance payments for the period of stay in the placement setting. A separate Appendix 1 is completed for each of these placements. The directions for completing each question in this appendix are detailed in the Review Instrument's instructions, sections M and N, starting with Question 28.

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## **APPENDIX 2: IMPROPER PAYMENT CHART**

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Appendix 2, Improper Payment Chart, of the Review Instrument is used to record all improper payments identified during the IV-E Review. An improper payment is any title IV-E foster care maintenance payment the title IV-E agency should not have claimed or has claimed in an incorrect amount under a requirement applicable to title IV-E. Incorrect amounts are overpayments, duplicate payments, erroneous and otherwise ineligible payments, and underpayments.

For each incidence of an improper payment, the reviewer must record in Appendix 2 of the Review Instrument a brief description of the improper payment. The description will consist of: the applicable question number on the Review Instrument, the corresponding title IV-E eligibility and/or payment issue and the start date (month/day/year) and the end date (month/day/year) of the period of the improper payment. The improper payment period will begin with the first day of the ineligibility or underpayment and continue through the day that the ineligibility or underpayment ends. (See the Review Guide, "Improper Payments," Chapter 1 for the period of the improper payment shown in the final report of review findings.) The information on improper payments is recorded in Appendix 2 regardless of whether the sample case is determined an error case.

The ACF Grants Management Specialist will calculate the amounts of the disallowance for the ineligible payment, including related administrative costs, and the underpayment that may be claimed for the eligible payment and record them in Appendix 2. The disallowance and underpayment amounts are obtained from the payment history the title IV-E agency provides for the most recent foster care episode(s) for the sample case.

## **Appendix C: Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review**

1. Title IV-E Foster Care Eligibility Review Guide
2. Children's Bureau (CB) Child Welfare Policy Manual sections on title IV-E foster care, accessible at [https://acf.hhs.gov/cwpm/public\\_html/programs/cb/laws\\_policies/laws/cwpm/index.jsp](https://acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/index.jsp)
3. Sections 471(20), 472 and 475(A) of the Social Security Act
4. Title IV-E Foster Care Eligibility Review Instrument and Instructions
5. 45 CFR Part 1356
6. Eligibility determination procedures and applicable forms and worksheets of the title IV-E agency under review and the applicable Aid to Families with Dependent Children (AFDC) eligibility factors
7. Approved plans for title IV-A (AFDC) and title IV-E of the Social Security Act
8. The licensing agency requirements governing licensure and safety requirements for foster family homes and childcare institutions, and licensing requirements for residential family-based treatment facilities for substance abuse
9. Other material submitted by the title IV-E agency to the CB that pertains to the title IV-E foster care eligibility review, including court orders and a non-technical summary, with screen prints, to demonstrate how an automated system will be used to determine eligibility and the system logic behind the eligibility calculation

## **Appendix D: Recommended Topics for Discussion by the IV-E Foster Care Eligibility Review Team**

Pre-review conference calls are held at least 45 calendar days, at regular intervals, before the onsite IV-E Review. The Children's Bureau (CB) Review Lead will contact the title IV-E agency to set the call schedule, which can consist of two or more calls. Each call lasts approximately one (1) hour. The content and duration of a call may change to provide flexibility and allow participation by additional title IV-E agency representatives with specific knowledge or to answer additional questions about a discussion topic. Calls also may be combined as appropriate to decrease the number of calls held.

A tentative list of materials the title IV-E agency is expected to electronically provide to the CB Review Lead prior to the first conference call is included at the end of this document and as Appendix E in the Review Guide ("Materials the IV-E Agency Must Submit to the CB Regional Office Before the Onsite IV-E Review"). The title IV-E agency will be expected to describe in writing and during each conference call its policy concerning the specified topics on title IV-E eligibility and how the agency documents confirmation that the policy is being followed.

The Review Guide will have additional information on the topics related to Review Preparation and IV-E Eligibility. Also refer to the Title IV-E Foster Care Eligibility Review Instrument (the Review Instrument) and the Instructions for Completing the Title IV-E Foster Care Eligibility Review Instrument (the Instructions) for guidance on the federal eligibility and documentation requirements.

### **I. Review Preparation**

#### **Case Sampling**

- What is the period under review (PUR)?
- Decide whether a stratified sample should be drawn for the primary review to include juvenile justice cases or other special title IV-E populations, and whether a 10 percent oversample of cases is sufficient to ensure 80 cases are read for the primary review or 150 cases are read for the secondary review.
- Decide when the title IV-E agency will receive the review sample, including whether the title IV-E agency will request to receive the sample earlier than 60 calendar days before the onsite review.
- Discuss case substitutions resulting from the CB's review of the title IV-E agency's payment histories and documentation of payment adjustments submitted for a child in the review sample.

#### **Payment History**

- Discuss information in the payment history. The discussion will include the title IV-E agency's explanation of special payment levels, payment types, payment codes and other features unique to the agency's financial procedures or payment systems for children in the review sample.
- The title IV-E agency will send the payment history electronically to the CB in a secure file, encrypted or password-protected.



## **Automated Information Systems and/or Files**

- Will the title IV-E agency use automated information systems and/or electronic files onsite during the IV-E Review? If so, for which title IV-E requirement will the files be used to document that the requirement is met?
- How will the title IV-E agency ensure reviewers will have access to all necessary automated information systems and/or files during the review week?

**Onsite Review Logistics and Activities.** Discuss logistical arrangements for team members and onsite activities, including room space requirements for reading records and team conferences, record preparation, location, and sample numbering, team composition, scheduled work hours, and tentative review week agenda.

## **II. Title IV-E Eligibility**

### **Removals and Legal Documentation**

- How does a child typically come into foster care (examples: court order, voluntary placement agreement, and relinquishment)? What are the time frames applicable to a removal and mechanism for initiating court removals (for example, removal petitions)? Who can remove; what are the policies and statutes governing removal of a child from the home; and are the processes different if this child is under the authority of another agency that has a title IV-E agreement with the IV-E agency?
- Describe, or provide a flow chart depicting, the court and legal processes regarding a child's removal and foster care placement. This includes the names and types of hearings, legal proceedings, and court orders that can take place throughout the foster care episode.
- Are court petitions filed pertaining to the child's removal from home? If so, when are they filed and for what purpose?
- What types of court orders sanction a child's removal (examples: pick-up order, endorsement, emergency, shelter care)?
- Are verbal orders issued for removals? If so, under what conditions and for what purposes? Is the verbal order considered the first order authorizing the child's removal? How are verbal orders documented?
- What constitutes a bona fide court order? Is a signature required on a court order, and, if so, who must sign? Who may sign in lieu of the mandated signer? Is an electronic signature or a signature stamp permissible? Is a date required on the court order? What date is used to determine when a judicial finding is made (examples: hearing date, signature date, filing date)?
- When does the definitive finding of child abuse or neglect typically occur with respect to the maltreatment allegation? In what type of court proceeding and with what type of court order does it take place (for example, an adjudicatory hearing)?
- In what type of court proceeding is the "reasonable efforts to finalize the permanency plan" judicial finding determined? How often is the judicial finding determined?

- Does the title IV-E agency claim title IV-E reimbursement for children voluntarily placed? Who may enter into a voluntary placement agreement? What is the duration of such an agreement? If the agreement expires on its own terms: is the child discharged from foster care; is the child permitted to remain in out-of-home care and, if so, does the agency retain responsibility for the child's placement and care?
- What constitutes a foster care episode and when does it end for a child removed through a court order or voluntary placement agreement?

### **AFDC Relatedness**

- How does the title IV-E agency ensure that AFDC eligibility is determined using the correct month and specified relative for AFDC requirements? How and in what documents does the agency demonstrate that it has used the correct month and specified relative?
- Does the title IV-E agency determine whether the child is financially needy and is deprived of parental support? What documents support those determinations?
- What documentation will reviewers see that demonstrates that the agency agrees with the eligibility worker's decision on the child's eligibility?
- Does the title IV-A state plan permit the title IV-E agency to exercise the option to pay title IV-E foster care maintenance payments on behalf of a youth who has attained age 18 but is not yet age 19? If so, how is compliance with the school attendance option documented?

### **Placement and Care Responsibility**

- Are there title IV-E agreements in effect for placement and care between the title IV-E agency and another public agency or federally recognized Tribe?
- How does the title IV-E agency document that the title IV-E agency, or an entity with a title IV-E agreement, has placement and care responsibility for the child, including a youth who has attained age 18 but is not yet age 19?

### **Placement Settings**

- What are the types of placement settings for which the title IV-E agency claims title IV-E foster care maintenance payments (examples: foster family home, childcare institution, residential family-based treatment facility for substance abuse)?
- Discuss whether childcare institutions are further classified as any of these types of placement settings: group home; public childcare institution; private childcare institution; childcare institution specializing in prenatal, post-partum, or parenting supports for youth; childcare institution specializing in services for children and youth who are at risk of becoming, or are, sex trafficking victims; supervised independent living setting for youth age 18 years or older; and/or a qualified residential treatment program.
- What documentation will the title IV-E agency provide that identifies the type of placement setting for each child in the review sample? (Refer to the Review Instrument's instructions for details on acceptable documentation.)
- What is the agency's approved implementation date for the Family First Prevention Services Act's requirements for placements in a childcare institution?

- What documentation will the title IV-E agency provide to verify that the childcare institution:
  - (a) specializes in providing prenatal, post-partum, or parenting supports for youth; provides services for children and youth who are at risk of becoming, or are, sex trafficking victims; and/or provides supervised independent living services for youth age 18 and older; and
  - (b) meets all the requirements of a qualified residential treatment program, including case planning, judicial review, assessment, documentation, and accreditation?
- What will the required assurance or certification from the title IV-E agency head that confirms the setting is consistent with one of the allowable childcare institution settings and/or a qualified residential treatment program look like?
- What is the period or length of time of accreditation for a qualified residential treatment program? Does an accreditation expire, and, if so, what is the effect of an expired accreditation? How is a revoked accreditation treated? Is there a difference between an expired and a revoked accreditation?

## **Licensure**

- What mechanism does the title IV-E agency use to authorize placement settings to operate as foster care providers (examples: license, approval, certification) and which entities are regulated to authorize foster care providers?
- What types of licenses (examples: full, temporary, provisional) are issued to foster family homes, childcare institutions, and residential family-based treatment facilities for substance abuse?
- Under what conditions are temporary and provisional licenses issued? Is the placement setting considered fully licensed when issued a temporary or provisional license?
- For how long is a license valid and how often are licenses renewed? If licenses have a specific end date, how is this date treated for determining whether the placement setting is fully licensed after the end date? How are expired licenses treated (e.g., invalid, fully licensed)? How will reviewers know whether a license remains open and in good standing or in a probationary status or in a lapsed status?
- Are licenses ever revoked and, if so, under what circumstances? How will reviewers know whether a license remains open and in good standing or is in a revoked status?
- What documentation verifies licensure of the child's placement in the foster family home, childcare institution, or residential family-based treatment facility for substance abuse? Does the documentation include the license's begin and end dates, and the name and address of the placement setting?
- Are the licensing processes and requirements for private agency foster family homes the same as for the title IV-E agency's foster family homes? What differences should reviewers note when reviewing these licenses?
- How does the title IV-E agency ensure and document licensure of the child's placement with a foster care provider who resides outside the title IV-E agency's jurisdiction?

## **Safety: Foster Family Homes**

- What is the beginning date for implementing the criminal records check (CRC) requirement for foster parents, including fingerprint-based checks of the national crime information databases (NCID)? If the title IV-E agency had a delayed effective date, what is the CB approval date?
  - Does the title IV-E agency require fingerprint-based checks of the NCID for foster family homes licensed before October 1, 2008?
  - What documentation verifies compliance with the CRC requirements for a child placed within the title IV-E agency's jurisdiction?
  - How does the title IV-E agency ensure and document completion of the CRC requirement for a child placed outside the title IV-E agency's jurisdiction?
- For states that previously *opted out* of the 1997 CRC requirement for fingerprint-based checks of the NCID, what background safety checks were required to have been conducted and how frequently must they have been completed for foster parents?
  - What documentation verifies compliance with the safety requirements for a child placed within the title IV-E agency's jurisdiction?
  - How does the title IV-E agency document compliance with safety requirements outside the title IV-E agency's jurisdiction? (The opt-out provision does not apply to foster parents newly licensed on or after October 1, 2008, or the title IV-E agency's delayed effective date).

## **Safety: Childcare Institutions**

- For a child residing in a childcare institution on or after October 1, 2018 (regardless of when that child's placement in the childcare institution began):
  - What is the beginning date for implementing the fingerprint-based checks of the NCID that is required for all adults working in the childcare institution? If there is a delayed effective date for the requirement, what is the delayed effective date that the CB approved?
  - Has the title IV-E agency submitted to the CB alternative criminal records check procedures? What are those procedures' provisions in regard to the fingerprint-based check of the NCID?
  - How does the title IV-E agency document completion of the CRC requirement for each adult working in the childcare institution for a child placed within the title IV-E agency's jurisdiction?
  - How does the title IV-E agency document completion of the CRC requirement for each adult working in the childcare institution for a child placed outside the title IV-E agency's jurisdiction?

## **III. Program Administration**

### **Systems and Processes**

- What are the ongoing processes or mechanisms, such as a quality assurance system, that routinely examine the effectiveness of the title IV-E agency's procedures for eligibility determination, documentation, and prevention of improper payments (ineligible payments and underpayments)?

- What are the staff development and training programs of the title IV-E agency that address skills and knowledge needed to carry out the duties concerning its title IV-E eligibility processes? The information should say at what point trainings occur and whether the training program applies to all levels within the agency (examples: caseworkers, local supervisors, managers and/or administrators) and outside the agency (examples: courts, Tribes, foster care providers, licensing agency).

#### **IV. Next Steps**

Determine whether an additional conference call is necessary and what additional information the title IV-E agency should provide for the onsite review.

## **Appendix E: Materials the IV-E Agency Must Submit to the Children's Bureau Review Leads Before the Onsite IV-E Review**

**A. Prior to the first conference call on the policy questions and Appendix D, the title IV-E agency should provide the following information. Additional information may be requested as required to determine compliance.**

- Eligibility determination procedures and applicable forms and worksheets of the title IV-E agency under review and the applicable Aid to Families with Dependent Children (AFDC) eligibility factors;
- If applicable, a non-technical summary, including screen prints, explaining how the title IV-E agency's automated system is used to determine eligibility, and the system logic behind the eligibility calculation;
- An explanation of how the automated system or a manual process makes the AFDC two-step determination for title IV-E eligibility;
- Sample court orders, removal petitions, and other pertinent court documents;
- Copies of existing title IV-E agreements with other public agencies or Tribes for placement and care; and
- Licensing agency requirements governing licensing and safety requirements for foster family homes and childcare institutions, and licensing requirements for residential family-based treatment facilities for substance abuse; and
- Also include an example of:
  - License or approval for the child's placement in a foster family home, childcare institution and/or residential family-based treatment facility for substance abuse and documentation of the placement type;
  - Criminal records or other background safety check for the child's foster parents; and
  - Criminal records check documentation for adult staff of childcare facilities or approved alternative procedures for fingerprint-based checks of national crime information databases (NCID).

(The Federal Bureau of Investigation [FBI] has clarified that title IV-E agencies are not prohibited from disseminating criminal history record information to the Children's Bureau (CB) and other governmental agencies that have audit and oversight responsibilities such as the IV-E Reviews. The FBI has addressed this issue in its publication, *National Crime Prevention and Privacy Compact Council's Noncriminal Justice Online Policy Resource – Dissemination of FBI Criminal History Record Information for Noncriminal Justice Purposes* (2015). Therefore, a law or practice governing the title IV-E agency that prohibits dissemination of criminal history records to the CB for purposes of the review is not sufficient reason to exclude review of the records.)

**B. Prior to the Onsite Review, the title IV-E agency should provide the following information. Additional information may be requested during the Onsite Review as is required to determine compliance.**

- Complete payment history for the entire foster care episode of each child in the sample and oversample. Include explanation of accounting or system codes, a list of foster care rates and any documentation regarding how the rate is determined. The title IV-E agency must send the payment history electronically to the CB Regional Office in a secure, password-protected file.
- Complete placement history.
- For each childcare institution in which the child is residing for longer than 14 calendar days, as applicable:
  - Documentation for the PUR that the childcare institution specializes in providing prenatal, post-partum, or parenting supports for youth; services for children and youth who are at risk of becoming, or are, sex trafficking victims; and/or supervised independent living services for youth age 18 years or older.
  - Documentation that the childcare institution meets the requirements of a qualified residential treatment program. The documentation may include but is not limited to a licensing agency checklist and/or other official information. The documentation must verify that the qualified residential treatment program: (1) has a trauma-informed treatment model addressing serious emotional or behavioral disorders or disturbances; (2) has registered or licensed clinical staff available 24 hours a day, 7 days a week; (3) facilitates and documents appropriate family participation in the child's treatment; (4) provides discharge planning and family-based aftercare for 6 months after discharge and (5) is accredited by one of the independent, not-for-profit organizations delineated in federal statute or approved by the CB.
  - Accrediting agency requirements governing period of accreditation for a qualified residential treatment program and what happens if the accreditation expires on its own terms, lapses, or is terminated.
  - An assurance or certification from the title IV-E agency head that confirms the setting is consistent with one of the allowable childcare institution settings, referenced above, and/or a qualified residential treatment program.

## **Appendix F: Quality Control Tasks for the Title IV-E Foster Care Eligibility Review**

The Children's Bureau (CB) Review Leads for the onsite IV-E Review are responsible for ensuring that quality control functions are performed during the onsite review in order to ensure consistency, objectivity, and accuracy in reviewing cases. First and second level quality checks are conducted on all cases in the sample. As such, each case in the sample must undergo a first level check by the CB Review Lead or designee. The CB Review Co-Lead also completes a second level check of the Title IV-E Foster Care Eligibility Review Instrument (Review Instrument) for all cases in the sample (the CB Review Lead may assist when review activities impede timely completion of this check).

The quality assurance reviewer must sign and date the Review Instrument to indicate it has been quality checked. The following are some tasks that are performed to ensure quality control.

1. Verify all case records in the sample and oversample are available at the review site since an unavailable case may be counted as an error record.
2. Review the completed Review Instrument to ensure:
  - All elements are completed on the face sheet, including whether the sample is a non-error case and whether there are improper payments;
  - All questions are answered, and the source of documentation is recorded;
  - Dates recorded are logical;
  - A reason is noted for any question answered "N/A";
  - A reason is noted for any item recorded as "underpayment," "ineligible," "undetermined," or "error";
  - Writing in the instrument is legible;
  - Information is completed for all placement settings where the child resided during the PUR;
  - All improper payment data are recorded in the improper payment chart at the end of the review instrument; and
  - All corrections are completed if the instrument was returned to the reviewer for revisions.
3. Re-read the first record and Review Instrument completed by each reviewer to ensure the reviewer understands the Review Instrument's instructions and applies an accurate interpretation of the title IV-E statutes and implementing regulations.
4. Re-read the Review Instruments and supporting records for cases identified as error cases or as having other payment issues. This is done by a CB Review Lead.
5. Re-read records of reviewers who appear to have difficulty completing the Review Instrument.
6. Ensure a quality check is conducted on all cases in the sample. This is done by a CB Review Lead.



## Appendix G: Title IV-E Foster Care Eligibility Review Log of Completed Case Records and Description of Improper Payments

This table is an example of a case log the Children's Bureau (CB) Review Lead or designee completes to account for the IV-E Review and disposition of each sample case drawn for the review. The case log may be modified as determined necessary by the CB Review Lead.

Title IV-E Agency:											PUR:				
Sample	AFCARS#	Reviewer	Compliance		Disallowance						Underpayment				QA
					Reason	Error		Non Error		Total FFP	FFP			Reason	
			Error	Non Error		Main	Adm	Main	Adm		Main	Adm	Total FFP		

Sample: The number assigned to sample case

AFCARS#: The encrypted number identified in the "recnumbr" column of the AFCARS sample listing

Main: Amount of maintenance payment

Adm: Amount of associated administration cost

FFP: Federal financial participation

QA: Quality assurance review of the sample case (indicate individual completing the QA review)

## **Appendix H: Time Frames for Title IV-E Foster Care Eligibility Review Activities**

The Children's Bureau (CB) conducts a subsequent primary IV-E Review within 3 months of the anniversary date that the previous review is completed. A secondary review is conducted during the second AFCARS reporting period that follows the completion date of the title IV-E agency's Program Improvement Plan (PIP). The CB Review Lead is the CB Regional Program Specialist assigned to guide the activities of a specific IV-E Review and the CB Review Co-Lead is a member of the CB Core Review Team assigned to assist with the leadership of that review.

### **Time Frame and Activity**

#### **☐ 6 months before onsite review:**

- CB Regional Office and title IV-E agency determine dates for the onsite review.
- CB Regional Office provides the review date and site location to the CB Core Team Lead for the IV-E Reviews.
- CB Core Team Lead develops a national review schedule from information provided by the CB Regional Office and transmits the schedule to the necessary parties.

#### **☐ 120 calendar days before onsite review:**

- CB Regional Office sends the title IV-E agency written confirmation of the scheduled dates for the onsite review.
- CB Regional Office requests a copy of the title IV-E agency's payment histories and policies relevant to the review.
- CB identifies its members of the review team and assigns the CB Review Co-Lead.
- Title IV-E agency identifies its members of the review team.

#### **☐ 90 calendar days before onsite review:**

- Title IV-E agency transmits the requested policies to CB Regional Office.
- CB Review Lead transmits the requested title IV-E policies to CB team members.
- CB team members review the title IV-E agency's review material to prepare for the pre-review conference call with the title IV-E agency.
- CB Review Leads collaborate with the title IV-E agency to plan logistical arrangements for the onsite review, including hotel accommodations and transportation for review team members.
- Title IV-E agency arranges space for meetings and review activities conducted on site during the review week.

**☐ 45 to 60 calendar days before onsite review:**

- CB Central Office statistician selects review sample from the title IV-E agency's AFCARS data for the PUR.
- CB Central Office statistician transmits sample listing to the CB Review Lead, who then forwards it to the title IV-E agency.
- Title IV-E agency transmits payment history for each child in the sample and oversample of cases to CB Review Lead and/or ACF Grants Management Specialist for approval with necessary documentation on case substitutions. Payment histories must be electronically sent in an encrypted or password-protected file within 30 calendar days after the title IV-E agency receives the review sample.
- Title IV-E agency begins organizing case records to make sure case material and documentation relevant to the onsite review are available.
- CB Review Lead schedules and convenes conference calls with the title IV-E agency and review team to provide an overview of the review procedures, discuss review activities, and discuss the agency's material.

**☐ 30 calendar days before onsite review:**

- Title IV-E agency submits to CB Review Lead additional information and policy material as necessary.
- CB Review Lead, in collaboration with the title IV-E agency, finalizes the agenda of activities for the onsite review and transmits it to the title IV-E agency and CB review team member(s), along with any additional agency material.

**Onsite Review**

**☐ 30 calendar days following onsite review:**

- CB Review Leads review additional case documentation submitted by the title IV-E agency and notify the title IV-E agency of the decision on the case material.
- CB Regional Office transmits to the title IV-E agency the Final Report of compliance and notifies the title IV-E agency of any payment disallowances.

**☐ 60 calendar days following onsite review:**

- Title IV-E agency submits payment adjustments via the Quarterly Report of Expenditures (Form CB-496) .
- Title IV-E agency decides whether to appeal the review findings. If it decides to appeal, the title IV-E agency sends a written notice of appeal to the Departmental Appeals Board within 30 calendar days following receipt of disallowance letter.
- CB Regional Office sends a copy of the title IV-E agency's appeal, if applicable, to the CB Central Office.

☐ **90 calendar days following receipt of noncompliance notice by the title IV-E agency:**

- Title IV-E agency submits proposed Program Improvement Plan (PIP) to CB Regional Office following written receipt of notification of the primary review's noncompliance. CB Regional Office may grant the title IV-E agency a 30-day extension to send additional documentation on case findings.
- CB Review Lead reviews the proposed PIP (and supplemental review documentation) and notifies the title IV-E agency of approval or need for modification. The notification is sent within 30 calendar days following receipt of the proposed PIP from the title IV-E agency.
- CB transmits an electronic copy of the approved PIP and approval letter to the title IV-E agency.

☐ **30 calendar days following notification of PIP disapproval by CB Regional Office:**

- Title IV-E agency submits revised PIP to CB Regional Office.

☐ **2–3 weeks following receipt of revised PIP from the title IV-E agency:**

- CB Review Lead reviews completed PIP for approval or disapproval.
- CB Regional Office notifies the title IV-E agency of approval or disapproval of PIP and, if disapproved, notifies the title IV-E agency of immediate scheduling of secondary review.

☐ **12 calendar months following notification of approved PIP:**

- Title IV-E agency submits periodic progress reports to CB Regional Office and completes PIP implementation (PIP may be completed at any point during the 12-month period).
- CB Regional Office notifies the title IV-E agency of completion of the PIP and schedules a date for the secondary review.

## Appendix I: Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program

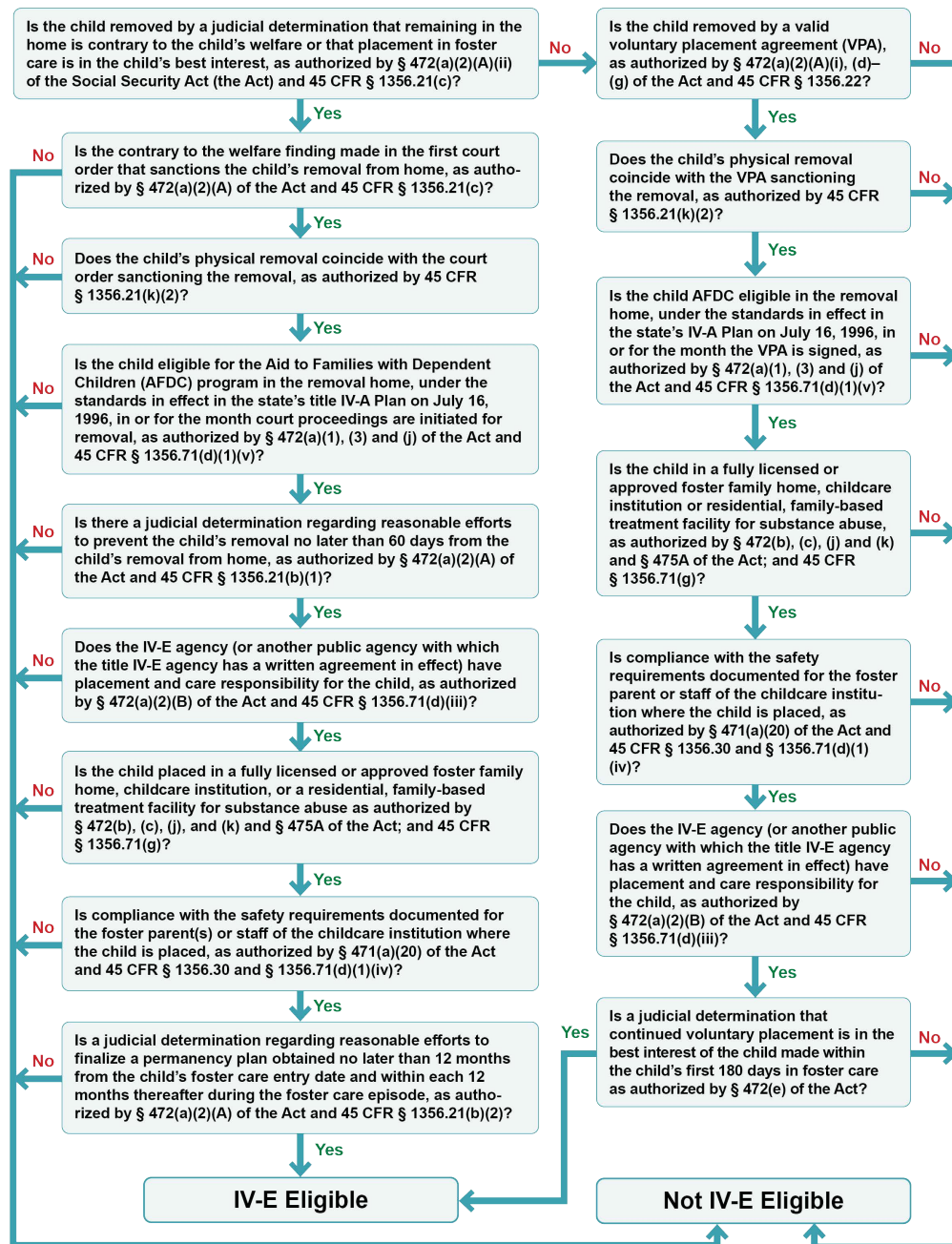
<b>Title IV-E Foster Care Eligibility Criterion</b>	<b>Statutory Citation (Social Security Act)</b>	<b>Regulatory Citation</b>
Contrary to the Welfare Judicial Determination	§ 472(a)(2)(A)(ii)	45 CFR § 1356.21(c)
Reasonable Efforts to Prevent Removals Judicial Determination*	§ 472(a)(2)(A)(ii)	45 CFR § 1356.21(b)(1)
Reasonable Efforts to Make and Finalize a Permanency Plan Judicial Determination*	§ 472(a)(2)	45 CFR § 1356.21(b)(2)
Voluntary Placement Agreements and Best Interests Judicial Determinations	§§ 472(a)(2)(A)(i), (d)-(g)	45 CFR § 1356.22
Aid to Families with Dependent Children (AFDC) Eligibility	§§ 472(a)(1) and (3)	45 CFR § 1356.71(d)(1)(v)
Placement and Care Responsibility Vested with the Title IV-E Agency	§ 472(a)(2)(B)	45 CFR § 1356.71(d)(1)(iii)
Placement in a fully licensed Foster Family Home, Childcare Institution, or Residential Family-Based Treatment Facility for Substance Abuse	§§ 472(b), (c), (j) and (k); § 475(A)	45 CFR § 1356.71(d)(1)(iv)
Safety Requirements for Foster Care Placement Setting†	§ 471(a)(20)	45 CFR §§ 1356.30 and 1356.71(d)(1)(iv)

\*The act of making reasonable efforts to prevent a child's removal from the home and/or to make and finalize a permanency plan is a title IV-E plan requirement, and compliance with such is assessed during the course of the review of the title IV-E agency's child and family services programs. The judicial determination regarding the act of making reasonable efforts to prevent a child's removal from the home or to make and finalize a permanency plan is an eligibility criterion. The title IV-E agency's performance in obtaining the requisite judicial determination is assessed through the title IV-E Review.

†Title IV-E agencies must conduct criminal records checks on all prospective foster and adoptive parents to comply with the title IV-E plan. The results of the criminal records check affect the title IV-E agency's ability to license foster and adoptive homes. The provision also must be treated as an eligibility criterion, given its impact on the licensing process.

## Appendix J: Title IV-E Foster Care Eligibility Determination Chart

This flowchart depicts the essential decisions for determining title IV-E foster care eligibility. Eligibility decisions, however, must not be based exclusively on this flowchart. Instead, refer to the applicable statutory and regulatory citations, the title IV-E agency's approved plans for title IV-A and title IV-E of the Social Security Act and the Children's Bureau Child Welfare Policy Manual for specific details on the title IV-E requirements. Note that there are additional criteria for claiming title IV-E in certain types of placement settings.



## Appendix K: Matrix of AFDC Factors for Title IV-E Foster Care Eligibility<sup>1</sup>

Factor	Statutory, Regulatory, or Policy Reference
State AFDC plan, in effect July 16, 1996	§ 472(a), Social Security Act
Child met income need standards	45 CFR § 233.20
Child had resources of \$10,000 or less	§ 472(a)(3)(B), Social Security Act
Child deprived of parental support or care <ul style="list-style-type: none"> <li>Death of parent</li> <li>Continued absence of parent</li> <li>Physical or mental incapacity of parent (documented by medical professional)</li> <li>Unemployment of principle wage earner</li> </ul>	Former § 406(a), Social Security Act 45 CFR § 233.90(c) 45 CFR § 233.100
Child met age requirement <ul style="list-style-type: none"> <li>Under age 18, or</li> <li>Age 18, but under age 19 and full-time student (title IV-A state plan option)</li> </ul>	Former § 406(a), Social Security Act 45 CFR § 233.90(b)(3)
Child lived with specified relative within 6 months of the initiation of court proceedings to remove the child or signing of the voluntary placement agreement (VPA). <ul style="list-style-type: none"> <li>Specified relative is a parent or any relation by blood, marriage, or adoption within the fifth degree of kinship to the child</li> <li>Specified relative exercised responsibility for daily care and control of child</li> </ul>	Former § 406(a)(1) § 472(a)(3)(A)(ii)(II), Social Security Act 45 CFR § 233.90(c)(1)(v) 45 CFR § 233.90(c)(1)(v)(B)
Child “lived with” and “removed from” same specified relative <ul style="list-style-type: none"> <li>AFDC based on home of specified relative who is basis of “contrary to welfare” judicial finding or who signed the VPA</li> <li>AFDC eligible during month court proceedings are initiated to remove the child, or the month the VPA is signed</li> </ul>	45 CFR § 1356.21(I) ACYF-CB-PI-06-06 § 472(a)(3)(A) & (B), Social Security Act

<sup>1</sup> Eligibility decisions for the Aid to Families with Dependent Children (AFDC) program should not be based solely on this summary matrix. Refer to the applicable statutory, regulatory, and policy citation as well as the approved plans for title IV-A and title IV-E of the Social Security Act, for further information.

## Appendix L: Provider Requirements for Title IV-E Foster Care Eligibility Licensure

Provider Type	Federal Provision	Implementation Date
Foster Parent licensed before 03/27/2000	Full licensure	09/27/2000
Foster Parent licensed on/after 03/27/2000	Full licensure	03/27/2000
Childcare institution	Full licensure	Upon licensure
Residential Family-Based Treatment Facility for Substance Abuse	Full licensure	10/01/2018

### SAFETY

#### Foster Parent, Non-Opt-Out State

Provider Type	Federal Provision	Implementation Date
Foster Parent licensed before 11/19/1997	Safety requirement N/A	Safety requirement N/A
Foster Parent licensed between 11/19/1997 and 09/30/2008	Criminal record check	11/19/1997 (or delayed effective date)
Foster Parent licensed on/after 10/01/2008	Fingerprint-based check of the national crime information database (NCID) of the Federal Bureau of Investigation	10/01/2008 (or delayed effective date)

#### Foster Parent, Former Opt-Out-State

Provider Type	Federal Provision	Implementation Date
Foster Parent licensed before 03/27/2000	Safety requirement N/A	Safety requirement N/A
Foster Parent licensed between 03/27/2000 and 09/30/2008	Safety considerations	03/27/2000 (or delayed effective date)
Foster Parent licensed on/after 10/01/2008	Fingerprint-based check of the NCID	10/01/2008 (or delayed effective date)

#### Childcare Institution

Provider Type	Federal Provision	Implementation Date
Child's placement ends before 10/01/2018	Caregiver staff, safety considerations	03/27/2000 (or delayed effective date)
Child is residing in the placement on or after 10/01/2018	All adults working in the childcare institution, fingerprint-based check of the NCID or Alternative Procedures	10/01/2018 (or delayed effective date)