

Final Report
Wyoming Department of Family Services
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
April 1, 2018 – September 30, 2018

Introduction

The Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the Wyoming's title IV-E foster care program. The title IV-E foster care review (IV-E Review) was conducted during the week of May 20, 2019, in collaboration with the Wyoming Department of Family Services. The review was completed by a team comprised of representatives from the state title IV-E agency, state court improvement project, CB Central and Regional offices, ACF Regional Grants Management office and a cross-state peer reviewer.

Key purposes of the IV-E Review are (1) to determine whether the Wyoming title IV-E foster care program is in compliance with eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of the Wyoming's financial claims to ensure appropriate payments are made on behalf of eligible children.

Scope of the Review

The IV-E Review encompasses a sample of the Wyoming's foster care cases in which a title IV-E maintenance payment is claimed for an activity that occurs in the six-month period under review (PUR) of April 1, 2018 through September 30, 2018. A computerized statistical sample of 80 cases plus ten oversample cases is drawn from data Wyoming submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 76 cases from the original sample plus four oversample cases. Three sample cases and one oversample case were excluded from the original sample because no title IV-E foster care maintenance payment was made for a period of activity that occurred during the PUR. The state provided documentation to support excluding these cases from the review sample and replacing them with cases from the oversample.

In accordance with federal provisions at 45 CFR 1356.71, Wyoming was reviewed against requirements of title IV-E of the Act and federal regulations regarding:

- Judicial determinations regarding reasonable efforts and contrary to the welfare as set forth in §472(a)(2)(A) of the Act and 45 CFR §§1356.21(b) and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with the Wyoming Department of Family Services as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v);
- Placement in a licensed foster family home or child care institution as defined in §§472 (b) and (c) of the Act and 45 CFR §1355.20(a) and 1356.71(d)(1)(iv); and
- Safety requirements for the child's foster care placement as required at §471(a)(20)(A) of the Act and 45 CFR §1356.30.

The case record of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider's record also was looked at to ensure the foster family home or child care institution where the child resided during the PUR is fully licensed and meets safety requirements. Payments made on behalf of each child also were reviewed to verify expenditures were properly claimed under title IV-E and to identify underpayments eligible for claiming.

A sample case is assigned an error rating when the child is not eligible on the date of activity in the PUR for which title IV-E maintenance is claimed. A sample case is cited as non-error with ineligible payment when the child is not eligible on the activity date outside the PUR or the child is eligible in the PUR on the date of an unallowable activity and title IV-E maintenance is claimed for the unallowable activity in either situation. In addition, underpayments are identified for a sample case when Wyoming unintentionally has not claimed an allowable title IV-E maintenance payment for an eligible child within the 2 year filing period specified in 45 CFR §95.7 and the filing period has not expired.

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

Compliance Finding

The review team has determined 78 of the 80 sample cases have met all eligibility requirements and are deemed non-error cases for the PUR. Two (2) cases are determined as in error for not meeting eligibility requirements for the child's entire foster care episode.

The Children's Bureau has determined the Wyoming title IV-E foster care program is in substantial compliance for the PUR. Substantial compliance in a primary IV-E Review means the total number of error cases is four or fewer cases determined as not meeting eligibility requirements for the PUR. Since Wyoming is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

Case Summary

The following chart records improper payment cases comprised of two error cases; reasons for improper payments; improper payment amounts; and federal provisions for which Wyoming does not meet compliance mandates. Calculation of improper payments is based on the federal financial participation (FFP) rates of maintenance payments at Wyoming's Federal Medical Assistance Percentages (FMAP) for applicable years for each sample case.

Error Cases:

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2018 - September 30, 2018	Improper Payments (FFP)
# WY 30	Removal from & living with requirements not met by the same specified relative. The child lived with non -relatives 24 months prior to being judicially removed from the mother. [§472(a) of the Act; 45 CFR §1356.21(k) & (l)] Ineligible: Entire FC episode; Reported Disallowance Period: 12/01/2017-02/28/2019	\$4,838 Maint. \$12,368 Admin.
#WY49	Valid removal did not occur for title IV-E. The child remained in the removal home two months after judicial removal for foster care placement. The delayed physical removal from home was not authorized by the removal court order. [45 CFR 1356.21(k)(2)] Ineligible: Entire FC episode; Reported Disallowance Period: 6/15/2018-4/26/2019	\$3,086 Maint. \$4,947 Admin.

Total Maintenance FFP: \$7,924

Total Administrative FFP: \$17,315

Total FFP Disallowance: \$25,239

Areas Needing Improvement

Findings of this review revealed two error cases (#30, #49) and indicate Wyoming needs to further develop and implement procedures to improve program performance in the areas identified below. For each issue, there is a discussion of the nature of the

area needing improvement, the specific title IV-E requirement to which it relates and the corrective action Wyoming should undertake.

Issue #1 Living with/Removal from Same Specified Relative: Removal from and living with requirements were not met by the same specified relative as required in federal statutes at §472(a) of the Act and federal regulations at 45 CR § 1356.21(k) & (l). There was one error case (#30) in which the Wyoming Department of Family Services did not accurately identify in its AFDC eligibility determination the specific relative subject to the “contrary to welfare” judicial determination. Case records indicate the child had not lived with the mother, the specified relative, within six (6) months of the date the court proceeding was initiated to remove and place the child into foster care. The court order substantiated the mother’s home as the basis for the judicial determination regarding the child’s removal; however, case information reflected the child lived with non-related caregivers for greater than six months.

Title IV-E Requirement: Consistent with section 45 CFR §§1356.21(k) & (l), the child must have been physically or constructively removed from the home of a specified relative according to a court order or voluntary placement agreement. The child also must have lived with that same specified relative within six months of the date the court proceeding is initiated to remove the child or when the voluntary placement agreement is signed. The AFDC determination considers the home of the specified relative who is the basis of the “contrary to welfare” determination in a judicial removal or who signs the voluntary placement agreement in a voluntarily removal. The specified relative from whom the child is judicially or voluntarily removed is considered the AFDC removal home for title IV-E purposes. The AFDC determination is based on that removal home even when the child is physically removed from an interim caregiver. Also, if the child is living with an interim caregiver at the time of the removal and it has been more than six months since the child has lived with the specified relative from whom judicially or voluntarily removed, then the “living with and removal from” requirement has not been met and the child is not title IV-E eligible for the duration of the foster care episode.

Recommendations to address case error: The Wyoming Department of Family Services (WYDFS) should enhance its quality assurance (QA) process and training to correctly assess whether the “removal from and living with” requirements are met by the same specified relative who signed the voluntary placement agreement or who was subject to the judicial determination of “contrary to the welfare.” Additionally, training is recommended to help eligibility specialists and QA staff understand the “living with and removal from” requirements and the linkage to correctly identifying the home that is the basis for the AFDC determination, which is one integral component of the title IV-E eligibility. A supporting strategy WYDFS should consider is to incorporate into its automated eligibility module clear language requiring the eligibility specialist to review the court order to determine the specified relative who is the basis of the “contrary to welfare” determination in a judicial removal and to check that information against the petition and other available information to determine if the child lived with the specified relative within six months prior to the initiation of court proceedings for removal.

Issue #2 Invalid Removal: In sample case (#49), the court ordered removal, but the child remained in the home with the specified relative two months after the court sanctioned the child's removal. Agency staffs were unable to present any information related to the reason for the delayed removal.

Title IV-E Requirement: Consistent with 45 CFR § 1356.21(k)(2), a removal is not valid under title IV-E when the child is removed from a specified relative through a voluntary placement agreement or a court order and the child remains with that same specified relative in the home under the relative's responsibility and under the IV-E agency's supervision. In judicial removals, the agency's action to physically remove the child from the home of the specified relative must coincide with the judicial determination of "contrary to the welfare," unless the court order specifies an alternative time frame for removal, as allowed for in Departmental Appeals Board Decision No. 2017. [See the Child Welfare Policy Manual, 8.3A.6, Q/A #8]

Recommendations to address case error: Procedures should be developed which support the review and comparison of the date of the "contrary to the welfare" finding to the date of the child's physical removal. The automated system could generate an alert if the removal date is not by the end of the next business day, prompting the eligibility specialist to request documentation regarding the reasons for the delay. Training and policy guidance is recommended to help eligibility specialists and QA staff to understand the requirement and assess if extenuating circumstances may allow the child to be determined eligible for title IV-E in spite of the delayed removal. If there are no extenuating circumstances, such as the family leaving with the child and the agency's inability to locate the family in spite of active efforts, eligibility specialists should be instructed that the child is ineligible for title IV-E.

Program Strengths and Promising Practices

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

Automated Data System Interfaces: The reviewers noted that WYDFS has improved its process for determining title IV-E eligibility by developing and implementing an automated data system, EPICS, that facilitates timely eligibility decisions and tracks eligibility throughout a child's foster care episode. The EPICS system captures and documents relevant income, resources and deprivation information of the home of removal for AFDC determinations. The EPICS system interfaces with the WYCAPS CCWIS system to provide accurate determinations regarding financial need, deprivation and placement settings in every eligibility determination. During the review, when we had a case that showed a payment was made, we needed to verify the period of time and the amount of IV-E funds that were used for payment. The state was able to produce documentation from the two systems which verified that title IV-E funds were not used during the period under review. As a result, the case was determined not to be an error. The WYCAPS conducts a weekly run of the EPICS system to evaluate the EPICS databases and alert staff of changes in client information. These electronic

system interfaces help increase the authenticity of data used for eligibility determinations and helps ensure the accuracy of title IV-E claims.

Efforts to Improve Documentation of Judicial Determinations: The IV-E Review found that WYDFS has a strong partnership with the state Court Improvement Project (CIP) which has helped broaden the judiciary's understanding of the title IV-E requirements. The WYDFS continues to work closely with the CIP to train and support judges, attorneys, CASA, and GALs to monitor timeliness of judicial findings to document eligibility of WYDFS cases. Trainings that focus on a collaborative approach are held in the community. Court data on timeliness of hearings are shared with judges to encourage improvement in each court district. Hearings to review the reasonable efforts to finalize permanency occur frequently to monitor progress in case planning and quicken the time for finalization of the permanency goal. Multidisciplinary Team Meeting (MDT) reports detailed reasonable efforts for six month reviews and permanency hearings. The IV-E Review team determined that court orders had appropriate findings that were explicit and child specific. Child Abuse and Neglect Petitions were detailed regarding case circumstances, often providing an extensive case history of the family including the actual date the child was removed from the home, efforts made by the agency to prevent removal, facts in support of why such efforts were not reasonable and facts to support a "contrary to the welfare" finding for the children in the home. This comprehensive information in the petitions established the foundation from which the court could make important judicial determinations that were specific to the child's circumstances.

Documentation of Safety Checks: Wyoming has a robust process of documentation of safety checks for providers that involves 14 coordinators around the state who are responsible for obtaining the fingerprints documentation. Criminal registry checks are returned from law enforcement within two weeks and Central Registry checks are returned in seven to ten days. This process minimizes safety risks for children and ensures that safety requirements are met the entire time a child resides in placement.

Disallowances

A disallowance in the amount of \$7,924 in maintenance payments and \$17,315 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for the error cases. The total disallowance as a result of this IV-E Review is \$25,239 in FFP.

Wyoming also must identify and repay any ineligible payments for the error cases that occurred for periods subsequent to the PUR. No future claims can be submitted on these cases until it is determined all eligibility requirements are met.

Next Steps

The Children's Bureau also encourages the state to continue in its efforts with the Court Improvement Project to improve consistency in court orders through the different court jurisdictions. The Children's Bureau Region 8 staff is available to assist the state in

identifying corrective action and obtaining support available through our national network of capacity building centers to help the state address issues and concerns raised during this IV-E Review.