



**DEPARTMENT OF HEALTH & HUMAN SERVICES**

**ADMINISTRATION FOR CHILDREN AND FAMILIES**  
Administration on Children, Youth and Families  
330 C Street, S.W.  
Washington, D.C. 20201

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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September 6, 2019

Mr. Robert Gordon  
Director  
Michigan Department of Health and Human Services  
Centralized Grants Management  
P.O. Box 30195  
333 S. Grand Ave.  
Lansing, Michigan 48909

Dear Mr. Gordon:

The Children's Bureau (CB), Administration for Children and Families (ACF), conducted a primary review of Michigan's title IV-E foster care program during the week of June 3, 2019. The review protocol is implemented in accordance with federal provisions at part 45, section 1356.71 of the Code of Federal Regulations (45 CFR §1356.71). This letter transmits our report of final findings for this primary review and provides a summary of the findings.

I am pleased to inform you the CB has determined that Michigan's title IV-E foster care program is in substantial compliance with federal eligibility requirements for the PUR. Since Michigan is in substantial compliance, a secondary review of 150 cases is not required. Your next primary review will be held within three years.

The review team has determined 79 of the 80 cases in the review sample have met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. One case was determined as in error for not meeting eligibility requirements during the child's entire foster care episode. Although one case is in error, this finding does not exceed the error threshold of four cases to meet substantial compliance in a primary review. Two non-error cases also were found to have periods in a child's foster care episode for which title IV-E maintenance payments were improperly claimed. Supplemental findings for non-error cases with ineligible payments are not considered in determining Michigan's level of compliance with federal requirements.

Federal funds that are claimed for title IV-E foster care maintenance payments and related administrative costs associated with error cases and non-error cases with ineligible payments are being disallowed. Specific information about individual case findings is detailed in the enclosed report of review findings.

**Disallowance Notice**

This letter also constitutes our formal notice of a total disallowance of \$279,208. This consists of \$147,073 in foster care maintenance payments and \$132,135 in related administrative costs for title IV-E funds claimed improperly for error cases and non-error cases with ineligible payments.

Since the amount of disallowed funds was included previously in federal payments to Michigan, you must repay these funds by including prior periods of Foster Care decreasing adjustments on appropriate lines in Parts 1 and 2 of the Form CB-496. In the comment box in Part 2 of the form you must include a note that identifies the adjusted amount as being associated with a "IV-E Review" and include the date of this disallowance notice or the specific PUR covered by the IV-E Review. Form CB-496 must be submitted within 30 days of the date of this notice to avoid an assessment of interest. Michigan must cease claiming title IV-E payments associated with an improperly paid case until eligibility is substantiated for the case.

**Appeal Notice**

This is the final decision of ACF. It shall be the final decision of the Department of Health and Human Services unless you submit a written notice of appeal to the Departmental Appeals Board (DAB), in accordance with 45 CFR Part 16. Your written notice of appeal must be sent within 30 calendar days of receiving this decision from the CB about the IV-E review finding and payment disallowance. Your notice of appeal must note you intend to appeal, give the amount in dispute, and briefly say why you think the IV-E review decision is incorrect. You must attach a copy of this decision to your notice of appeal. The DAB will notify you of further procedures.

A notice of appeal may be submitted to the DAB by mail, by facsimile (fax) if under 10 pages, or electronically using the DAB's electronic filing system (DAB E-File). Submissions are considered made on the date they are postmarked, sent by certified or registered mail, deposited with a commercial mail delivery service, faxed (where permitted), or successfully submitted via DAB E-File.

If you mail your notice of appeal, it should be addressed to:

U.S. Department of Health and Human Services  
Departmental Appeals Board, MS 6127  
Appellate Division  
330 Independence Ave., SW  
Cohen Building, Room G-644  
Washington, D.C. 20201

If you fax your notice of appeal (permitted only if the appeal notice is under 10 pages), you should use the Appellate Division's fax number, (202) 565-0238.

If you use DAB E-File to submit your notice of appeal, you or your representative must first become a registered user by (1) clicking "Register" at the bottom of the DAB E-File homepage, <https://dab.efile.hhs.gov/>; (2) entering requested information on the "Register New Account" form; and (3) clicking the "Register Account" button. Once registered, you or your representative should (1) login to DAB E-File using the e-mail address and password provided during registration; (2) click "File New Appeal" on the menu; (3) click the "Appellate" button; and (4) provide and upload the requested information and documents on the "File New Appeal-Appellate Division" form. Detailed instructions can be found on the DAB E-File homepage.

When you submit your appeal to the DAB, you must send a copy to Kendall Darling, the Child Welfare Regional Program Manager in Region 5 of the CB.

### **Interest and Penalties**

If you appeal, you may repay the amount at issue pending a decision by the DAB, or you may retain the funds pending that decision. If you repay the funds, an adjustment to return the disallowed funds to avoid an interest assessment must be submitted on the Form CB-496, as described above for payment adjustments. If you retain the funds and the DAB sustains all or part of the disallowance, interest and penalties will be charged on improperly paid funds in accordance with 45 CFR Part 30.18. Interest will accrue on the funds from the date of this disallowance letter to the date of repayment. The current interest rate is 10.58%

I thank you and your staff for the exceptional efforts preparing for and participating with us in this IV-E Review. We especially like to thank, Julie Jackson and the Federal Compliance Team, Casey Anbender and the Court Program Improvement team, Patricia Neitman and the Licensing Team and Teresa Laurin from the fiscal team. We commend the state for its excellent efforts to improve its title IV-E foster care program since the primary review conducted three years ago. We particularly note the collaborative efforts between the state child welfare agency, the state courts and the state licensing agency have resulted in timely and complete documentation of licensure for foster parents and childcare institutions.

Compliance with legal, AFDC and licensing requirements is met for all cases in the sample in this current review. The previous review identified 3 error and 4 non-error cases with payment issues that resulted in disallowances of improperly claimed federal payments. The enclosed report of findings identifies more program strengths and provides recommendations for further program improvements.

My staff looks forward to working with your staff to continue to improve state implementation of federal requirements and to increase state capacity to deliver quality services to children and families. You may contact Irene Carrillo at [irene.carrillo@acf.hhs.gov](mailto:irene.carrillo@acf.hhs.gov) should you have questions

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about this IV-E Review. Questions concerning the disallowance may be directed to Victoria Watson at [victoria.watson@acf.hhs.gov](mailto:victoria.watson@acf.hhs.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Jerry Milner".

Jerry Milner  
Associate Commissioner  
Children's Bureau

Enclosure

cc: JooYeun Chang, Child Welfare Administrator, MDHHS, Lansing, MI  
Wendy Campau, Child Welfare Services and Support Director, MDHHS, Lansing, MI  
Kendall Darling, CB Child Welfare Regional Program Manager, RO5, Chicago, IL  
Irene Carrillo, CB Child Welfare Program Specialist, RO5, Chicago, IL  
Gail Collins, Program Implementation Director; CB; Washington, DC  
Jennifer Butler-Hembree, CW Program Specialist, CB; Washington DC

**Final Report**  
**Michigan Department of Health and Human Services**  
**Primary**  
**Title IV-E Foster Care Eligibility**  
**Report of Findings for**  
**April 1, 2018 – September 30, 2018**

**Introduction**

The Children's Bureau of the Administration for Children and Families conducted a primary review of Michigan's title IV-E foster care program. The title IV-E foster care review (IV-E Review) was conducted during the week of June 3, 2019, in collaboration with Michigan, and was completed by a review team comprised of representatives from the state title IV-E agency, state court improvement project (CIP), CB Central and Regional Offices, and ACF Regional Grants Management office. Key purposes of the IV-E Review are: (1) to determine whether the Michigan 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 Michigan's financial claims to ensure appropriate payments are made on behalf of eligible children.

**Scope of the Review**

The IV-E Review encompassed a sample of the state's foster care cases in which a title IV-E maintenance payment was claimed for an activity that occurred in the six-month period under review (PUR) of April 1, 2018 – September 30, 2018. A computerized statistical sample of 120 cases (80 cases plus 40 oversample cases) was drawn from data the state submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 78 cases from the original sample plus 2 oversample cases. Cases 31 and 38 were excluded from the original sample because no title IV-E foster care maintenance payments were 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, the state is reviewed against requirements of title IV-E of the Act and federal regulations regarding:

- Judicial determinations regarding reasonable efforts and contrary to the welfare as set forth in §472(a)(2)(A) of the Act and 45 CFR §§1356.21(b) and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with state agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v);

- Placement in a licensed foster family home or child care institution as defined in §§472 (b) and (c) of the Act and 45 CFR §1355.20(a) and 1356.71(d)(1)(iv); and
- Safety requirements for the child's foster care placement as required at §471(a)(20)(A) of the Act and 45 CFR §1356.30.

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

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

The Children's Bureau and Michigan agreed the state would have two week(s) 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. Within those two weeks, the state submitted supplemental documentation for sample case 8.

### **Compliance Finding**

The review team has determined that 79 of the 80 sample cases have met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. One case was determined as in error for not meeting eligibility requirements during the child's entire foster care episode. Two non-error cases met eligibility requirements for the PUR, but were found to have periods in a child's foster care episode for which title IV-E maintenance payments were improperly claimed.

The Children's Bureau has determined that Michigan's title IV-E foster care program is in substantial compliance for the PUR. Substantial compliance in a primary IV-E Review means the total number of error cases is four or fewer cases determined as not meeting eligibility requirements for the PUR. Supplemental findings for non-error cases with ineligible payments are not considered in determining the state's level of compliance with federal requirements. Since the state is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

### **Case Summary**

The following charts record improper payment cases comprised of: one error case and two non-error cases with ineligible payments; reasons for improper payments; improper payment

amounts; and federal provisions for which the state does not meet compliance mandates. Calculation of improper payments is based on the federal financial participation (FFP) rates of maintenance payments at the state's Federal Medical Assistance Percentages (FMAP) for applicable year(s) for each sample case.

**Error Cases:**

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2018 – September 30, 2018	Improper Payments (FFP)
78	Voluntary Placement Agreement (VPA); removal made pursuant to VPA, but the state does not have an approved title IV-E plan that allows for children under 18 years of age to be removed pursuant to a VPA. [§§472 of the Act and 45 CFR §1356.22]  Ineligible: Entire FC episode Reported Disallowance Period: 09/08/2006 – 10/28/2018	\$146,410 Maintenance \$131,108 Administration
<b>Total FFP:</b>		<b>\$277,518</b>

**Non-error Cases with Ineligible Payments:**

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2018 – September 30, 2018	Improper Payments (FFP)
12	Foster care maintenance payment claimed twice for the same activity and activity dates. The child was eligible under title IV-E for non-duplicative services. [§475(4) of the Act; 45 CFR 1356.60(a)(1)(i)]  Ineligible: 02/04/2019 -02/17/2019	\$156 Maintenance
61	The child was ineligible for title IV-E because the state no longer had placement and care, due to the youth turning 18 and not opting into the extension of benefits to 21 program. [45 CFR 1356.71 (d)(1)(iii)]  Ineligible: 11/18/2018 – 12/23/2018	\$507 Maintenance \$1,027 Administration
Total Maintenance FFP:		\$663
Total Administrative FFP:		\$1,027
<b>Total FFP:</b>		<b>\$1,690</b>

**Areas Needing Improvement**

Findings of this review indicate the state needs to further develop and implement procedures to improve program performance in the following areas. For each issue, there is a discussion of the nature of the area needing improvement, the specific title IV-E requirement to which it relates, and the corrective action the state should undertake.

Issue 1: Payments – The one (1) error case had ineligible payments because at the beginning of the case, the worker wrongly determined that the child was eligible for title IV-E, even though the child was removed from home via a voluntary placement agreement. In that case, the payment system allowed title IV-E payments from 2006 until 2018, even though the state's approved title IV-E plan does not allow children to be removed from home via a voluntary placement agreement. For a state to be eligible for federal reimbursement for voluntary placements, it must meet the requirements of section 472 of the Act and must have provisions for voluntary placements in its title IV-E Plan. If a state accepts voluntary placements, but does not meet the requirements for claiming FFP, such placements are ineligible for FFP during the child's entire stay in foster care. [See §§472 of the Act and CB Child Welfare Policy Manual, 8.3A.13, Q/A 3].

Sample 61 was a non-error ineligible payment because the agency claimed title IV-E on behalf of a child who was ineligible for title IV-E because the state no longer had placement and care, due to the youth turning 18 and not opting to participate in the state's program offering extended title IV-E foster care benefits through age 21. [45 CFR 1356.71 (d)(1)(iii)]. The state's payment system did not flag that the youth no longer was eligible for title IV-E. The other non-error ineligible payment (Sample 12) occurred because while the agency may claim title IV-E on behalf of an otherwise eligible child, it may not claim duplicate payments for the same cost. The state's payment system did not flag that a duplicate payment was claimed. During the onsite review, the state also noted that it has chosen not to utilize title IV-E funds for child care costs because the state has concerns that it will not be able to start and stop payments timely.

Title IV-E Requirement: Consistent with federal provisions at 45 CFR 1356.60(a)(1)(i), claiming title IV-E foster care maintenance payments is limited to the cost of providing certain expenditures covered within the federal definition of foster care maintenance at §475(4) of the Act. The state must document foster care maintenance payments claimed for title IV-E reimbursement are for allowable expenditures in accordance with the statutory definition, are in amounts conforming to state established rates of payment for the type and level of care provided, and reflect non-duplicative amounts of the costs of daily maintenance.

Recommended Corrective Action: We recommend that the state train its staff on the title IV-E requirements for voluntary placements and providing foster care payments to youth age 18 years and older. Furthermore, we recommend that Michigan update and modernize its payment systems. Although the state is now using its statewide automated system, (MiSACWIS) for payments, the recoupment and reconciliation process requires manual data entry and remains inefficient. In addition to being inefficient, the process is more subject to error than an automated system. The state should continue to review its payment system(s) to assure the maximization of IV-E funds and to determine whether adequate financial controls are in place and properly functioning to prevent payments for ineligible children, duplicate payments or unallowable program costs.

During the onsite review week, Michigan explained that the state already has implemented a MiSACWIS control that automatically prohibits IV-E claiming for all new VPA cases, effective December of 2016. For VPA cases opened prior to December of 2016, for which the agency has

claimed title IV-E funding, the state should take the appropriate steps to identify and reconcile federal funds that have been wrongly claimed. Additionally, the state should consider making changes to the MiSACWIS system that would support the claiming of allowable child care costs under title IV-E.

Issue #2: Title IV-E agency oversight of tribal children and tribally licensed homes that are title IV-E funded through the state agency. One case was initially identified as a potential error because the tribe did not provide accurate information about the child's removal to the state. Throughout the child's foster care episode, the state did not review or conduct quality assurance on that case or the other cases of tribal children. Similarly, during the onsite review, the state did not have documentation to substantiate that federal requirements had been met related to safety or making reasonable efforts to finalize the permanency plan. The state and tribe did work together following the on-site review and were able to provide the required documents to substantiate that the foster parents at issue had completed a fingerprint based check of the National Crime Information Database (NCID) and to provide court transcripts to demonstrate that the agency had met the reasonable efforts toward permanency planning requirement. Finally, during the review we noted that the state did not have supporting documents on hand related to several of the tribal child eligibility determinations prior to claiming title IV-E funds

Title IV-E Requirement: A state title IV-E agency that enters into a title IV-E agreement with a tribe is responsible for ensuring that the state only claims title IV-E in accordance with the statutory requirements. As the responsible title IV-E agency, the state agency must actively supervise the various activities performed by the tribe under the agreement. This supervision includes case plan assessment, case review functions and adherence to the requirements of the Act, federal rules, regulations and policy interpretations in operation of the foster care maintenance program. The state title IV-E agency is ultimately responsible for proper operation of the foster care program. [See 472(a) of the Act and CB Child Welfare Policy Manual, 8.3A.12, Q/A 1].

Recommended Corrective Action: The state should develop policy, procedures, and practices to ensure that prior to claiming title IV-E, it can substantiate that all title IV-E eligibility requirements have been met. In order to do so, the state needs to review child eligibility files, including licensing and safety files, of tribally-licensed homes to verify that both the child and placement meet the federal requirements and maintain current records that support the state's decisions, as required by federal laws and policies.

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

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

Judicial Determinations: For years, Michigan Department of Health and Human Services (MDHHS) and the Court Improvement Program (CIP) have collaborated to strengthen the efficiency of court processes through training and supporting judges, attorneys, and other court staff, particularly in terms of the federally-required judicial determinations. The judicial determinations examined during the onsite review were timely, and included rulings that

facilitated timely permanency plans. Judicial determinations also were child-specific and those pertaining to the child's removal clearly outlined the circumstances under which the child was removed from the home. For all cases reviewed, contrary to the welfare findings were located in the first order sanctioning removal, as were case-specific reasonable efforts to prevent removal findings. We encourage MDHHS to continue its collaborative efforts with the CIP in order to maintain the quality of its judicial determinations and court orders.

Licensing and Safety Requirements: Michigan's Division of Child Welfare Licensing is responsible for determining if foster homes and childcare institutions meet the required federal standards for title IV-E funding. The review team found that all cases in our review sample were in compliance in the areas of licensing and safety. All foster care homes and child care institutions had the appropriate licenses and the renewals were timely. The completion of FBI fingerprint-based checks, state and local criminal record checks, and child abuse and neglect registry checks to ensure compliance with section 471(a)(20) of the Act and state licensing requirements are clearly documented in the licensing file. The MDHHS reorganization and placement of the Division of Child Welfare Licensing under the Children's Services Agency of MDHHS has resulted in an effective partnership between the Children's Service Agency program staff and the Divisions of Child Welfare Licensing staff to develop close working relationships, thus, enhancing the state's capacity to ensure that licensing and criminal background checks are completed and processed timely.

Title IV-E Eligibility Determination Specialists: The Michigan Child Welfare Funding Specialist (CWFS) workers manage the eligibility determination process by overseeing the tracking and monitoring of title IV-E eligibility determinations, documenting compliance and conducting quality assurance activities. Additionally, CWFS staff work with field offices, courts, the state licensing agency and state agency fiscal officials to assure required actions and supporting paperwork are completed timely and that title IV-E claims are submitted only for those cases meeting all applicable requirements. The CWFS staff appears to be instrumental in reducing the number and proportion of title IV-E claims for cases not documented as meeting the eligibility criteria. Staff should continue to work with the tribes to ensure eligibility is properly documented with tribal cases.

### **Disallowances**

A disallowance in the amount of \$146,410 in maintenance payments and \$131,108 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for the error case. Additional amounts of \$663 in maintenance payments and \$1,027 in related administrative costs of FFP are disallowed for title IV-E foster care payments that are claimed improperly for non-error cases. The total disallowance as a result of this title IV-E Review is \$279,208 in FFP.

Michigan also must identify and repay any ineligible payments for error and non-error cases that occur 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**

As part of the state's ongoing efforts to improve its title IV-E foster care eligibility determination process, the CB recommends Michigan examine identified program deficiencies and develop measurable, sustainable strategies that target root causes of issues and concerns hindering the state from operating an accurate foster care eligibility program. Appropriate corrective action must be taken in instances of noncompliance with federal laws, regulations and policies. The CB Region 5 office staff is available to assist the state in identifying corrective action and obtaining support available through our national network of training and technical assistance centers to help the state address issues and concerns raised during this IV-E review. Finally, we encourage the state to review your approved title IV-E and cost allocation plans and consider if the utilization of title IV-E funds for other allowable costs such as child care payments, placement of children in foster care through VPAs and legal representation for children, could further benefit your child welfare program.