

**State of Michigan
Department of Children and Families
Title IV-E Foster Care Eligibility
Primary Review
Report of Findings for
April 1, 2012 – September 30, 2012**

Introduction

During the week of June 10, 2013 the Children's Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the State's title IV-E foster care program. The review was conducted in collaboration with the State of Michigan's Department of Human Services (MDHS) and was completed by a review team comprised of representatives from the State agency, State court improvement project, CB Central and Regional Offices, ACF Regional Grants Management and cross-State peer reviewers.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether MDHS title IV-E foster care program was in compliance with the 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 State's financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of the Review

The primary review encompassed a sample of the State's foster care cases for which a title IV-E maintenance payment was claimed for an activity during the six-month period under review (PUR) of April 1, 2012 – September 30, 2012. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from State data 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. Two (2) cases were excluded from the original sample because the cases included youth who turned eighteen (18) years of age during the PUR and their coverage for eligibility is extended under the State's IV-E plan option for age requirements. 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 was reviewed against the 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)(1) and (2), and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A) 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 file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider's file also was examined to ensure the foster family home or child care institution where the child was placed during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming.

A sample case is assigned an error rating when the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was paid. A sample case is cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity. In addition, underpayments are identified for a sample case when title IV-E maintenance payment was not claimed by the State for an eligible child during the 2 year filing period specified in 45 CFR §95.7, unless the title IV-E agency elected not to claim the payment or the filing period had expired. CB and the State agreed that the State would have two weeks following the onsite review to submit additional documentation for a case that during the onsite review was identified as in error, in undetermined status, or not in error but with ineligible payments.

Compliance Finding

The review team determined all of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Two (2) of the non-error cases were ineligible for Federal funding for a period of claiming. Accordingly, Federal funds claimed for title IV-E foster care maintenance payments associated with the non-error cases with ineligible payments are being disallowed. In addition, there were no cases identified to have periods of eligibility for which the State did not claim allowable title IV-E maintenance payments. Because the number of cases in error is fewer than four (4), MDHS is in substantial compliance for the PUR.

Case Summary

The following charts record the non-error cases with ineligible payments and the reasons for the improper payments; improper payment amounts; and Federal provisions for which the State did not meet the compliance mandates.

Non-error Cases with Ineligible Payments

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
5	Foster care maintenance payments made for educational mentoring, which is outside the definition of allowable program costs[45 CFR 1355.20] Ineligible: 9/30/2012	\$575 Maint.
OS01	Foster care maintenance payments continued after the child's IV-E guardianship assistance payments began. [§472(a)(3), (b), and (c); 45 CFR 1355.20] Ineligible: 8/15/2012	\$19 Maint.

Total: \$594 Maint.

Areas in Need of Improvement

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

Issue #1 Safety Requirements: Though no cases were found to be in error or to have ineligible payments due to safety requirements, during the review practice concerns were noted related to both foster care and child care institutions (CCI) placements. We noted that in some cases with foster care providers the National Crime Information Databases (NCID) checks were completed nearly two years prior to licensing, with no additional national checks conducted closer to the actual time prior to when the foster parent was licensed. The time lag between the NCID check and provider licensure raises concerns about the recentness of the information considered in the State's safety assessment of the provider and whether new convictions, such as a prohibited crime, had been reported to NCID in the interim period. Section 471(a)(20) of the Act does not prescribe a specific timeframe for when such checks must be completed or remain valid; however, the State should establish a reasonable timeframe for these checks as a safety precaution. Regarding the CCI's, we noted that neither NCID nor National Sex Offender registry checks are required of all staff working directly with children. Only a criminal history check on a person using the department of state police's internet criminal history access tool (ICHAT) or equivalent check on that person from the state or province of residence is required. Permitting staff to have direct contact with children prior to completing thorough safety checks has serious practice implications. The additional checks provide an extra measure of assurance in the State's assessment of safety risks a provider potentially posed for a child's placement. Finally, we noted that the forms currently utilized by the Bureau of Children and Adult Licensing (BCAL) did not include follow-up information regarding how deficiencies identified during an on-site visit were resolved, which provided for an incomplete record of provider history.

Title IV-E Requirement: To ensure that a child is not in a foster care placement where the potential caregiver has caused or is likely to cause harm to a child, §471(a)(20)(A) of the Act and 45 CFR § 1356.30 require State title IV-E agencies to examine the potential safety risks posed to the child by a foster care provider. For foster family homes newly licensed on or after October 1, 2008 (or the State's approved delayed effective date for the fingerprint-based check of the *NCID*), Federal requirements under §471(a)(20) of the Act mandate the State to document a criminal records check that includes a fingerprint-based check of the *NCID*. Federal requirements under 45 CFR 1356.30(f) mandate the State to document that the background checks with respect to the caregiver staff of the childcare institution are completed in accordance with the licensing agency's requirements where the childcare institution is located. [ACYF-CB-PI-10-02]

Recommended Corrective Action: Though the State is noted as being in Federal compliance with their current laws, it is highly recommended that the State review and consider revising its laws, rules and/or policies and administrative forms to improve the State's current child safety practices with regards to both foster care homes and child care institutions in order to conduct thorough safety checks in a reasonable timeframe.

Issue #2: Unallowable Program Costs: In one (1) non-error case, it was determined that title IV-E payments were made for items outside the definition of allowable program costs. The ineligible payments in the second non-error case was based on State documentation establishing that costs were claimed for both the title IV-E foster care and guardianship assistance programs for the same activity and payment period.

Title IV-E Requirement: Consistent with the Federal provision at 45 CFR 1356.60(a)(i), title IV-E foster care maintenance assistance payments may be claimed only for 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 that foster care maintenance payments claimed for title IV-E reimbursement are for allowable expenditures and within allowable timeframes in accordance with the statutory definition, are in amounts conforming to the 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: Though we acknowledge that the implementation of Child Welfare Funding Specialist workers has assisted the State with manual improvements, during the review it was noted that several cases had recoupment of ineligible payments completed (prior to receiving the sample). Many of these cases had problems with payment start and stop dates. We recognize the State has made remarkable progress in reconciling payment dates with program eligibility and activity dates; however, continued improvement is still recommended. The State presently is using its legacy information system, which includes a manual component, for claims processing until its State Automated Child Welfare Information System (SACWIS) becomes fully operational. Regardless of the system used by the State, internal fiscal controls continue to be required. The State should review its payment systems to determine whether adequate financial controls and edits are in place and properly functioning to prevent payments for ineligible children or unallowable program costs. Since the State is in the process of developing new enhancements to its automated system, an automated quality assurance module should be included to periodically review and track payments for accuracy and compliance with Federal requirements and State standards. Parallel testing of the automated system claims processing module against the current manual processing is recommended until

the implementation of the automated QA module is finalized. Finally, the State may use title IV-B funds or other appropriate funds to cover the costs of items and services not allowable under title IV-E.

Strengths and Promising Practices

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

Correct coding of AFCARS data element 59. The MDHS has improved the accuracy of data reported to AFCARS as all 80 cases and all 20 oversample cases with a "1" coded in AFCARS data element 59 had a title IV-E foster care maintenance payment for the reporting period. During the 2010 review, sixteen (16) cases were excluded from the original sample because no title IV-E foster care maintenance payment was made for a period during the PUR. After discussing this with State staff we attribute these improvements to the State reviewing and revising, then conducting training on their data entry procedures and policy.

The MDHS has Child Welfare Funding Specialists (CWFS) who complete eligibility determinations for the title IV-E program. The findings of previous reviews demonstrated title IV-E eligibility determinations were not always consistently completed by field staff. The funding specialists were put in place to manage the eligibility determination process by overseeing the tracking and monitoring of title IV-E eligibility determination, documenting compliance, and conducting quality assurance activities. At the same time, Michigan's Federal Compliance Division (Compliance Division) was created within the State central office to provide training and support to the funding specialists. The Compliance Division is able to provide timely feedback to staff and assist with determinations on difficult and complicated cases, as well as provide mentoring to new CWFS staff. Thus, the funding specialists permit more accurate and consistent application of policy, as well as, timely issue and emerging trend identification and problem solving. The CB has found that the work of the funding specialists has been a key component in enhancing the development and availability of documentation supporting title IV-E eligibility. The funding specialist also provide regular feedback to the Compliance Division regarding policy application and implementation so that the Compliance Division can provide clarification to policy or updates to policy that better support the field in a timely fashion. The CB also understands that 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. It appears these efforts were instrumental in reducing the number and proportion of title IV-E claims for children not documented as meeting the eligibility criteria. These efforts also were a key factor in claiming Federal reimbursement for the maximum amount allowable for children documented as meeting the title IV-E eligibility criteria.

Disallowances

A total disallowance in the amount of \$594 in maintenance payments is assessed for title IV-E foster care payments claimed improperly for the non-error cases. The State also must identify and repay any ineligible payments that occurred for the non-error cases subsequent to the PUR. No future claims should be submitted on these cases until it is determined that 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 MDHS examine identified program deficiencies and continue your efforts to improve child safety, permanency and well-being.