

Final Report
State of Michigan
Primary Review
Title IV-E Foster Care Eligibility

Report of Findings for
October 1, 2015 – March 31, 2016

Introduction

During the week of September 19, 2016, 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 title IV-E foster care review (IV-E review) was conducted 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, ACF Regional Grants Management and CB Central and Regional Offices. The purposes of the IV-E review were (1) to determine whether the Michigan title IV-E foster care program is 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 appropriate payments were 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 made for an activity that occurred in the six-month period under review (PUR) of 10/1/2015 - 3/31/2016. A computerized statistical sample of 100 cases (80 cases plus 20 oversamples) 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 two oversample cases. 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) 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 was reviewed to verify title IV-E eligibility. The foster care provider’s record also was examined to ensure the foster family home or child care institution where the child resided during the PUR was fully licensed and met the 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 was 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 was 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 date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity in either situation. In addition, underpayments were identified for a sample case when the state unintentionally did not claim an allowable title IV-E maintenance payment for an eligible child within the two year filing period specified in 45 CFR §95.7 and the filing period had not expired.

Compliance Finding

The review team determined 77 of the 80 cases met all eligibility requirements for the PUR. Three cases were determined as in error for not meeting the eligibility requirements for periods only during the PUR. One non-error cases met eligibility requirements for the PUR but were found to have periods in the foster care episode for which title IV-E maintenance payments were improperly claimed.

The CB has determined the Michigan 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 meeting eligibility requirements for the PUR. The supplemental findings for non-error cases with ineligible payments were 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.

In addition to the above four cases established as having ineligible payments, two non-error cases had periods of eligibility for which the state did not claim allowable title IV-E maintenance payments.

Case Summary

The following charts record the improper payment cases comprised of: three error cases, one non-error case with ineligible payments and two underpayment cases; reasons for the improper payments; improper payment amounts; and federal provisions for which the state did not meet the 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 October 1, 2015 – March 31, 2016	Improper Payments (FFP)
#2	Title IV-E foster care maintenance payments made during the PUR for a period the agency did not have placement and care responsibility, ineligible child; case finalized to adoption on 11/2/15 and agency paid for day care in dates listed below. [§472(a)(2)(B) of the Act; 45 CFR 1356.71(d)(1)(iii)] Ineligible: 12/27/2015- 1/23/2016	FFP Maintenance \$252 Administrative \$1,556
#15	Title IV-E foster care maintenance payments made during the PUR for period the agency did not have placement and care responsibility, ineligible child; child returned home on 2/1/16. [§472(a)(2)(B) of the Act; 45 CFR 1356.71(d)(1)(iii)] Ineligible: 2/2/2016 – 2/10/2016	FFP Maintenance \$102 Administrative \$0
#32	Title IV-E foster care maintenance payments made during the PUR for a period the agency did not have placement and care responsibility, ineligible child; case finalized to adoption on 1/15/2016 and agency paid for day care in dates listed below. [§472(a)(2)(B) of the Act; 45 CFR 1356.71(d)(1)(iii)] Ineligible: 1/16/2016 - 1/23/2016	FFP Maintenance \$38 Administrative \$0

Total FFP Maintenance: \$392

Total Administrative: \$1,556

Non-error Cases with Ineligible Payments:

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2015 – March 31, 2016	Improper Payments (FFP)
#44	Title IV-E foster care maintenance payments, for child care, were made for an eligible child, prior to adoption being finalized on 11/9/2015, but after the case was opened and claims had begun for IV- E adoption assistance payments, ineligible payment. The agency made duplicative IV-E payments after the adoption subsidy agreement was signed. [§475(4) of the Act; 45 CFR 1356.60(a)(1)(i)] Ineligible: 10/18/15 – 10/31/15	FFP Maintenance \$43 Administrative \$0

Total FFP Maintenance: \$43

Total Administrative: \$0

Underpayment Cases:

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2015 – March 31, 2016	Improper Payments (FFP)
#24	Foster family home licensed on 1/11/16, title IV-E foster care maintenance claiming could have begun 1/1/16 but did not begin until 3/7/16. [§472(b) and (c); 475(4) of the Act; 45 CFR §1356.60(a)(i)] Eligible: 01/01/16 – 03/06/16	FFP Maintenance \$704
#51	Eligible child in an allowable placement, agency used state funds when title IV-E foster care maintenance funds could have been claimed. [§472 of the Act; 45 CFR 1356.60(a)(1)(i)] Eligible: 09/30/14 – 02/22/15	FFP Maintenance \$1,774

Total FFP Maintenance: \$2,478

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

Placement and Care: Federal statutes at § 472(a)(2)(B) of the Act require the responsibility for placement and care of a child to be vested with the title IV-E agency. In three cases (2, 15 and 32) the state’s placement and care responsibility had ended, while claims for IV-E foster care payments continued.

Title IV-E Requirement: Federal statutes at § 472(a)(2)(B) of the Act require the responsibility for placement and care of a child to be 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), in effect with the title IV-E agency. The title IV-E payments also may not be claimed for the period beginning on the day of the month the agency loses placement and care authority for the child. Evidence of responsibility for placement and care of the child can be documented in the voluntary placement agreement, court order, or court transcript. To qualify for FFP, the state must document that foster care maintenance payments claimed for title IV-E reimbursement are for eligible children and allowable expenditures that are in accordance with the federal requirements.

Issue #2

Payments: The title IV-E payments may not be claimed for the period beginning on the day of the month the agency loses placement and care authority for the child. Three cases (2, 15 and 32) were found to be in error because the title IV-E payments did not end when the child was no longer eligible during the period under review. One case (44) was found to have ineligible payments because the state's claimed for title IV-E Adoption Assistance payments and Title IV-E foster care, child care payments, during the same time period during the PUR. It should be noted that three of the cases (2, 32, and 44) are cases in which title IV-E- funded child care continued while the case had closed to adoption or adoption assistance payments had been started. Finally, there were two cases (24 and 51) within the two-year limitation that were identified as having underpayments. These cases were identified to have a child who was title IV-E eligible and living in a foster family home or child care institution that met the licensure and safety requirements but not all eligible title IV-E foster care maintenance payments were claimed. During discussions with the state there were no identified reasons for the underpayments.

Title IV-E Requirement: Federal regulations at 45 CFR §1356.60 provide that title IV-E foster care maintenance assistance payments may be claimed only for allowable costs of expenditures that are covered by the federal definition of foster care maintenance found at §475(4) of the Act. Under §472 of the Act, title IV-E maintenance payments may be claimed from the first day of placement in the month in which all title IV-E eligibility criteria are met but not before all eligibility criteria are met. To qualify for FFP, the state must document that foster care maintenance payments claimed for title IV-E reimbursement are for eligible children and allowable expenditures that are in accordance with the federal requirements.

Recommended Corrective Action: The Michigan Department of Health and Human Services (MDHHS) should review its payment systems to identify and resolve the identified concerns. The state should look closely at those claims being made on behalf of the agreement between MDHHS and the Michigan Department of Education to provide child care. The state needs to assure that once placement and care ends foster care payments end. The state may consider implementing mutually exclusive payments; so that once adoption payments begin the IV-E claims for foster payments automatically end. The state agency should then implement training to correct the items of concern. Regarding underpayments, if the underpayments are caused due to coding issues, MDHHS should consider enhancing its automated system's capacity to permit retroactive claiming. Until the problems are rectified, the identified payment errors and underpayments will continue, and could result in the loss of significant title IV-E dollars.

Additional Concern

Automated Eligibility Determinations: Michigan has improved its process for determining title IV-E eligibility through the implementation of an automated data system which facilitates timely eligibility decisions, electronically communicates with other state systems to obtain information pertinent in determining financial need and deprivation for AFDC eligibility and tracks eligibility throughout the foster care episode. While the improvements have increased system functionality, in several cases the MiSACWIS generated AFDC eligibility determination forms that were either incorrect or included erroneous information, such as erroneous income amounts higher than the allowed AFDC standard and others that had determinations incorrectly marked

ineligible in one section and then eligible in the next. No payment issues were found pertaining to these cases primarily due to the correct determinations of the state's eligibility specialists. The MDHHS should work closely with the MiSACWIS team to explore the reason(s) for the incorrect data generated by the system, make the necessary adjustments and assure that IV-E eligibility determinations are in accordance with the state and federal requirements.

Program Strengths and Promising Practices

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

Judicial Determinations: The MDHHS and the court have collaborated to strengthen the efficiency of actions through training and support of judges, attorneys, and other court staff, particularly in terms of the required judicial determinations. The judicial determinations 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, except for one case in which the "contrary to the welfare" finding was not as obvious in the court order as the judicial findings in the other cases. In this one case the child was under the courts supervision and when a new incidence of abuse or neglect occurred the order was not clear as to the findings, it took much effort to review past orders and transcripts to assure the finding was made. While other court orders contained the same language, they also included additional details that clarified and supported the judicial determinations. The MDHHS is encouraged to continue its collaborative efforts to improve the quality of its judicial determinations and court orders.

Licensing and Safety Requirements: Michigan's Division of Child Welfare Licensing is responsible for both the licensing and safety. It should be noted that all cases in our review were found to be 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 has recently reorganized and placed the Division of Child Welfare Licensing in the Children's Services Agency of MDHHS. This has resulted in the Children's Service Agency program staff and the Divisions of Child Welfare Licensing staff to develop close working relationships, enhancing the state's capacity to ensure that licensing and criminal background checks are completed and processed timely.

Title IV-E eligibility Determination Specialists: Michigan has Child Welfare Funding Specialist (CWFS). 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. 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.

Disallowances

A disallowance in the amount of \$392 in maintenance payments and \$1,556 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for error cases. Additional amounts of \$43 in maintenance payments and \$0 in related administrative costs of FFP are disallowed for title IV-E foster care payments claimed improperly for non-error cases. The total disallowance as a result of this IV-E review is \$1,991 in FFP.

Michigan also must identify and repay any ineligible payments for the error and non-error cases that occurred for periods subsequent to the PUR. No future claims should 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.