

**WISCONSIN TITLE IV-E  
FOSTER CARE ELIGIBILITY REVIEW  
AFCARS REVIEW PERIOD APRIL 1 – SEPTEMBER 30, 2001**

**I. INTRODUCTION**

During March 4 – 8, 2002, staff from Region V and the Children's Bureau of the Administration for Children and Families (ACF) in collaboration with staff from the State of Wisconsin conducted an eligibility review of Wisconsin's title IV-E foster care program in Madison.

The purposes of the title IV-E foster care eligibility review were to (1) determine if Wisconsin was in compliance with the child and provider eligibility requirements as outlined in 45 CFR 1356.71 of the Code of Federal Regulations and Section 472 of the Social Security Act; and (2) validate the basis of Wisconsin's financial claims to assure that appropriate payments were made on behalf of eligible children and to eligible foster care providers.

**II. SCOPE OF THE REVIEW**

The Wisconsin title IV-E foster care review encompassed a sample of title IV-E foster care cases that received a foster care maintenance payment during the period of April 1- September 30, 2001. A computerized statistical sample of 100 cases, 80 plus an oversample of 20, was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data and transmitted by Wisconsin's Department of Health and Family Services (DHFS) to ACF. Child case files were reviewed to determine both the child's initial and ongoing title IV-E eligibility including the need for judicial determinations on reasonable efforts to finalize permanency plans. Provider files were reviewed to ensure that foster care placements in which the child resided were licensed for the period under review. As of March 27, 2001, judicial determinations regarding reasonable efforts to finalize permanency plans are required for all children on a yearly basis. Consequently, cases failing to meet this requirement after March 27, 2001 will have disallowances assessed for the period of ineligibility.

During the initial primary review, 80 cases were reviewed; 79 from the original sample and one case was from the oversample. Twenty-three cases were determined to be in error for either part or all of the review period. In some instances, a case was determined to contain more than one error but was counted only once when determining the number of error cases. The Case Record Summary (Enclosure B) and Section IV provides specific information on the types of errors identified during the review. Since the number of cases in error exceeded eight, Wisconsin is considered not to be in substantial compliance.

Pursuant to 45 CFR 1355.71(i), Wisconsin is required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in

substantial compliance. The PIP should be developed by the Wisconsin (DHFS) in consultation with ACF Regional staff, and must be submitted to the ACF Regional Office within 90 days from the date this report is received. Wisconsin will have a maximum of one year to implement and complete the PIP unless State legislative action is required to implement needed corrective action. (See 45 CFR 1356.71(i)(1)(iii).) Once the State has satisfactorily completed the PIP, a secondary review of a sample of 150 title IV-E foster care cases will be conducted. No more than 15 cases in the secondary review may be in error and the dollar error rate may not exceed 10 percent.

### **III. CASE RECORD SUMMARY**

Enclosure B details the error cases, reasons for the errors and dollars associated with the errors. The following section discusses the broad-based categories of errors that will need to be addressed in Wisconsin’s PIP.

### **IV. AREAS NOT IN SUBSTANTIAL COMPLIANCE**

#### *Judicial Determinations on Reasonable Efforts to Finalize Permanency Plans*

Under title IV-E, a judicial determination that reasonable efforts were made to finalize the child’s permanency plan is required. The judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date on which the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care. Wisconsin did not implement this requirement consistently statewide.

The review found 13 cases to be out of compliance with 45 CFR 1356.21(b)(2) because a judicial determination of reasonable efforts to finalize the permanency plan was not made within the required timeframes. Regulations at 45 CFR 1356.21(d) require that court orders be explicitly documented in meeting the reasonable efforts to finalize the permanency plan. Thus, the court order must state the required language. Petitions to terminate parental rights are consistent with the state’s requirement for children in foster care 15 of the most recent 22 months, but cannot be substituted for a court order to finalize the permanency plan. Court orders in case files did not yield specific language to demonstrate that the court made reasonable efforts to finalize the permanency plan applicable to the April 1 - September 30, 2001 review period.

#### *Contrary to the Welfare Finding at the first court date*

Children entering foster care on or after March 27, 2000 must have a judicial determination regarding “contrary to the welfare” in the first court order sanctioning the child’s removal from the home as required by 45 CFR 1356.21(c). “Contrary to the welfare” means that remaining in the home would be contrary to the child’s welfare, safety or best interests. Acceptable documentation is a court order containing a judicial determination regarding contrary to the welfare or a transcript of the court proceedings reflecting this

determination. In four cases, “the contrary to welfare” requirement was not addressed in the first court order removing the child from the home. We understand that this has been addressed with the new model court forms and the recommendations that court approval is sought when a juvenile justice child moves from the home of a parent to an out-of-home placement.

### Licensing

Regulations at 45 CFR 1356.21)(m)(2) require that the placement of a child in foster care be in a licensed or approved facility. There were three cases containing licensing errors during this review period. However, only one case is ineligible due solely to a licensing error, while the remaining two contained multiple error reasons.

### Voluntary Placement Cases beyond 180 days

Two cases were ineligible based upon the failure to establish a judicial determination regarding the child’s best interest within 180 days of the date of the voluntary placement as required under 45 CFR 1356.22(b). If more than 180 days have elapsed and there has been no such determination, the child’s eligibility for Federal financial participation (FFP) ceases on the 181st day. While the number of cases in error is minimal, the dollar error associated with these cases is significant because the timeframes for these errors extend back to 1997 and 1999, respectively.

### Placement and Care Responsibility

Two cases were ineligible because the State agency did not have placement and care of the child for the period the child was in foster care as defined by 45 CFR 1355.20. In particular, the timeliness of hearings to effect yearly disposition order extensions impacted this eligibility requirement as gaps occurred between court hearings which caused placement and care orders to lapse. Frequently, the child remained in the foster home even though the County no longer had responsibility for placement and care. There also was a lack of consistency on how these lapses were addressed. In some instances the permanency hearing was held despite the time lag and in others a new petition was filed which then triggered a new pick-up order and date for subsequent permanency hearings. In the latter scenario, the child’s eligibility for IV-E reimbursement is further jeopardized as the (Aid to Families with Dependent Children) AFDC-relatedness requiring removal from a specified relative within six months of placement may not be met, depending upon the length of time the child had been in care, prior to the lapsed placement and care order.

### AFDC Relatedness Requirements

One case was ineligible because the child did not live with a specified relative at the time of removal. The AFDC program in effect on July 16, 1996 under the Wisconsin title IV-A State Plan (or, if removal was prior to the effective date of the Personal Responsibility and Work Reconciliation Act, the title IV-A State Plan

in effect at the time) requires that the State must document that the child was removed from a specified relative, and that the child was financially needy and deprived of parental support at removal.

## **V. STRENGTHS AND MODEL PRACTICES**

During the review, the following strengths and model practices were identified.

### *Judicial Determinations to Finalize Permanency Plans*

1. The April 1, 2001 – September 30, 2001 review period was a stage of significant transition for the State. Wisconsin is addressing the issue of fulfilling the judicial determination to finalize permanency plans through State legislation, modified eligibility determination procedures (effective October 2001) and modifications in court forms. Model court forms complying with the requirement were implemented during this review period.
2. The review revealed that there were several cases with an adoption goal, which were finalized or in the process of being finalized during the review period.
3. Wisconsin plans to implement statewide recertification eligibility reviews every six months to insure more accurate claiming for Federal funding and that judicial determinations will be processed timely.
4. Court orders, particularly in Milwaukee County and in a couple of cases in Dane County, met the requirement and contained the appropriate language.

### *Wisconsin Statewide Automated Child Welfare Information System (WISACWIS)*

The IV-E eligibility determination process is automated in Milwaukee County and is being expanded statewide. Verifications such as linkages to AFDC initial eligibility, foster care entries, adoption date, licensing, etc., can be obtained from WISACWIS. Enhancements to the WISACWIS system is ongoing to better document the IV-E eligibility and provider licensing information for review purposes.

While there are benefits to the implementation of WISACWIS, there appears to be an over-reliance on its use, particularly with the linkage to AFDC. This may present a potential problem if the State fails to verify the validity of the system information.

### *Pre-review and Review Activities*

Wisconsin did an excellent job of preparing for the review. Conference calls between the State, Region and the Children’s Bureau were held to request needed information or to receive clarification of State and Federal policies.

Extensive efforts were made by Wisconsin to review case files for completeness, tabbing of documents in case files and organizing provider licensing information.

State reviewers had a variety of program experiences that aided in the review of cases. Knowledge of the State's systems often aided Federal reviewers in completing the reviews. State reviewers received prior instruction in the use of the title IV-E review checklist.

Wisconsin DHFS staff actively participated in reviewing the cases. The State review team was comprised of staff from various sectors in the Wisconsin child welfare system. They were instrumental in verifying the accuracy of the ineligible cases and the periods of ineligibility.

The control of the cases during the review was noteworthy. When cases were reviewed, the State person in charge of case control automatically checked to see if all volumes had been returned and then established a system for case review status. We were easily able to determine cases that had been reviewed, cases requiring an analysis and cases ready for a quality control examination.

Wisconsin DHFS is considering implementing a centralized title IV-E eligibility determination system. If implemented, this system should result in significant enhancements to the State's ability to meet the Federal requirements, and to more effectively monitor and provide technical assistance to county agencies. Additional resources for technical assistance/monitoring and mandating counties to participate in the centralized eligibility process will be needed. There will also be increased access to the unemployment insurance wage record system and expanded access to the Client Assistance for Re-Employment and Economic Support (CARES) public assistance system.

## **VI. DISALLOWANCES**

In accordance with 45 CFR 1356.71(j)(2), Wisconsin DHFS is found not to be in substantial compliance with recipient and provider eligibility provisions of title IV-E. Enclosure B provides the error dollar amount for each of the 23 error cases. The total dollars in error are \$206,833 of which \$112,641 is Federal maintenance payments and \$94,192 is Federal administration funds.

Payment of the disallowance claim must be paid within 30 days from the date this report is received to avoid the assessment of interest. (See 45 CFR 30.12(a) and 30.13.) Wisconsin has the right to dispute the debt. DHFS will be liable for interest on the amount of funds disallowed by the Department, in accordance with the provisions of 45 CFR 30.13(a) if the disallowance is not paid within 30 days from the date of this letter. Regulations at 45 CFR 30.14 provide guidance on paying the debt or accruing interest while pending a formal review of the debt.

Wisconsin may appeal this disallowance to the Departmental Appeals Board within 30 days from receipt of the accompanying letter in accordance with regulations at 45 CFR 16.7(a). Please refer to 45 CFR Part 16 for procedures for appealing this disallowance.