

**MAINE TITLE IV-E
FOSTER CARE ELIGIBILITY REVIEW
April 1, 2000 – September 31, 2000**

I. INTRODUCTION

During the week of March 26 – March 29, 2001, staff from the Regional and Central Offices of the Administration for Children and Families (ACF) and State of Maine staff conducted an eligibility review of the State of Maine's Title IV-E Foster Care program.

The purpose of the Title IV-E eligibility review was to validate the accuracy of Maine's claims to ensure that appropriate payments were made on behalf of eligible children, to eligible homes and institutions and at the allowable rates.

II. SCOPE OF THE REVIEW

The Maine Title IV-E Foster Care review, which was conducted in Augusta, encompassed a sample of all title IV-E foster care cases open during the period from April 1 through September 30, 2000. A computerized statistical sample of 88 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data that was transmitted by the State Agency to ACF. The sampling frame consisted of cases of individual children who received at least one Title IV-E foster care payment during the six month period noted above. For each case, the child's case file was reviewed for a determination of Title IV-E eligibility and to ensure that the foster home in which the child was placed was licensed for the period of the review.

In preparing for the review, it was discovered that a number of cases included in the initial sample were in fact Adoption Assistance cases and did not receive a IV-E foster care payment during the period under review. A total of 19 cases were dropped from the original sample selection. Fourteen did not receive IV-E payments during the period and five were in adoption placement prior to 4/1/00. These cases were replaced and an additional 14 cases were drawn for a larger oversample pool.

During the initial primary review, 80 cases were reviewed. Of those, 24 were determined to be ineligible for either part or all of the review period for reasons identified in the Case Record Summary of this report. Since the number of ineligible cases exceeded eight, Maine is considered **not to be in substantial compliance**.

Pursuant to Section 1356.71(i), you are required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed jointly by State and federal staff and must be submitted to my office by 90 days from the date of this letter. Following ACF's acceptance of the PIP, the State will have one year to implement the PIP before a secondary review is conducted.

III. STRENGTHS

Criminal records checks were completed for all foster care providers during the period under review. BCFS' requests for fire inspections were documented on MACWIS as timely for many cases, but actual date of fire inspection was not timely.

Further, although the State failed a number of cases due to lack of fire inspections, ACF recognizes that the State has made recent efforts to remedy this deficiency. Numerous steps were taken prior to the on site review and as a result of the Office of Inspector General's (OIG) report on Maine's licensing of foster homes. However, because the period of review predates most of these efforts, the results of these steps were not fully reflected in the cases reviewed. As specified in Commissioner Kevin Concannon's letter to Hugh Galligan, ACF's Regional Administrator, dated February 21, 2001, the State has taken the following steps in response to the OIG report:

1. Assigned a Central Office Program Specialist to oversee the licensing program.
2. Improved communication and increased collaboration with the Fire Marshall's Office.
3. Received authorization for the Fire Marshall's Office to hire three new fire inspectors.
4. Outsourced foster home studies to allow licensing staff to dedicate more time to the re-licensing of foster homes.
5. Increased the term of a foster home license from one to two years.
6. Provided additional training for licensing staff to enable them to complete the necessary tasks more efficiently.
7. Implemented a tracking tool to enable staff to track, organize, and complete licensing tasks in a timely fashion.

Further, ACF recognizes that the State, according to Commissioner Concannon's letter, has a number of efforts underway or planned including:

1. Changes to the SACWIS system which would:
 - Change the automatic notification to the licensing worker that a foster home license is going to expire from the current 90 day notification to 120 days. This will enable them to complete the necessary renewal components in a more timely fashion.
 - Develop an automatic notification system to inform licensing staff when a fire inspection is due.
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 - Automate the IV-E eligibility process.

ACF discussions with BCFS indicate a 10/01/01 deadline is planned for these updates.

2. Changing the licensing period for fire inspections. Fire inspections are currently required on a yearly basis for foster homes licensed for three or more children and every three years for homes with one or two children. A bill was submitted to the legislature to make all fire inspections required for every two years. The State anticipates that this will help ensure that licensing compliance issues are addressed in a timely and coordinated manner as the license renewal and the fire inspections will be on the same cycle.

ACF discussions with BCFS indicate that it is not clear if this legislation has passed.

3. Providing additional licensing training. The State has planned training on
 - Safety Assessment
 - Dynamics of Abuse and Neglect
 - Forensic Interviewing
 - Decision Making and Critical Thinking

These trainings are planned over the coming year.

4. The State is continuing to review and redesign, as necessary, the current system for renewing homes.

IV. AREAS IN NEED OF IMPROVEMENT

Eligibility of Child

- **Determining and Re-Determining Eligibility**

Six cases failed primarily because eligibility was not correctly determined or re-determined. Financial need and/or deprivation did not exist at the time of re-determination in some cases. It appears from conversations while on site for the review that some eligibility staff may not be fully aware of the steps required to re-determine eligibility. Further, it is not clear what steps are taken to ensure that any changes in the family's circumstances that may affect eligibility have been communicated to eligibility staff.

- **Jeopardy Orders**

Three of the ineligible child cases failed either entirely, or in part due to Jeopardy Orders in Maine that acknowledge that a child is in jeopardy, orders a parent(s) to complete certain requirements for rehabilitation, and grants custody to BCFS but allows the state agency the discretion to remove the child should the parent(s) not complete the requirements identified in the court order. Although these orders address reasonable efforts at the time of the order, they do not require BCFS to return to court at the time of removal or at any time thereafter to ensure that reasonable efforts to prevent removal were provided and that allowing the child to remain in his or her home is contrary to his or her welfare.

While judicial proceedings leading to the removal of the child may be initiated with this court order, the court appears to be using the same order to make presumptive contrary to the welfare and reasonable efforts determinations. It is unclear how these orders ensure that the agency has fulfilled their responsibility to have provided services to prevent removal without the Court's further review of the particular circumstances in the home at the time of the removal to determine if removal at this later date is still in the best interests of the child.

Although a parent may request a hearing on the removal, the burden of proof regarding the appropriateness of the removal is shifted from the agency to the parent. However, contrary to the welfare and reasonable efforts requirements are meant to have the agency show to the Court's satisfaction that they have met the state's guidelines for these determinations. PIQ's 84-5, 85-7, and 82-3 address these issues.

- **Age of Child**

In one case, the child reached the age of emancipation (19) and therefore became ineligible, yet claims were submitted for that child for a period after his ineligibility took effect.

Licensing

Eleven cases failed either entirely or in part due to licensing problems. These problems included family foster homes that had had pending licenses for two to four years, no evidence of any licenses, or a failure of the provider to reapply for a license in a timely manner within the time period allotted by state statute. In those family foster homes with pending licenses, there was no evidence that full licensure was ever granted or that an application for renewal was ever submitted.

Fire Inspections

Thirteen cases failed either in part or entirely due to lack of timely fire inspections in foster care facilities. The section on strengths, above, identifies those steps taken by BCFS to date, or planned at this time, to address the fire inspection issue.

V. CASE RECORD SUMMARY

The following details the ineligible cases, reasons for ineligibility and the ineligible claims. Some cases were ineligible for more than one reason. If a case is ineligible for more than one reason, it is noted under the category that reflects the longer period of ineligibility. Although in some cases ineligibility extended beyond the end of the period under review, the disallowance period for these cases was only extended to the end of the review period. It is important to note that the Adoption and Safe Families Act's requirements for full licensure for family foster homes and residential facilities on which IV-E foster care claims are made took effect on 9/27/00. Therefore, family foster homes or residential facilities for which claims were submitted, but did not have full licensure from 9/27/00-9/30/00 are identified as ineligible as well.

Eligibility Issues - 6 Cases \$123,684 Gross \$81,392 FFP

Sample No. 7 Client ID 5945840

The child was determined to be ineligible from 12/20/99 – 9/30/00 due to no removal during part of the period of ineligibility and, although there was a court order indicating reasonable efforts were established, this determination occurred six months prior to the removal of the child. No determination of reasonable efforts occurred subsequent to the removal. During the period of ineligibility, the family foster home provider was also determined ineligible due to lack of fire inspection.

Total IV-E \$478 (\$317 FFP)

Sample No. 10 Client ID 6157811

The child was determined ineligible from 12/3/98 – 9/30/00 due to lack of determination of deprivation at the time of placement. Although BCFS provided documentation that the child's father received AFDC from 2/98- 5/98, these payments stopped in 5/98 due to state code Reason 22 (no child in home). The case record reflects that the child was placed in foster care on 12/3/98, seven months after the father's AFDC payments ceased, however there was no information regarding with whom the child was living at the time of placement. Further, the family foster home provider was not eligible from 2/1/99-5/1/00 due to lack of fire inspection.

Total IV-E \$12,446 (\$8,250 FFP)

Sample No. 15 Client ID 4123902

The child was determined to be ineligible for the period 4/26/99 – 9/30/00 due to a lack of documentation of deprivation and establishment of financial need at time of placement. In addition, the family foster home also lacked full licensure from 9/27/00-9/30/00 (family foster home still had provisional license).

Total IV-E \$8,500 (\$5,632 FFP)

Sample No. 20 Client ID 4067773

The child was determined to be ineligible from 6/29/00 – 9/13/00 on the basis of age. The child turned 19 on 6/29/00, left the family foster home on 8/23/00 yet claims were submitted through 9/13/00.

Total IV-E \$1,282 (\$849 FFP)

Sample No. 26 Client ID 4655154

The child was determined to be ineligible for the period of placement 12/11/96- 9/30/00 because although there was a court order indicating reasonable efforts were established, this determination occurred six months prior to the removal of the child. No determination of reasonable efforts occurred subsequent to the removal.

Total IV-E \$24,988 (\$16,560 FFP)

Sample No. 33 Client ID 4691625

The child was determined to be ineligible for the period 5/22/97 – 9/30/00 due to a lack of documentation of deprivation and establishment of financial need at time of placement. Further, although there was a court order indicating reasonable efforts were established, this determination occurred six months prior to the removal of the child. No determination of reasonable efforts occurred subsequent to the removal. The child was also placed in an unlicensed family foster home from 6/25/00-9/30/00.

Total IV-E \$75,990 (\$49,784 FFP)

Licensing Issues - 9 Cases \$115,317 Gross \$76,413 FFP

Sample No. 1 Client ID 5302930

The child was determined to be eligible however the provider was found to be ineligible for the period 4/28/98 – 9/30/00 due to the family foster home having a pending license since 4/28/98. Further, there was no indication that a full license was ever issued and no applications for license renewal were found in the file.

Total IV-E \$15,319 (\$10,153 FFP)

Sample No. 2 Client ID 4350780

The child was determined eligible, however the residential facility provider was found to be ineligible from 7/19/00-9/30/00 due to lack of application for license renewal.

Total IV-E \$9,486 (\$6,281 FFP)

Sample No. 18 Client ID 3892192

The child was determined to be eligible however the provider was found to be ineligible for the period 8/25/99 –9/30/00 due to lack of license for the facility in which the child was placed.

Total IV-E \$33,824 (\$22,398 FFP)

Sample No. 22 Client ID 3880383

The child was determined to be eligible however, two family foster home providers were determined ineligible, one from 4/1/00 – 4/21/00 due to pending licensure and lack of fire inspection. There was no indication that a full license was ever issued to this family foster home and no applications for license renewal were found in the file. Further, from 4/21/00-9/30/00 the child was placed in an unlicensed family foster home.

Total IV-E \$3,539 (\$2,344 FFP)

Sample No. 35 Client ID 5906165

The child was determined to be eligible however the provider was found to be ineligible for the period 2/24/97–7/16/00 due to family foster home having a pending license since 1996. There was no indication that a full license was ever issued to this family foster home and no applications for license renewal were found in the file.

Total IV-E \$12,758 (\$8,460 FFP)

Sample No. 40 Client ID 5276146

The child was determined to be eligible however the providers were determined ineligible from 5/26/00 – 6/19/00 due to lack of fire inspection for family foster home and from 7/20/00 – 9/30/00 due to lack of license for residential facility.

Total IV-E \$4,914 (\$3,254 FFP)

Sample No. 42 Client ID 5371906

The child was determined to be eligible however the family foster home provider was determined to be ineligible for the period 12/16/98-6/16/00 due to an expired license and lack of application for license renewal.

Total IV-E \$12,146 (\$8,053 FFP)

Sample No. 47 Client ID 5906086

The child was determined to be eligible however the family foster home provider was found to be ineligible for the period 2/24/97-7/16/00 due to lack of license.

Total IV-E \$16,531 (\$10,967 FFP)

Sample No. 50 Client ID 4040597

The child was determined to be eligible however the family foster home provider was found to be ineligible for the period 4/1/00-8/31/00 due to lack of license.

Total IV-E \$6,800 (\$4,503 FFP)

Fire Inspection Issues - 9 Cases \$30,188 Gross \$19,991 FFP

Sample No. 14 Client ID 3901971

The child was determined to be eligible however the family foster home provider was determined ineligible from 12/6/99 – 4/13/00 due to lack of fire inspection.

Total IV-E \$4,939 (\$3,271 FFP)

Sample No. 31 Client ID 6122355

The child was determined to be eligible however the family foster home provider was determined ineligible from 4/1/00 – 8/24/00 due to lack of fire inspection.

Total IV-E \$5,764 (\$3,817 FFP)

Sample No. 36 Client ID 4924735

The child was determined to be eligible however two residential facility providers were determined ineligible, one from 5/9/00 – 6/12/00 and the other from 7/26/00 – 9/14/00 due to lack of fire inspections.

Total IV-E \$5,488 (\$3,634 FFP)

Sample No. 54 Client ID 3941977

The child was determined to be eligible however the family foster home provider was determined ineligible from 4/11/00 – 6/16/00 due to lack of fire inspection.

Total IV-E \$2,723 (\$1,803 FFP)

Sample No. 60 Client ID 6156149

The child was determined to be eligible however the family foster home provider was determined ineligible from 4/1/00 – 6/30/00 due to lack of fire inspection.

Total IV-E \$1,420 (\$940 FFP)

Sample No. 70 Client ID 3933869

The child was determined to be eligible however the family foster home provider was determined ineligible from 4/29/00 – 6/20/00 due to lack of fire inspection.

Total IV-E \$2,170 (\$1,437 FFP)

Sample No. 78 Client ID 3888242

The child was determined to be eligible however the family foster home provider was determined ineligible from 5/10/00 – 5/31/00 due to lack of fire inspection.

Total IV-E \$172 (\$114 FFP)

Sample No. 80 Client ID 3918444

The child was determined to be eligible however two providers were determined ineligible, one family foster home from 6/11/00 – 6/30/00 and one residential facility from 7/20/00 – 9/30/00 due to lack of fire inspections.

Total IV-E \$3,372 (\$2,233 FFP)

Sample No. 83 Client ID 5900975

The child was determined to be eligible however the residential facility provider was determined ineligible from 4/4/00 – 6/9/00 due to lack of fire inspection.

Total IV-E \$4,140 (\$2,742 FFP)

Total Funds Questioned

\$269,189 Gross

\$177,796 FFP

VI. DISALLOWANCE

This primary review included a sample of 80 cases with a total dollar value of \$269,189. The sample was drawn from a universe of cases that received at least one Title IV-E maintenance payment during the six month AFCARS period of April 1 through September 30, 2000. Based upon the results of the review, 24 cases were not eligible for funding under the Title IV-E foster care program. The Federal dollar amount to be refunded to the Administration for Children and Families is \$177,796, the Federal share of the foster care payments for the ineligible cases for the period(s) of ineligibility.