

October 27, 2000

**MONTANA TITLE IV-E
FOSTER CARE ELIGIBILITY REVIEW
October 1, 1999 – March 31, 2000**

I. INTRODUCTION

During September 2000, Administration for Children and Families' (ACF) staff from the Regional and Central Offices, along with the State of Montana staff, conducted an eligibility review of Montana's Title IV-E foster care program.

The purpose of the Title IV-E foster care eligibility review was to validate the accuracy of Montana's claims to assure that appropriate payments were made on behalf of eligible children to eligible homes and institutions.

II. SCOPE OF THE REVIEW

The Montana Title IV-E foster care review, which was conducted in Helena, encompassed all Title IV-E foster care cases during the period from 10/01/99-3/31/2000. A computerized statistical sample of eighty cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data, which 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 maintenance payment during the six-month period noted. For each case, the child's record was reviewed for documentation to support the determination of Title IV-E eligibility and to ensure that the foster home or institution, in which the child was placed was licensed for the period of the review.

The review team was made up of ten individuals: ACF Regional Office staff included: Oneida Little, Nancy McDaniel, an exchange executive from the American Humane Association in Denver, and Team Leader, Judee Filip. Vicki Wright represented the ACF Central Office. The State team members included: Pam Mayer, Serri Dodd, Pat Cahill, Christy Ruckwardt, Debbie Spadt, and Betsy Stimatz. Alan Lloyd (AFCAR data and payment history), Cheryl Berry (IV-E/Office of Public Assistance), and Liz Harter (Licensing), were State staff available for consultation.

During the initial primary review, 80 cases were reviewed. Montana is in substantial compliance with Title IV-E requirements.

III. Case Record Summary

Two cases were determined to be in error. Information on those two cases is as follows:

9PMQBOTRVOKZ

This case was Title IV-E eligible and a foster care payment was made, however, an error occurred when a payment was made to the foster home one week before the child was placed there.

The overpayment amount is \$72.84 for one week of foster care.

UXMQ3JGRV OKY

Regulatory Citation: Section 472(a)(4)(B)(i)

The State determined that this case was not Title IV-E eligible, however, Title IV-E payments were made.

The disallowed amount is \$945.26

THE TOTAL DISALLOWED AMOUNT IS \$1,018.10

IV. Areas in Need of Improvement

We have the following observations and recommendations for the future:

The State is reminded this was an INITIAL PRIMARY REVIEW; since the State was in substantial compliance, i.e., no more than 8 error cases, the next review will be in three years. In the SUBSEQUENT PRIMARY REVIEW 80 cases will also be reviewed, but the tolerance level will decrease to **4 error cases**. It should also be noted that this review did not apply to all the Title IV-E requirements effective on March 27, 2000. The State should continue management attention to assurance of compliance with the recent regulatory changes, which will be reviewed for children coming into care after 1/27/00 in the next Title IV-E review.

Changes are needed in the way children are judicially removed from their homes because of abuse or neglect. Currently, some court orders are issued indicating it is contrary to the welfare of the child to remain at home, but the same court also instructs that the children are to remain in their homes and gives permission for the State to remove the child/ren if necessary. ACF issued policy through PIQ 85-07 which states, "the granting of a petition for protective supervision with the right to place the child is not sufficient to meet [the contrary to the welfare] requirement." The regulation at 45 CFR 1356.21(c) requires that the judicial determination that sanctions the child's removal from home must come in the first order when the child is removed and must contain language to the effect that it is contrary to the welfare of the child to remain in his/her home or that placement would be in the best interest of the child. The regulation further states, "If the determination regarding contrary to the welfare of the child is not made in the first court ruling pertaining to the removal from home, the child is ineligible for Title IV-E foster care maintenance payments for the duration of that stay in foster care." The regulation became

effective March 27, 2000. Any child/ren who fall within the sample in the subsequent review, who were placed after the regulations went into effect and did not have the appropriate judicial determinations, would not be eligible for the entire episode of foster care. We believe the State should take an immediate action to assure conformity to this regulation.

The orders currently do not reflect the circumstances for each individual child. This is another critical issue – court orders should reflect child specificity. It is recommended that the department, with assistance from the Court Improvement Project and/or the ABA continue to work with the courts on the judicial determinations that are issued when children are removed from their homes.

Now that Temporary Assistance for Needy Families (TANF) has replaced Aid to Families with Dependent Children (AFDC), training efforts should reinforce that Title IV-E eligibility is based on the AFDC July 16, 1996 “look-back” date. We found no errors in this regard, but did see narratives that interchanged AFDC/TANF income as the Title IV-E qualifying income.

Receipt of "AFDC" seemed to be the only reason that the State did not claim Title IV-E reimbursement for one child for several months. We noticed that in several cases, Title IV-E was not claimed until three months after the child entered foster care. As stated in PIQ-91-05, "The purpose of Title IV-E foster care payments is to provide for the maintenance of AFDC-eligible children in foster care when they cannot remain in their own homes. The Title IV-E payment to the foster parents or child care institution to provide for the child's needs is made in lieu of the AFDC payment to the family from which the child has been removed. . . ., FFP under Title IV-E may begin from the first day of placement in the month in which all eligibility criteria are met, regardless of whether an [AFDC] payment has been made on the child's behalf for that month." The State will need to consult its TANF rules to ascertain overpayments to the family from which the child is removed.

The date the State official signed some of the licenses for family foster homes was after the beginning date for the license. The signature and date on the licenses should occur before or on the effective date of the license. Also we found one "provisional" license and warned the State that all homes must be fully licensed before Title IV-E can be claimed.

V. Strengths and Model Practices

The inclusion of State and county staff as members of the review team allowed for a team approach in identifying issues for future training and technical assistance. The State personnel were invaluable to federal staff in locating specific forms and court orders and understanding State policy and procedures as the review was conducted.

Case files indicate the State is progressing towards compliance with the Adoption and Safe Family legislation. Numerous efforts are made to reunify children with their birth families. If this is not possible, other permanent plans are made. Concurrent planning is documented in case files. A number of case files indicate the permanency hearings are being held at 12 months. Many children had been adopted by relatives or foster parents. Completed criminal background

checks for all the foster families providing foster care for the department were included in all State and Tribal records.

Compliance records were well organized and State staff were knowledgeable in policy, practice, and procedures. The design of forms, especially the Title IV-E eligibility determination form was very helpful to the reviewers.