

**VIRGINIA'S TITLE IV-E  
FOSTER CARE ELIGIBILITY REVIEW  
October 1, 2000 – March 31, 2001**

**I. INTRODUCTION**

During the week of September 17, 2001 Administration for Children and Families' (ACF) staff from the Regional and Central Offices and representatives of Virginia's Department of Social Services conducted an eligibility review of Virginia's Title IV-E foster care program in Richmond.

Title IV-E foster care funds enable States to provide foster care for children who were or would have been eligible for assistance under a State's title IV-A plan, as in effect on July 16, 1996, but for their removal from the home. The Social Security Act includes requirements that define the circumstances under which a State must make foster care maintenance payments (section 472(a)), and mandate a child's placement in an approved or licensed facility (sections 472(b) and (c)).

The purpose of the title IV-E foster care eligibility review was (1) to determine if Virginia was in compliance with the child and provider eligibility requirements as outlined in CFR 1356.71 and Section 472 of the Act; and (2) to validate the bases of Virginia's financial claims to assure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

The State was reviewed against the following requirements of the title IV-E section of the Social Security Act:

- (a) The eligibility of the children on whose behalf the foster care maintenance payments are made (section 472(a)(1)-(4) of the Act) to include:
  - 1. Judicial determinations regarding reasonable efforts and contrary to the welfare in accordance with 45 CFR 1356.21(b) and (c), respectively;
  - 2. Voluntary placement agreements in accordance with 45 CFR 1356.22;
  - 3. Responsibility for placement and care vested with the State Agency in accordance with section 472(a)(2) and 45 CFR 1356.71(d)(iii);
  - 4. Placement in a licensed foster family home or childcare institution as defined in section 472(b) and (c); and,
  - 5. Eligibility for AFDC under such State plan as was in effect on July 16, 1996 in accordance with section 472(a)(4) and 45 CFR 1356.71(a)(v).
- (b) Allowable payments made to foster care providers who comport with sections 471(a)(10), 471(a)(20), 472(b) and (c) of the Act and 45 CFR 1356.30.

## II. SCOPE OF THE REVIEW

The Virginia Title IV-E foster care review encompassed a sample of all the title IV-E foster care cases that received a foster care maintenance payment during the period of October 1, 2000 to March 31, 2001. A computerized statistical sample of 120 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which was transmitted by the State agency to the Administration for Children and Families. The child's case file was reviewed for the determination of title IV-E eligibility and the provider's file was reviewed to ensure that the foster home or child care institution in which the child was placed was licensed for the entire period of the review.

During the initial primary review, 80 cases were reviewed. Five cases were determined to be in error for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report. Since the number of error cases was less than nine, Virginia is considered to be in substantial compliance.

## III. CASE RECORD SUMMARY

The following details the error cases and reasons for the error, erroneous dollars, and appropriate citations:

<b>Case Number</b>	<b>Reason Case Was Not Eligible</b>
5	<ol style="list-style-type: none"><li>1. The court order removing the child did not address contrary to the welfare of the child.</li><li>2. There was no court order that addressed reasonable efforts to prevent removal or reasonable efforts to reunify the child and his family.</li></ol>
10	There was no court order that addressed reasonable efforts to prevent removal or reasonable efforts to reunify the child and his family.
24	The provider was not licensed or approved for a seven-month period during which time title IV-E was claimed by the State.
46	There was no judicial determination regarding the child's best interest within 180 days of the date of the child's voluntary placement.
81	<ol style="list-style-type: none"><li>1. Neither financial need nor deprivation was determined to exist throughout the entire review period.</li><li>2. The foster family provider was not fully licensed or approved during a period of time the child was placed in the home.</li></ol>

## IV. STRENGTHS AND MODEL PRACTICES

Several strengths were identified over the course of the title IV-E review. These include the following examples of good practice:

- The case record review found that children's placements were generally very stable. Of the cases reviewed, 75% did not have any placement changes for the period under review. Only 5% of the cases reviewed had more than two placement changes during the review period.

- 85% of the total number of placements for the cases reviewed were foster family homes certified by either the local Department of Social Services staff or licensed child placing agencies. This shows a concerted effort by the State to keep children in the least restrictive placements available that can appropriately meet their needs.
- Licensing and certification information was generally up to date and complete. Foster home certification information was well documented with only two cases in the review having provider certification lapses.
- Criminal record checks were found for all foster homes in the cases reviewed. These checks were thorough and complete. In addition the licensing files of the child care institutions in which children were placed contained documentation that safety considerations with respect to the staff/caretakers have been addressed by the State.
- The eligibility review process in Virginia is comprehensive and well done. Initial eligibility determinations were completed in a timely manner. The documentation used to evaluate the child's eligibility was well documented. In addition, redeterminations of the child's eligibility were completed on a regular basis and included in the child's case record.
- The review also found that there is a strong effort by the local Department of Social Services' staff to move children through the foster care system to termination of parental rights and adoption in Virginia.

## V. AREAS OF CONCERN

Although Virginia was found to be in substantial compliance with the regulations governing the title IV-E foster care maintenance program, the review did identify some areas that need improvement. These issues include the following:

- The sample of cases that were reviewed was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data that is transmitted by the State agency to the Administration for Children and Families. The validity of this sample depended on the accuracy with which Virginia completed AFCARS data *element #59, Title IV-E Foster Care*. If title IV-E foster care maintenance payments were paid on behalf of the child, the data element should have been coded as "1" while if title IV-E foster care maintenance payments were not paid on behalf of the child, the data element should have been coded as a "0". There were 17 cases included in the sample that were coded in data element #59 as "1" although no IV-E foster care maintenance payment was made during the review period. These cases were therefore removed from the sample and additional cases were substituted. Virginia will have to make adjustments in the data sent to AFCARS to ensure that this type of discrepancy does not occur in future AFCARS reports.
- As required for enhanced funding of a Statewide Automated Child Welfare Information System (SACWIS), the OASIS system developed by Virginia must include the functionality described in 45 CFR 1355.53(b) and (g) which require that the system maintain and link variable and static data used to determine eligibility for title IV-E payments and establish data entity relationships between providers, clients, and payments. In addition the SACWIS system should account for appropriate financial reconciliation of payments including overpayments and recovery by occurrence. Currently, eligibility determination functionality is not included in Virginia's OASIS and each locality has a different payment system that is not incorporated into OASIS.

- In order to sustain ongoing title IV-E foster care eligibility, there must be a judicial determination every twelve months, subsequent to the initial judicial determination, of reasonable efforts to finalize the permanency plan while the child is in foster care. If this judicial determination is not made within the specified time frame, the child becomes ineligible from the end of the month in which the most recent judicial determination of reasonable efforts to finalize the permanency plan was due, but not made, and remains ineligible until such a judicial determination is made. At least 15 out of the 80 cases reviewed did not have judicial determinations regarding reasonable efforts to finalize the child’s permanency plan. Many of these cases were children who were in permanent foster care placements. All children in foster care are now required to have annual permanency hearings, until the child leaves the foster care system, to determine if the State is making reasonable efforts to finalize their permanency plans. Children in permanent foster care are no longer exempt from this requirement. Because this change in regulation did not take effect until April 1, 2001, Virginia was not penalized on the cases that did not have annual permanency hearings. It is important to note that some judicial circuits are holding permanency hearings for children in permanent foster care.
- 45 CFR section 1355.20(a) states that the “date a child is considered to have entered foster care means the earlier of: the date of the first judicial finding that the child has been subjected to child abuse or neglect; or, the date that is 60 calendar days after the date on which the child is removed from the home pursuant to §1356.21(k). A State may use a date earlier than that required in this paragraph, such as the date the child is physically removed from the home. This definition determines the date used in calculating all time period requirements for the periodic reviews, permanency hearings, and termination of parental rights provision in section 475(5) of the Act and for providing time-limited reunification services described at section 431(a)(7) of the Act.” The information provided by Virginia states that a child is considered to have entered foster care at disposition, which is usually 60-75 days after placement of the child. The State’s timeframe for calculating the date a child entered foster care is therefore not congruent with the federal regulations as stated above.
- If a child entered care prior to March 27, 2000, the effective date of the final child welfare regulations, the judicial determination that continuation in the home is contrary to the child’s welfare must result from court proceedings that are initiated no later than six months from the date the child is removed from the home. For a child who entered foster care on or after March 27, 2000, the judicial determination regarding “contrary to the welfare” must be made in the first order that sanctions the child’s removal from the home, even if the order is an emergency order. The determination must be child-specific and may not merely reference State statutes governing removals. In many of the cases reviewed, children were removed pursuant to an emergency court order prior to March 27, 2000 that gave the local Department of Social Services emergency custody. These court orders often did not contain the appropriate child specific language but simply referenced the State’s statute. In some cases a Nunc pro tunc order was used in an attempt to include the appropriate language. These orders are no longer acceptable after March 27, 2000. Although this was not a factor in the cases reviewed because most of those children entered foster care prior to March 27, 2000, the State must work to ensure that the appropriate child specific language is contained in emergency removal orders for cases after March 27, 2000.
- If a child entered care prior to March 27, 2000, the judicial determination that reasonable efforts were made to prevent removal or that reasonable efforts were made to reunify the

child and family satisfies the reasonable efforts requirement for eligibility. For a child who entered foster care on or after March 27, 2000, the judicial determination that reasonable efforts to prevent removal were made or not required must be made no later than 60 days from the date of the child's removal from the home. The determination must be child specific and may not merely reference the State's statutes pertaining to removals. In many of the cases reviewed, children were removed pursuant to an emergency court order prior to March 27, 2000 that gave the local Department of Social Services emergency custody. These court orders often did not contain the reasonable efforts determination and did not contain the appropriate child specific language but simply referenced the State's statute. It is important to note that some courts are individualizing their orders to make them specific to the individual child's situation. Although this was not a factor in the cases reviewed because most of those children entered foster care prior to March 27, 2000, the State must work to ensure that the appropriate child specific language is contained in an order no later than 60 days from the date the child is removed from the home for cases after March 27, 2000.

## VI. DISALLOWANCES

The review included a sample of 80 cases. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the six month AFCARS period of October 1, 2000 to March 31, 2001. Based upon the results of the review, the State of Virginia has been determined to be in substantial compliance. However, five cases were not eligible for funding under title IV-E foster care. A disallowance is assessed for the total Federal Financial Participation (FFP) amount for the entire period of time that these cases were determined to be in error, including administrative costs. Therefore the total disallowance for the five error cases is \$ 32,130.82.

The chart below includes details of each case error rate.

**Virginia Title IV-E Review Unallowable Costs**

<b>Federal Fiscal Year</b>	<b>Sample Case #5</b>	<b>Sample Case #10</b>	<b>Sample Case #24</b>	<b>Sample Case #46</b>	<b>Sample Case #81</b>	<b>Total</b>	<b>Total FFP</b>	<b>FMAP Rate</b>
1998	\$749.04	N/A	N/A	N/A	N/A	\$749.04	\$385.68	51.49%
1999	\$4,108.00	\$9,741.26	N/A	\$3,937.39	N/A	\$17,786.65	\$9,177.91	51.60%
2000	\$4,157.00	\$23,709.25	\$1,458.00	\$4,113.00	\$1,032.00	\$34,469.25	\$17,810.26	51.67%
2001	\$1,720.00	\$2,162.12	\$1,729.94	\$2,214.00	\$1,348.41	\$9,174.47	\$4,756.96	51.85%
<b>Total</b>	<b>\$10,734.04</b>	<b>\$35,612.63</b>	<b>\$3,187.94</b>	<b>\$10,264.39</b>	<b>\$2,380.41</b>	<b>\$62,179.41</b>	<b>\$32,130.82</b>	<b>N/A</b>

Notes: FFP = Federal Financial Participation  
FMAP = Federal Medical Assistance Percentages