

**Virginia Title IV-E Foster Care
Secondary Eligibility Review
Final Report
April 1, 2006 – September 30, 2006**

INTRODUCTION

During the week of March 19, 2007, the Children's Bureau' (CB) staff from the Central and Regional Offices and the Virginia Department of Social Services' (DSS) staff conducted a secondary eligibility review of Virginia's title IV-E foster care program. The purpose of the title IV-E foster care eligibility review was to determine if Virginia was in compliance with the child and provider eligibility requirements as outlined in 45 CFR 1356.71 and Section 472 of the Social Security Act; and to validate the basis of Virginia's financial claims to ensure that appropriate payments were made on behalf of eligible children to eligible homes and institutions.

This secondary review was conducted as a result of the findings of the initial primary title IV-E review that was performed the week of August 23, 2004 in which Virginia was determined not to be in substantial compliance with title IV-E eligibility requirements for the period under review. As required, the State submitted a title IV-E Program Improvement Plan (PIP) to address areas found to be deficient in its foster care eligibility program. The PIP was approved on February 15, 2005 and a final report was submitted on March 15, 2006. The PIP's goals and activities included, but were not limited to the following:

- Enhancing and disseminating policy guidance to local Departments of Social Services that is clear and in compliance with Federal law;
- Enhancing children's residential facilities safety policies and child placing agency and local department foster home approval policies and procedures to ensure compliance with Federal safety guidelines;
- Implementing a training program to facilitate statewide understanding and consistency in application of title IV-E eligibility policy;
- Partnering with the Court Improvement Program to identify and develop enhancements that will increase accurate and timely completion of court forms;
- Developing and maintaining up-to-date and accurate policy and procedural guidance to local Departments of Social Services;
- Ensuring that existing title IV-E cases comply with State and Federal policy;
- Establishing a Title IV-E Advisory Committee to provide oversight and guidance to VDSS on improvements to the eligibility process and corrective action plan;
- Developing an automated title IV-E eligibility system to enhance accuracy of eligibility determinations;
- Enhancing the IV-E payment documentation process to improve the ability to review title IV-E payments; and
- Developing standardized eligibility case records to improve the ability to review for compliance with title IV-E requirements.

SCOPE OF THE REVIEW

Virginia's secondary title IV-E foster care eligibility review encompassed a sample of all of the title IV-E foster care cases that received a foster care maintenance payment during the period of April 1, 2006 through September 30, 2006. A computerized statistical sample of 180 cases (150 cases plus 30 over sample cases) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submission which was transmitted by the State agency to CB for the period under review. Of the 30 over sample cases, twenty-five cases were selected for the review to replace cases in which it was found that Virginia had not made title IV-E foster care maintenance payments during the period under review.

During the on-site review each child's case file in the selected sample was reviewed to determine title IV-E eligibility. The provider's file was examined to ensure that the foster home or child care institution in which the child was placed during the period under review was licensed or approved and that safety considerations were appropriately addressed. Payments made on behalf of each child were also reviewed to verify that the expenses were allowable under title IV-E. Efforts were made to identify any underpayments that may exist in the reviewed sample cases. In addition, CB and DSS agreed that, subsequent to the on-site review, Virginia would have several weeks in which to submit additional child and provider documentation for any case that was found to be in error, in undetermined status, or to have an ineligible payment. As a result of the provision of additional documentation, a number of case and payment determinations were modified.

For a secondary review, substantial compliance means that either the case error rate or the dollar error rate does not exceed ten percent. As a result of the secondary title IV-E foster care eligibility review conducted in Virginia, six cases were found to be in error for either part or all of the period under review for reasons that are identified in the Case Record Summary section of this report. The dollar value of the sample was \$554,595 in Federal Financial Participation (FFP) for the total payments made during the period under review with the error cases totaling 4.09 percent. This data disclosed that Virginia's dollar error rate was less than ten percent and the case error rate was less than ten percent. Therefore, Virginia is considered to be in substantial compliance with title IV-E child and provider eligibility requirement as outlined in 45 CFR 1356.71 and Section 472 of the Social Security Act. This represents a major improvement from the case findings obtained in the primary title IV-E foster care eligibility review conducted in the State during August of 2004.

In addition to the six cases with errors, 25 cases were identified that contained ineligible payments. Although these cases are not considered error cases for determining substantial compliance, the ineligible maintenance payments and the associated administrative costs are subject to disallowance. A disallowance in the amount of \$168,706 FFP for maintenance payments and \$224,483 FFP for administrative costs are assessed for the error and non-error cases with ineligible payments. The total disallowance as a result of this review is \$393,189 FFP. Please refer to the letter transmitted with this report for further information on the disallowance and to the Disallowance section of this report.

CASE RECORD SUMMARY

Error Cases

The following chart provides details for the six cases containing errors, the reasons for ineligibility, the appropriate Federal citations, the dates of ineligibility, and the total disallowance amounts.

Case Number	Reason For Ineligibility Ineligibility Period	Federal Citation	Maintenance Payment FFP*	Administrative Cost FFP*
94	AFDC Eligibility (7/07/06 – 7/31/06) Placement and Care Responsibility Vested with the State Agency (7/07/06 – 7/31/06)	477(a)(1) 472(a)(4) 1356.71(d)(1)(v) 472(a)(2)(B) 1356.71(d)(1)(iii)	\$593	\$773
108	Safety Requirements for Foster Care Provider (6/05/06 – 06/22/06)	471(a)(20) 1356.30	\$932	\$773
112	AFDC Eligibility (3/10/05 – 2/28/07)	472(a)(1) 472(a)(3) 1356.71(d)(1)(v)	\$5,112	\$18,443
119	AFDC Eligibility (8/22/03 – 2/28/07)	477(a)(1) 472(a)(4) 1356.71(d)(1)(v)	\$33,254	\$31,258
OS 24	Safety Requirements for Foster Care Provider (1/25/06 – 5/02/06)	471(a)(20) 1356.30	\$12,495	\$2,319
OS 25	Ineligible Payment (2/01/06 – 7/01/06)	472(a)(1)- (4),(e)(f)&(g)	\$11,125	\$3,865
Total			\$63,511	\$57,431
Grand Total for Error Cases			\$120,942	

*Amounts rounded to nearest dollar.

Ineligible Payment Cases

The following chart provides details for the 25 cases containing ineligible payments, the reasons for ineligibility, the appropriate citations, the dates of ineligibility, and the disallowance amount.

Case Number	Reason For Ineligibility Ineligibility Period	Federal Citation	Maintenance Payment FFP*	Administrative Cost FFP*
15	Reasonable Efforts to Make and Finalize a Permanency Plan (4/01/01 – 10/31/01)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$17,248	\$3,875

Case Number	Reason For Ineligibility Ineligibility Period	Federal Citation	Maintenance Payment FFP*	Administrative Cost FFP*
17	Reasonable Efforts to Make and Finalize a Permanency Plan (4/01/01 – 1/30/03)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$4,166	\$14,479
18	Reasonable Efforts to Make and Finalize a Permanency Plan (4/01/01 – 11/30/02 & 1/01/05 – 1/31/05)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$3,792	\$13,856
21	Placement In a Licensed Foster Family Home (12/01/05 – 12/31/05)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv) 1355.20	\$156	\$773
32	Reasonable Efforts to Make and Finalize a Permanency Plan (4/01/01 – 11/30/03 & 1/01/05 – 1/31/05)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$5,947	\$22,071
37	Placement and Care Responsibility Vested with the State Agency (11/19/06 – 11/30/06)	472(a)(2)(B) 1356.71(d)(1)(iii)	\$199	\$0
45	Ineligible Payment (4/19/04 – 4/30/04 & 4/28/06 – 4/30/06)	472(a)(1)-(4),(e)(f)&(g)	\$66	\$0
55	Ineligible Duplicate Payment (10/01/06 – 11/30/06)	471(a)(10) 471(20) 472(b) & (c) 1356.30	\$326	\$1,600
58	Reasonable Efforts to Make and Finalize a Permanency Plan (4/01/01 – 6/30/02) Ineligible Payment (8/26/05)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2) 472(a)(1)-(4),(e)(f)&(g)	\$9,065	\$9,782
63	Placement In a Licensed Foster Family Home (9/01/96 – 10/31/96) Reasonable Efforts to Make and Finalize a Permanency Plan (4/01/01 – 4/30/03)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv) 1355.20 472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$6,390	\$17,675
65	Placement In a Licensed Foster Family Home (5/24/05 – 7/30/05)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv) 1355.20	\$1,053	\$1,476

Case Number	Reason For Ineligibility Ineligibility Period	Federal Citation	Maintenance Payment FFP*	Administrative Cost FFP*
78	Placement In a Licensed Foster Family Home (8/01/05 – 9/30/05)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv) 1355.20	\$265	\$1,476
81	Ineligible Payment (5/01/05 – 5/31/05)	472(a)(1)-(4),(e)(f)&(g)	\$130	\$738
83	Reasonable Efforts to Make and Finalize a Permanency Plan (11/01/01 – 8/31/05)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$5,386	\$31,971
86	Reasonable Efforts to Make and Finalize a Permanency Plan (9/01/04 – 10/31/04)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$1,046	\$1,407
88	Reasonable Efforts to Make and Finalize a Permanency Plan (4/01/01 – 6/30/02)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$3,580	\$9,782
97	Reasonable Efforts to Make and Finalize a Permanency Plan (3/01/02 – 7/31/04)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$5,939	\$19,811
101	Ineligible Duplicate Payment (11/01/06 – 11/30/06)	471(a)(10) 471(20) 472(b) & (c) 1356.30	\$146	\$800
104	Reasonable Efforts to Make and Finalize a Permanency Plan (4/01/01 – 5/31/02) Safety Requirements for Foster Care Provider (8/29/05 – 9/03/05)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2) 471(a)(20) 1356.30	\$35,383	\$9,124
105	Placement and Care Responsibility Vested with the State Agency (1/18/07 – 1/31/07)	472(a)(2)(B) 1356.71(d)(1)(iii)	\$163	\$0
116	Safety Requirements for Foster Care Provider (2/09/05 – 3/11/05 & 7/05/05 – 8/05/05)	471(a)(20) 1356.30	\$3,303	\$1,476
125	Reasonable Efforts to Make and Finalize a Permanency Plan (5/01/03 – 8/31/03)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$967	\$2,723
143	Reasonable Efforts to Make and Finalize a Permanency Plan (9/01/03 – 9/30/03)	472(a)(1) 471(a)(15)(B)(ii) 471(a)(15)(C) 1356.21(b)(2)	\$172	\$681

Case Number	Reason For Ineligibility Ineligibility Period	Federal Citation	Maintenance Payment FFP*	Administrative Cost FFP*
145	Ineligible Payment (3/13/06)	472(a)(1)-(4),(e)(f)&(g)	\$40	\$0
OS-15	Placement In a Licensed Foster Family Home (8/01/05 – 9/30/05)	472(a)(2)(C) 472(c) 1356.71(d)(1)(iv) 1355.20	\$265	\$1,476
Total			\$105,195	\$167,052
Grand Total for Ineligible Payment Cases			\$272,247	

*Amounts rounded to nearest dollar.

Underpayment Cases

The following chart provides details for the 19 cases containing underpayments in which the child was title IV-E eligible but title IV-E maintenance was not claimed by the State. Virginia may file a claim for these cases once they verify that all eligibility criteria were met.

Reimbursement for these cases in which title IV-E eligible children may be requested only for claims that are within the two-year time limitation as described in 45 CFR 95.7.

Case Number	Maintenance Payment FFP
8	\$566
9	\$150
22	\$186
42	\$50
50	\$44
65	\$642
74	\$122
79	\$40
85	\$1,516
89	\$928
99	\$246
108	\$25
114	\$349
118	\$2,945
145	\$27
OS 2	\$189
OS 5	\$1,676
OS 18	\$225
OS 21	\$3,331
Total FFP	\$13,256

AREAS OF CONCERN

While Virginia has made significant progress in improving its foster care maintenance program over the past several years, there are some areas DSS should continue to focus attention on to further the advancements in the program.

- Court orders do not specify from whom the child is being removed. Reviewers were generally able to gather this information from the petition or court report for the cases in sample. However, in some cases this created a problem when it appeared that the child was not removed from the same specified relative the child had been living with. When a child moves back and forth between his or her parent's home, and/or a different relative's home, it is difficult to ascertain the removal home if it is not clearly indicated in the court order. This also makes it challenging to determine if the child meets AFDC eligibility requirements since the child must be living with the specified relative from whom the child is legally removed in the month of legal removal. Or, the child must have been living with the specified relative, from whom legally removed, at some time within the previous six months of removal and must have been AFDC eligible in that specified relative's home in the month of legal removal to meet title IV-E eligibility requirements. Two cases were found to be errors during the review because the child was not living with and removed from the same specified relative.
- Placement and care responsibility must be vested with the State agency administering the title IV-E plan. In some of the cases reviewed a child had been adopted and the child was still receiving title IV-E foster care maintenance payments rather than title IV-E adoption assistance payments after the adoption was finalized.
- As required by the Social Security Act, the State agency is required to conduct a criminal records check for prospective foster and adoptive parents. The State must also provide documentation that the prospective foster or adoptive parent has not been convicted of any of the felonies enumerated in §471(a)(20) of the Act. Documentation could not specifically be provided to show that foster/adoptive parents had not been convicted of any of the felonies enumerated in the Social Security Act due to Virginia State Law. This has recently been addressed and actual criminal records checks will be in the provider records in the future. For childcare institutions, States are required to set procedures that address safety considerations with respect to the staff of these facilities. The safety requirements must be written into State policy, procedures, or statutes, and incorporated into the licensing documentation. The State agency must provide documentation verifying that safety considerations with respect to the staff of the institutions are satisfied for the duration of the child's placement for the period under review. In addition, the documentation must demonstrate that the staff of the childcare institution meets the safety criteria that the State establishes. If the childcare institution does not meet the safety requirements of the State, title IV-E foster care payments cannot be made on behalf of a child who is placed in the foster care facility. In some of the cases reviewed, the staff in these child care institutions did not meet the safety requirements set out by State law after they were hired and began working in the childcare facility. These staff had criminal records that did not allow them to work in such facilities even though they had already been hired and in some cases had been

working in the facility for several months. These cases were counted either as errors or ineligible for the period of time in which the offending staff were at the facility. Virginia recently passed a law that will not allow child care institutions to hire staff until the required criminal records check have been received back by the facility.

STRENGTHS AND MODEL PRACTICES

- The case record review found that judicial determinations of contrary to the welfare and reasonable efforts to prevent removal were made on a timely basis for all of cases. In general, newer court orders were clear, child-specific, and documented specific reasons for the child's removal.
- A judicial determination regarding reasonable efforts to finalize the child's permanency plan must be made within twelve months of the date on which the child is considered to have entered foster care and at least once every twelve months thereafter while the child is in foster care. During the review, it was found that the judicial determinations on the child's permanency plan, particularly for the period under review, were issued timely and more frequently than is required under title IV-E regulations. While the review identified ineligible payments for cases that did not have the required judicial determination prior to the period under review, overall compliance with this requirement is an improvement over the State's last review.
- It was clear from the review that Virginia is in a transition period with respect to its licensing and approval of foster and adoptive home program. These ongoing efforts will allow the State to ensure that children are placed in fully licensed foster homes and facilities. Federal regulations at 45 CFR 1356.71 require States to include in the foster family home provider license file, the licensing history and a copy of the provider license or letter of approval. The license/letter should include the provider name, starting and ending date of licensure, and some indication of a State agency sanction. At a minimum, this information should be available in the licensing file for every foster family home or child care facility in which the child resided during the period under review. Many of the foster homes approved by the local Departments of Social Services did not contain copies of certificates of approval or letters of approval during the last title IV-E review. As part of the State's Program Improvement Plan, efforts were made to implement a standardized approval letter and certificate. In those cases where the license or approval letter was not available for the review, CB accepted the agency's form that records foster home approval information. In addition, due to State law, while CB could determine that criminal records checks were completed on foster parents, there was no documentation in the record for the majority of the cases that would allow staff to determine that these parents had not been convicted of any of the felonies enumerated in section 471(a)(20)(A)(i) and (ii)the Social Security Act. DSS has worked with the State Police to understand the need to have this documentation in the provider records for review purposes.
- Virginia's review team members were knowledgeable about the fiscal and programmatic aspects of title IV-E eligibility. Also, it appeared that the State's program, fiscal, legal, and

information technology staff have an ongoing collaborative relationship which contributed to successful program improvement. This internal relationship and the partnership with the court, in turn, led to a successful review.

OTHER IDENTIFIED ISSUES

- While the review team was provided with a standardized payment history for each child in foster care, it is clear that the State needs to work with its local offices to monitor and normalize the actual payment system being used by the localities. In some cases, the local offices paid for more than the allowable \$300.00 a year for clothing for a child. Payments for additional daily supervision sometimes amounted to more than three times the amount paid for room and board. Some cases used title IV-E to cover the costs for activities such as education, counseling, and travel other than to the child's home for visits. Additionally, there were several cases that had duplicate payments. Also, different terms were used to denote the same activity. For example, "daily additional supervision" was also called "teaching home services" in one case while "foster care specialized supervision" was used in another. Localities also used separate rates for different facilities and often had their own unique system of payment codes. All of these issues were confusing to reviewers. It is the hope that once payments are included in the State's Statewide Automated Child Welfare Information System (SACWIS) that some of these issues will be resolved.
- Staff did not extend its review beyond the scope of applicable regulatory requirements. However, costs associated with activities including "daily additional supervision," "foster care specialized supervision," and "teaching home services," require further review to determine if they are allowable charges to the title IV-E foster care program. DSS should examine the policies and the practices of local Departments of Social Services and take action as appropriate to correct deficiencies and improper payments if its review discloses non-compliance with title IV-E regulations. The Regional Office will contact DSS staff to formulate a mutually acceptable plan of action to address this situation.

DISALLOWANCE

Virginia's secondary review included a sample of 150 cases with a dollar value of \$554,595 for the period under review. 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 April 1, 2006 through September 30, 2006. Based on the results of the review, Virginia has been found to be in substantial compliance. However, six cases were determined to be in error and an additional 25 cases were identified as having ineligible payments. Therefore, a disallowance in the amount of \$120,942 in Federal Financial Participation (FFP) for title IV-E foster care maintenance payments and related administrative costs for the cases determined to be in error is being assessed for the entire period of time that these cases were determined to be in error. An additional disallowance of \$272,247 in FFP is being assessed for title IV-E foster care payments claimed improperly for the cases determined to be non-error cases. The total disallowance as a result of this review is \$393,189 FFP.

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