

**Final Report**  
**State of New Jersey Title IV-E Foster Care**  
**Secondary Eligibility Review**  
**April 1, 2002 - September 30, 2002**

**Introduction**

During the week of June 2-6, 2003, Administration for Children and Families' (ACF) staff from the Central and Regional Offices and State of New Jersey staff conducted a secondary eligibility review of New Jersey's title IV-E foster care program in Trenton, New Jersey. The purpose of the secondary title IV-E foster care eligibility review was (1) to determine if the State of New Jersey was in compliance with the child and provider eligibility requirements as outlined in 45 CFR §1356.71 and Section 472 of the Act; and (2) to validate the basis of the State's financial claims to ensure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions. ACF has determined the State of New Jersey's title IV-E foster care maintenance program not to be in substantial compliance with Federal child and provider eligibility requirements for the period April 1, 2002 through September 30, 2002.

This secondary review was conducted as the result of the findings of the initial primary title IV-E review which was conducted during the week of September 18, 2000, in which New Jersey was determined not to be in substantial compliance with title IV-E eligibility requirements. As required, New Jersey submitted a title IV-E Program Improvement Plan (PIP) that was approved in March 2001. ACF's approval of the completion of the PIP was based on quarterly progress reports submitted by New Jersey and the final Progress Report dated May 22, 2002, which outlined the completion of all of the identified goals and action steps in the PIP. The PIP goals and activities included, but were not limited to the following:

- Certify 3,000 Division of Youth and Family Services (DYFS) foster homes. Completed December 2000.
- Certify 1,000 contracted and restricted foster homes. Completed February 2002.
- Improve foster home certification record keeping and tracking system. Tracking system implemented in May 2001.
- Continuous monitoring of Court Orders for compliance with title IV-E requirements.
- Completed hiring of title IV-E revenue specialists who have been trained in title IV-E regulations and DYFS policy to ensure compliance by staff.

## **Scope and Results of the Secondary Review**

The State of New Jersey'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, 2002 to September 30, 2002. A computerized statistical sample of 227 cases (150 cases plus 77 over sample cases) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which was transmitted by the DYFS to the ACF for the period under review. Of the 77 over sample cases, 30 cases were selected for review to replace cases in which there had been no title IV-E payment made during the review period, primarily for relative placement cases.

During the on-site review 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 or approved for the period of the review. In addition, subsequent to the on-site review, ACF provided DYFS time to submit any additional child and provider documentation for any case that was found in error. As a result, a number of error cases were reversed and determined title IV-E eligible.

For the secondary review, substantial compliance means that either the case error rate or dollar error rate does not exceed 10 percent. When both the case error rate and dollar error rate of a secondary review exceed 10 percent, a disallowance is based on extrapolation from the sample to the universe of claims paid for the duration of the AFCARS reporting period under review. The extrapolated disallowance is equal to the lower limit of a 90 percent confidence interval for the population's total dollars in error for the amount of time corresponding to the AFCARS reporting period. Further, a disallowance will be assessed on the basis of all payments made during the entire period associated with ineligibility for title IV-E foster care.

The State provided payment and claiming information for all of the reviewed cases. This information included most, but not all, of the payments made for the reviewed cases. Gaps in the payment or the claiming of payments were identified covering periods during which children remained in care for some of the reviewed cases. In addition, a number of cases were identified in which no payments for the review period months were claimed for children receiving services through institutional placements. State officials informed us that institutional billing, State processing (through two agencies) and consequent title IV-E claims for many of these payments do not occur until a year or more after the services are delivered. ACF was also informed that some components of the maintenance payments associated with the State's "Children's Initiative" are not claimed for title IV-E reimbursement. As a result, at the time of review, some of the sampled cases lacked title IV-E claims for a portion of the review period.

The State also indicated that its automated system limits the retrieval of historical title IV-E claiming information on individual payments to approximately the three prior years. State officials made extensive efforts to manually accumulate the needed payment history information for the reviewed cases. This resulted in the identification of most of the

needed payment information. The State also provided information that would permit an analysis of whether the payment amounts were in accordance with the applicable State rates for the type(s) of service.

Based on the review of the 150 sample cases 56 cases were determined to be in error, for either part or all of the review period. This resulted in a case error rate of 37.33%. In addition, ineligible payments of \$889,555 in Federal Financial Participation (FFP) were identified for the reviewed cases for periods prior to the period under review. The reasons for the errors are identified in the Case Record Summary section of the report.

The dollar value of the 150 case sample was \$763,179 of which \$264,444 represent maintenance payments for the 56 error cases and 3 cases with unallowable payments. The dollar error rate is 34.65%. This data indicates that the State of New Jersey’s dollar error rate and the case error rate were both greater than 10 percent. Therefore, the State of New Jersey is considered not to be in substantial compliance with title IV-E child and provider eligibility requirements as outlined in 45 CFSR 1356.71 and Section 472 of the Social Security Act, resulting in a total disallowance of \$6,220,853 FFP.

### Case Record Summary

The following chart details the 56 error cases, reasons for the error, appropriate citations, and the dates of ineligibility for the period under review, as well as the dates of ineligibility for prior and subsequent to the period under review.

Case Count	Sample No.	Title IV-E Eligibility Criterion	Statutory Citation	Ineligibility Dates
1	1	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), 472(a)(1), 471(a)(15)(B)(ii) and (C)	4/1/01 – 7/30/02
		Placement and Care Responsibility Vested with the State Agency	472(a)(2)	4/1/02 – Present
		Aid to Families with Dependent Children (AFDC) Re-determination	472(a)(1) and (4)	4/1/02 – Present
2	5	Reasonable Efforts to Prevent Removals	472(a)(1), and 471(a)(15)(B)(i)	10/19/2001 – Present

3	6	Contrary to the Welfare	472(a)(1)	10/10/00 - Present
		Reasonable Efforts to Prevent Removals	472(a)(1), and 471(a)(15)(B)(i)	10/10/00 – Present
		Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	1/1/02 - 2/28/02 4/1/03 - Present (Payment Error)
		Aid to Families with Dependent Children (AFDC) - Initial Eligibility and Re-determination	472(a)(1) and (4)	10/10/00 – Present
4	10	Contrary to the Welfare	472(a)(1)	7/13/01 - Present
		Reasonable Efforts to Prevent Removals	472(a)(1), and 471(a)(15)(B)(i)	7/13/01 - Present
5	11	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	9/1/02 - 9/27/02
6	15	Voluntary Placement Agreement	472(d), (e), and (f)	4/3/96 – Present
7	18	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	6/22/01 - 7/31/02
8	21	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	8/21/02 - Present
9	22	Voluntary Placement Agreement	472(d), (e), and (f)	10/29/96 - Present
		Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	8/28/00 – Present
10	24	Reasonable Efforts to Prevent Removals	472(a)(1), and 471(a)(15)(B)(i)	7/03/00 - Present
		Placement and Care Responsibility Vested with the State Agency	472(a)(2)	
		Aid to Families with Dependent Children (AFDC) - Initial Eligibility; Re-	472(a)(1) and (4)	

		Determination; and Removal		
11	26	Best Interests Determination	472(d), (e), and (f)	11/7/99 – Present
12	30	Placement in a Licensed Foster Family Home or Child Care Institution  Safety Requirements of Provider	472(a)(3), (b), and (c)  471(a)(20) and 475(1)	2/8/02 – 3/12/03
13	33	Voluntary Placement Agreement  Best Interests Determination  Aid to Families with Dependent Children (AFDC) Initial Eligibility; Re-Determination; and Removal  Placement and Care Responsibility Vested with the State Agency	472(d), (e), and (f)  472(d), (e), and (f)  472(a)(1) and (4)  472(a)(2)	7/7/99 – Present    7/7/99 – 5/25/00 (Payment Error)
14	42	Placement in a Licensed Foster Family Home or Child Care Institution  Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(3), (b), and (c)  472(a)(1), and 471(a)(15)(B)(ii) and (C)	8/9/99 –Present  4/1/01 – 7/30/01 (Payment Error)
15	43	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/01 – Present
16	45	Voluntary Placement Agreement  Best Interests Determination  Placement in a Licensed Foster Family Home or Child Care Institution	472(d), (e), and (f)  472(d), (e), and (f)  472(a)(3), (b), and (c)	4/2/01 - Present   10/23/01 – 2/21/03

17	46	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	11/1/01 - Present
		Aid to Families with Dependent Children (AFDC) Initial	472(a)(1) and (4)	10/21/99 - Present
18	47	Contrary to Welfare	472(a)(1)	3/6/01 - Present
		Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	6/1/02 - 7/30/02
19	51	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/01 - 6/30/02
		Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	5/1/02 - 9/30/02
20	54	Reasonable Efforts to Prevent Removals	472(a)(1), and 471(a)(15)(B)(i)	12/01/00 - 1/1/03
21	59	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	3/1/02 - 7/30/02
22	69	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	5/5/00 - Present
23	71	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	3/22/02 - 5/3/02
		Criminal Records Check	471(a)(20) and 475(1)	3/22/02 - 5/3/02 7/29/02 - Present
24	72	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	7/24/01 - 9/30/02
		Criminal Records Check	471(a)(20) and 475(1)	
25	74	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	5/1/02 - 6/30/02
26	83	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	5/1/02 – Present
27	89	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	6/1/02 - 8/21/02

28	91	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	12/1/01 - Present
		Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	10/31/01 - Present
29	95	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	8/1/02 - Present
		Voluntary Placement Agreement	472(d), (e), and (f)	10/19/98 – Present
30	99	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	9/30/93 - Present
		Aid to Families with Dependent Children (AFDC) Initial	472(a)(1) and (4)	3/23/93- Present
31	100	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	1/1/02 - 10/30/02
32	103	Aid to Families with Dependent Children (AFDC) Initial and Re-Determination	472(a)(1) and (4)	9/30/96- Present
		Best Interests Determination	472(d), (e), and (f)	3/29/97 – Present
33	104	Best Interests Determination	472(d), (e), and (f)	6/21/99- Present
34	106	Best Interests Determination	472(d), (e), and (f)	12/5/96- Present
		Aid to Families with Dependent Children (AFDC) Re-Determination	472(a)(1) and (4)	1/22/00 - 9/30/02
35	115	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	10/25/01 – Present

36	116	<p>Contrary to Welfare</p> <p>Reasonable Efforts to Prevent Removals</p> <p>Placement and Care Responsibility Vested with the State Agency</p> <p>Reasonable Efforts to Make and Finalize a Permanency Plan</p>	<p>472(a)(1)</p> <p>472(a)(1), and 471(a)(15)(B)(i)</p> <p>472(a)(2)</p> <p>472(a)(1), and 471(a)(15)(B)(ii) and (C)</p>	<p>9/10/99 - Present</p> <p>9/10/99- Present</p> <p>4/1/02 - Present</p> <p>5/1/01 - Present</p>
37	117	<p>Placement in a Licensed Foster Family Home or Child Care Institution</p> <p>Reasonable Efforts to Make and Finalize a Permanency Plan</p> <p>Aid to Families with Dependent Children (AFDC) Re-Determination</p>	<p>472(a)(3), (b), and (c)</p> <p>471(a)(15)(B)(ii) and (C)</p> <p>472(a)(1) and (4)</p>	<p>5/3/02 - Present</p> <p>4/1/01 - Present</p> <p>4/1/02 - Present</p>
38	126	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	6/12/98 – Present
39	129	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	7/10/02 - Present
40	130	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	4/20/99 - Present



41	133	<p>Contrary to Welfare</p> <p>Reasonable Efforts to Prevent Removals</p> <p>Placement in a Licensed Foster Family Home or Child Care Institution</p> <p>Criminal Records Check</p> <p>Aid to Families with Dependent Children (AFDC) Initial and Re-Determination</p> <p>Reasonable Efforts to Make and Finalize a Permanency Plan</p>	<p>472(a)(1)</p> <p>472(a)(1), and 471(a)(15)(B)(i)</p> <p>472(a)(3), (b), and (c)</p> <p>471(a)(20) and 475(1)</p> <p>472(a)(1) and (4)</p> <p>472(a)(1), and 471(a)(15)(B)(ii) and (C)</p>	<p>From date of child's placement, which is possibly 2/3/99 – Present</p> <p>4/1/01 - Present</p>
42	136	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	7/2/01 –Present
43	137	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	7/6/01 - 8/20/02
44	138	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	5/24/02 - Present
45	144	Aid to Families with Dependent Children (AFDC) Removal	472(a)(1) and (4)	1/10/01 – Present
46	145	<p>Reasonable Efforts to Make and Finalize a Permanency Plan</p> <p>Placement and Care Responsibility Vested with the State Agency</p>	<p>472(a)(1), and 471(a)(15)(B)(ii) and (C)</p> <p>472(a)(2)</p>	<p>4/1/02 - Present</p> <p>7/24/94 – Present</p>
47	OS 3	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/02 – 3/31/03
48	OS 5	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	6/1/00- 7/31/02
49	OS 6	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	7/26/01 – 5/6/03

50	OS 7	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/01–7/30/02
51	OS 18	Voluntary Placement Agreement	472(d), (e), and (f)	5/24/96 – Present
		Best Interests Determination	472(d), (e), and (f)	6/3/00 - Present
		Placement and Care Responsibility Vested with the State Agency	472(a)(2)	
52	OS 19	Voluntary Placement Agreement	472(d), (e), and (f)	5/27/98 – Present
53	OS 20	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	2/1/02 – Present
54	OS 25	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/01 – Present
55	OS 34	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/01 – Present
56	OS 36	Placement in a Licensed Foster Family Home or Child Care Institution	472(a)(3), (b), and (c)	3/31/01 – 8/30/02

## Areas in Need of Improvement

The areas needing improvements in New Jersey’s title IV-E program are provided in the following sections. Under each heading the statutory and regulatory basis and the specific results from the review are provided.

**I. Removal Pursuant to a Court Order** - Removal of the child from the home must be pursuant to a judicial determination or a voluntary placement agreement. The contrary to the welfare determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. The judicial determination that reasonable efforts to prevent removal were made (or were not required) must be made no later than 60 days from the date of the child's removal from home. Judicial determinations must be made in a timely manner in a valid court order. [Statutory Citation: 472(a) (1), 471(a) (15) (B) (I); Regulatory Citation: §1356.21]

For a child who enters care prior to March 27, 2000: If the removal order does not contain the judicial determination regarding “contrary to the welfare”, the requisite finding may result from court proceedings (the petition filed) that are initiated no later

than 6 months from the date the child is removed from home, consistent with Departmental Appeals Board Decision Number 1508 (DAB 1508). The Departmental Appeals Board, through DAB 1508, ruled that a petition to the court stating the reason for the State agency's request for the child's removal from home, followed by a court order granting custody to the State agency, is sufficient to meet the contrary to the welfare requirement. 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.

### **Contrary to Welfare/Best Interests of the Child**

Five (5) cases were found ineligible for Federal Financial Participation (FFP) because either: 1) the case record did not contain the removal petition or court order and a determination could not be made regarding contrary to welfare; or 2) the judicial determination was not made in a timely manner.

### **Reasonable Efforts to Prevent Removal/Reasonable Efforts to Reunify Child and Family**

Seven (7) cases were determined ineligible for FFP because either: 1) the case record did not contain the court order and a determination could not be made regarding reasonable efforts to prevent removal or reunify child and family; or 2) the judicial determination was not made in a timely manner.

**II. Ongoing Judicial Activity** - In order for a child to be eligible for title IV-E payments, there must be a judicial determination that reasonable efforts were made to finalize the child's permanency plan that is in effect. The permanency plan goal may be: reunification, adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement. 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.

If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within this timeframe, the child is ineligible at the end of the 12th month from the date the child was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due. The child remains ineligible until such a judicial determination is made. This requirement may also be satisfied by a judicial determination that reasonable efforts were made to reunify the child and family. [Statutory Citation: 472(a) (1), 471(a) (15) (B) (ii) and (C); Regulatory Citation: 1356.21(b) (2)]

### **Reasonable Efforts to Finalize the Permanency Plan**

Twenty-two (22) cases were determined ineligible for FFP because either: 1) the case record did not contain the court order and a determination could not be made regarding

reasonable efforts to finalize the permanency plan; 2) the judicial determination was not made in a timely manner; or 3) the court order did not contain a reasonable efforts determination regarding the State's efforts to finalize the child's permanency plan.

For a child who enters foster care prior to March 27, 2000, a judicial determination that reasonable efforts were made to finalize the child's permanency plan must have occurred by March 27, 2001. If not made by March 27, 2001, the child becomes ineligible for title IV-E foster care payments from April 1, 2001 until the judicial determination requirement is met. It was determined that in 6 cases, the requisite judicial determination regarding reasonable efforts to finalize the permanency plan did not occur by March 27, 2001. The following chart represents cases that were determined as a non-error case for the PUR, however an ineligible payment was claimed prior to the period under review.

<b>Case Count</b>	<b>Sample No.</b>	<b>Title IV-E Eligibility Criterion</b>	<b>Statutory Citation</b>	<b>Ineligibility Dates for Payment Error</b>
1	40	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/01/01 - 8/31/01
2	53	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/01 – 10/31/01
3	79	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/01 – 8/30/01
4	105	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	7/1/01 – 3/31/02
5	OS9	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	11/1/01 – 3/31/02
6	OS36	Reasonable Efforts to Make and Finalize a Permanency Plan	472(a)(1), and 471(a)(15)(B)(ii) and (C)	4/1/01 – 2/28/02

Based on the cases reviewed, it appeared that permanency hearings were being conducted by the NJ Family Courts. However, reviewers found that court orders often did not contain a judicial determination regarding the efforts of the State to achieve permanency for the child. It was noted that in some court orders the “Reasonable Efforts” section of the court order was either left blank or “Not Applicable” was indicated.

It is ACF's understanding that State staff and the NJ Administrative Office of the Courts are working to correct and improve the issues regarding judicial determinations. The State must continue to emphasize to all DYFS staff, family court judges, and staff of the Family Court system the importance of the Federal requirements regarding judicial

determinations. There must be a clear understanding that court orders must contain the necessary judicial findings regarding contrary to welfare, reasonable efforts to prevent removal or reasonable efforts to reunify, and reasonable efforts to finalize the child's permanency plan. These findings must be rendered in a timely manner, child specific, explicitly documented, and maintained in the case record.

**III. Voluntary Placements** - Title IV-E payments may be made on behalf of a child who is in foster care pursuant to a voluntary placement agreement only for the first 180 days of the foster care placement, unless there is a judicial determination that the continued voluntary placement is in the child's best interests. A valid voluntary placement agreement must be signed by the parent or legal guardian and the title IV-B/IV-E agency representative(s). [Statutory Citation: 472(d) (e) and (f); Regulatory Citation: §1356.22]

Seven (7) cases were determined ineligible for FFP because either 1) the court finding was not obtained within 180 days of placement; 2) the case record did not contain the court order and a determination could not be made regarding the best interest finding; or 3) the court order did not contain a best interest finding.

Seven (7) cases were determined ineligible for FFP because either: 1) the voluntary placement agreement was not signed by the parent or legal guardian; 2) the case record did not contain the voluntary placement agreement; or 3) the voluntary placement agreement was not signed by all the required parties.

The State must re-emphasize to all staff that court orders and voluntary placement agreements must be maintained and that a valid agreement is required for title IV-E reimbursement. Documentation may also be maintained electronically.

**IV. AFDC Eligibility** - Using its criteria in effect in its July 16, 1996 title IV-A State plan (or, if removal was prior to the effective date of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWORA] the title IV-A State Plan in effect at the time), 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 in the month the voluntary placement agreement was signed or the month in which the petition that resulted in a court-ordered removal was signed. Deprivation must be by reason of death, absence, physical or mental incapacity of one parent, or the unemployment of the principal wage earner. In addition, the "living with" and "removal from" requirements have to be satisfied by the same specified relative. [Statutory Citation: 472(a) (1) and (4); Regulatory Citation: 1356.71(d) (1) (v)]

#### **Eligibility for AFDC at Removal**

Eight (8) cases were determined ineligible for FFP because: 1) the necessary documentation was not provided to determine whether the child received AFDC at the time of placement, or would have received AFDC within 6 months of placement based on financial need and deprivation of parental support; 2) the child was not removed from the

home of a specified relative; or 3) the “living with” and “removed from” criteria were not met by the same specified relative.

### **Re-Determination of AFDC Eligibility**

For a child in foster care longer than 1 year, the State must document annually that the child continues to be financially needy and deprived of parental support or care, using the State's criteria in effect in its July 16, 1996, or earlier, title IV-A State plan. The basis for the determination of financial need is the child in foster care as his/her own assistance unit. The basis for the deprivation of parental support is the home from which the child was removed.

Eight (8) cases were determined ineligible for FFP because for the period under review the case record did not contain the necessary documentation that the child continued to be financially needy and deprived of parental support or care.

It was observed by the review team that the AFDC determinations were not being made at the time of the child’s placement, adequately documented; and/or maintained in the case record. Of the cases reviewed, over 50% of the AFDC determinations had been reconstructed by the State in early calendar year 2003. Reconstruction of AFDC eligibility often resulted in staff not having all of the necessary information to properly document the AFDC determination. It was noted that the case information regarding the financial needs and deprivation factors of the family was not always available to reconstruct AFDC eligibility. DYFS Service Information System (SIS) and the Labor LOOP system were relied on to verify income and wage information to determine financial need, however, factual information or documentation concerning the family living arrangements and household situation were not available. Deprivation determinations were often based on assumptions about the parents circumstances. For example, if a parent was a substance abuser, the State assumed that the parent had a mental incapacity, or if the parent was not in his/her own home, the State assumed the children were homeless.

There appears to be an over reliance on the SIS and LOOP systems. AFDC determinations must be based on the home from which the child is removed, not merely the home the child was living in at the time of foster care placement, and based on the factual circumstances of the family. Further, eligibility must be based on the AFDC criteria in effect July 16, 1996, or earlier not the current TANF Program.

The State must stress to staff the impact on Federal reimbursement if the necessary AFDC determinations are not made, made incorrectly, or if the documentation is not maintained in the case record. ACF recommends that the State's eligibility determination form be revised and expanded in order to document in a clear and concise manner the basis and supporting sources of AFDC eligibility based on the criteria in effect July 16, 1996 or at the time of removal if foster care placement occurred on an earlier date.

**V. State Agency Responsibility for Placement and Care** - Title IV-E payments can

only be made for a child's placement and care that is under the responsibility of the State agency administering the title IV-E State Plan (or another public agency, including an Indian tribe, with which the title IV-E agency has a written agreement that is in effect). The court order or voluntary placement agreement must indicate that the agency has this responsibility. [Statutory Citation: 472(a) (2); Regulatory Citation: 1356.71(d) (1) (iii)]

Six (6) cases were determined ineligible for FFP because the review results indicated that: 1) responsibility for placement and care had been given to a foster care parent in a long-term foster care agreement, or 2) the court order could not be located for review, thus it could not be determined if the child was under the responsibility of the State agency or if the State maintained responsibility for placement and care of the child during the review period.

In order to receive Federal financial reimbursement for foster care placement, the State agency must maintain responsibility for placement and care regardless of the placement type. In addition, the court order giving the State agency placement and care responsibility must be maintained and available for review.

**VI. Placement in Licensed Home or Facility** [Statutory Citation: 1356.71(d) (1) (IV), Regulatory Citation: 1355.20]

In order to receive Federal financial reimbursement for foster care payments made on behalf of a child, the child must be placed in a facility that is licensed and meets all of the State agency standards of full licensure or approval. The documentation of full licensure can be satisfied by the certificate of licensure/approval or a letter of approval. Effective September 28, 2000, full licensure must be met by all providers, including those licensed or approved by a child placing agency. The license must show that the foster family home or child care institution is licensed for the duration of the child's placement.

An eligible facility may be a family foster home, group home, private child care institution, or public child care institution which accommodates 25 or fewer children. Children placed in detention facilities, forestry camps, training schools, or other facilities operated primarily for the detention of children determined to be delinquent are not eligible for title IV-E foster care maintenance payments. For each case being reviewed, the State agency must make available a licensing file which contains the licensing history, including a copy of the certificate of licensure/approval or letter of approval, for each of the child's foster care providers.

Twenty-six (26) cases were found ineligible for FFP because either the: 1) facility or foster family treatment or pre-adoption home was not licensed; 2) the licensing information was not provided; 3) the license expired and was not renewed; or 4) the child had been placed in an out-of-state foster family home and the home was not been licensed by either New Jersey or the receiving State.

In accordance with Federal regulations and policy, prior to the finalization of an adoption, title IV-E eligible children placed in adoptive homes may receive foster care

maintenance payments if the home is licensed for foster care. The pre-adoption cases identified in the sample were never licensed by the State as a foster family home and are therefore ineligible for FFP.

It is recommended that New Jersey review its current licensing requirements and practices for all foster care providers to assure that each and every provider, in which a foster care child is placed, is licensed and a criminal background check is conducted. Specifically, the State should revise current policy that allows individual foster family treatment homes, and certain pre-adoption homes not to be licensed. The current practice adversely impacts title IV-E reimbursement for an otherwise eligible child, and can potentially impact Federal reimbursement for any warranted future subsidized adoption payment.

**VII. Safety Requirements of Provider** [Statutory Citation: 471(a)(20), 475(1); Regulatory Citation: 1356.30]

Unless the State opts out of the criminal records check provision, the State must provide documentation that criminal record checks have been conducted with respect to prospective foster and adoptive parents. Acceptable documentation to satisfy this eligibility requirement is evidence that a criminal records check was completed satisfactorily (such as copies of the results of the criminal records check). The licensing file must document the results of the record check. For child care institutions, the licensing file must contain documentation verifying that safety considerations with respect to the staff of the institution have been addressed.

In three (3) cases, it was determined that criminal background checks were not completed for foster family parents. It should be noted that these providers had also not been properly licensed. Also documentation regarding the safety considerations for staff of one (1) child care institution was not provided.

It is an integral part of the child welfare system that children are placed in licensed facilities, and that criminal background checks and verification of safety considerations are performed. NJ must renew its efforts to ensure that all providers are properly licensed, that licenses are renewed in a timely manner, and that criminal background checks and safety considerations are completed, well-documented, and maintained in the file.

**VIII. Unallowable Payment** – Title IV-E foster care maintenance assistance payments may only cover the costs of providing certain items encompassed within the definition of this term. [Statutory Citation: 475(4); Regulatory Citation: 1356.60(a)(i)]

The State must document that foster care maintenance payments claimed for title IV-E reimbursement are for items or services encompassed within the statutory definition of this term, are in amounts conforming with the State established rates of payment for the type and level of care provided and reflect non-duplicative amounts of the costs of daily maintenance.



In three (3) cases, it was determined that unallowable payments (UPs) were claimed for title IV-E reimbursement. These amounts are included as part of the disallowed claims, but do not involve either the designation of a case as being in error or the disallowance of associated administrative costs. Two of the unallowable payments consist of claims for a service identified as “one on one”. The State documentation indicated that the services provided were in addition to the payment of the regular maintenance assistance and that the provider organization is a nursing service. Medical care is not part of the cost of daily supervision. One case involved the duplicate claiming of maintenance assistance for the same child on the same days in two placements through the same provider. State officials indicated that this case may reflect a runaway situation in which the child was re-placed in an emergency setting for a short period while the original placement was maintained. Title IV-E cannot reimburse the cost of care that was not provided, whether this is caused by the child’s absence from placement or temporary placement in another facility.

The following chart represents cases that were determined as containing an unallowable payment claimed during or prior to the period under review.

Case Count	Sample No.	Title IV-E Ineligible Payment Description	Statutory Citation	Dates for Ineligible Payment(s)
1	12	One-On-One Payments Not Documented as Foster Care Maintenance Assistance	475(4)	4/03/02 - 5/21/02
2	81	One-On-One Payments Not Documented as Foster Care Maintenance Assistance	475(4)	8/9/02 - 8/31/02 & 3/20/01 - 3/31/01
3	138	Duplicate Payments for Foster Care Maintenance Assistance Claimed on the Same Dates in Different Facilities	475(4)	6/01/02 – 6/02/02 & 6/20/02

### **Areas of Strengths**

The following is a summary of an Improvement Plan provided by DYFS to the ACF Regional Office in response to the preliminary findings discussed during the exit conference. ACF believes that this Plan represents an area of strength for New Jersey’s continuing efforts to improve the State’s title IV-E program.

#### **DYFS Improvement Plan**

To ensure quality case practice, compliance with DYFS Policy, and to provide the

foundation for title IV-E claiming for children in out of home placements, the New Jersey Division of Youth and Family Services-undertook several actions to ensure greater accountability regarding safety, permanency and well being of the children in-care. These actions included:

- An immediate review of all children entering out of home placements since September 1, 2002, for case practice and compliance with DYFS policy.
- The designation of a title IV-E point person for each region and field office for implementing a recently developed internal (manual) monitoring plan in each DYFS field office-for tracking out of home placements with a reporting system to their respective regional office. The Regional Assistant Directors are expected to review them for not only the placement tracking itself but also to assess and address policy compliance issues in meeting case practice standards and proper legal documentation.
- In November 2002, established the DYFS Title IV-E Oversight Committee chaired by the Acting Chief of Staff. This Committee was charged with developing and implementing a consistent, statewide-results oriented monitoring plan for out of home placement documentation, the foundation of title IV-E claiming. With input from the Committee, the DYFS Office of Information Systems (OIS) has enhanced/modified a portion of an existing systems tool in the Permanency Tracking System (PTS) that created a new Placement Documentation System to be used statewide as a placement tracking system to monitor the elements needed for compliance with case practice and Title IV-E claiming.

This automated system is now in the “training” phase for DYFS staff that will need to use it. So far the designated staff in eleven DYFS field offices has been trained and, if the schedule can be adhered to, all-appropriate staff will be trained by August 7, 2003.

- The DYFS Office of Information Services developed in January 2003, with input from the DYFS Title IV-E Unit, the title IV-E Tracking System that will be housed in the DYFS Web based systems so the title IV-E Revenue Specialists can access the system from any site within the State. Authorized staff will be able to view the IV-E determination findings. The system is designed to:
  - Keep track of the IV-E review results;
  - Keep track of incomplete reviews;
  - Keep track of due dates for re-determinations;
  - Record information reviewed;
  - Prepare DYFS 10-5 and DYFS 10-6 from the review findings;
  - Record IV-E eligibility status as well as IV-E claimability.

## **Disallowances**

The New Jersey secondary review included a sample of 150 cases with a total review period maintenance assistance dollar value of \$763,179. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the 6-month AFCARS period of April 1, 2002 to September 30, 2002.

Based upon the results of the review, the State of New Jersey has been found not to be in substantial compliance. The review team determined that 56 cases were found to be in error for either part or all of the PUR, and that 3 cases contained unallowable payments for Federal funding for reasons that are identified in this report, and the case and dollar error rates both exceeded 10 percent.

ACF has projected the results of the review over the universe from which the sample was drawn and has determined that \$2,966,981 in title IV-E FFP funds were inappropriately claimed as foster care maintenance payments and are thereby disallowed. The proportionate share of associated administrative dollars of \$ 2,364,317 FFP is also disallowed. The disallowance of \$5,331,298 FFP for the PUR is based on extrapolation from the sample to the universe of claims paid for the duration of the AFCARS reporting period under review. The extrapolated disallowance is equal to the lower limit of a 90 percent confidence interval for the population's total dollars in error for the amount of time corresponding to the AFCARS reporting period.

It was also determined that for periods prior to the period under review ineligible title IV-E payments were made on behalf of 47 of the 56 error cases, 6 non-error cases, and 2 of the 3 unallowable payment cases. A disallowance in the amount of \$889,555 in FFP is assessed for the period of time that these cases were determined to be ineligible. The disallowance consists of \$544,066 for foster care maintenance payments and \$345,489 for administrative costs.

The ineligible maintenance payments and administrative costs associated with the sample cases were calculated as shown in Attachment A. Administrative costs were identified based upon actual average monthly per child title IV-E foster care claimed costs for applicable periods as shown in Attachment B. The calculated average cost excluded claims for pre-placement services, eligibility determinations and SACWIS operations as shown in Attachment C. The calculation utilized two years of claiming data to determine the average applicable to each FFY to address concerns about the submission timing of New Jersey administrative cost claims. These calculations include the amounts claimed on behalf of the child for the period of the error prior to the period under review.

Therefore, based on the results of the above determinations for the NJ title IV-E secondary eligibility review, the total disallowance is 6,220,853 FFP.

## **Required Action**

The State of New Jersey must make the appropriate prospective claiming adjustments on behalf of the sample cases that were determined ineligible for FFP during the title IV-E secondary review from October 1, 2002 to the present as a decreasing adjustment. The State must cease claiming IV-E costs until these cases are determined to be eligible. Due to the State's reporting delay, New Jersey must also take appropriate claiming action to apply the findings contained in this report for any additional payments that are subsequently identified as title IV-E claimed or claimable for services rendered during the review period or for earlier periods during the same episode of foster care. To the extent that this effort results in the filing of prior period adjustments claims on Part 2 of Form IV-E-1, the State should include in column e (Other Comments) a reference to the "FY 2002 Title IV-E Review."

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