

<b>ACF</b>  <b>Administration</b>  <b>for Children and</b>  <b>Families</b>	<b>U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES</b> <b>Administration on Children, Youth, and Families</b>	
	<b>1. Log No:</b> ACYF-CB-IM-03-03	<b>2. Issuance Date:</b> May 30, 2003
	<b>3. Originating Office:</b> Children's Bureau	
	<b>4. Key Words:</b> Title IV-E Foster Care Eligibility Review, State Grants, Program Monitoring	

**INFORMATION MEMORANDUM**

**To:** State and Territorial Agencies Administering or Supervising the Administration of Titles IV-B and IV-E of the Social Security Act.

**Subject:** Title IV-E Foster Care Eligibility Review Instrument and Instructions

**Legal and Related References:**  
 Title IV-E of the Social Security Act and 45 CFR 1356

**Purpose:**  
 The purpose of this information memorandum (IM) is to transmit to State Agencies the revised checklist and instructions used during the on-site review of title IV-E foster care eligibility.

**Information:**  
 In response to comments received from State and ACF regional office staff who participated in eligibility reviews, the on-site review protocol was modified to provide additional guidance and consistent application. For facilitation, the checklist and instructions were merged into a single source document. Federal statutory and regulatory references were added, as well.

The consolidated on-site review instrument transmitted electronically on April 17, 2003 is obsolete and superseded by this IM.

**Inquiries to:** ACF Regional Offices

\_\_\_\_\_/ s /\_\_\_\_\_  
 Joan E. Ohl  
 Commissioner

Attachment: Title IV-E On-site Review Instrument and Instructions

**Title IV-E Foster Care Eligibility  
On-site Review  
Instrument and Instructions**

**Administration for Children and Families  
Administration on Children, Youth and Families  
Children's Bureau**

**Washington, D.C.**

**May 2003**

## **Purpose and Scope**

The title IV-E foster care eligibility reviews:

- ◆ Determine whether Federal funds were claimed for eligible children and providers.
- ◆ Identify duplicate payments, overpayments, underpayments, and erroneous payments.
- ◆ Help State agencies identify training, technical assistance and other strategies for program improvement.
- ◆ Evaluate State agency compliance with Federal requirements related to:
  - “Contrary to the welfare” and “reasonable efforts” judicial determinations
  - Voluntary placement agreements
  - State agency responsibility for placement and care
  - Placement in a licensed foster family home or child care institution
  - Criminal records check and safety considerations for foster care providers
  - AFDC eligibility (as of July 16, 1996)
- ◆ Do not assess State agency compliance with title IV-E State plan requirements related to:
  - Circumstances in which reasonable efforts are not required
  - Development and implementation of case plan
  - Case review system, including 6-month periodic reviews and permanency hearings
  - Termination of parental rights
  - Conformity with licensing standards (except safety requirements)

Reviewers must:

- ◆ Examine child and provider case records to determine that, for sample cases, the eligibility decision of the State agency was supported by appropriate documentation.
- ◆ Look at placement, legal and payment histories, court orders, and other relevant case material to gather information necessary to determine State agency compliance with Federal eligibility requirements.

Electronic files may constitute acceptable forms of documentation-- to the extent the State agency uses the files to substantiate title IV-E eligibility determination and the Federal review team leader determines the files satisfy the eligibility criterion under review.

- ◆ Complete an eligibility review checklist for each sample case in which at least one title IV-E foster care maintenance payment was made during the period under review (PUR). If the child exits and subsequently re-enters foster care during the PUR, a checklist is completed for each foster care episode.

The PUR is the six (6) month sampling period from which the cases for the on-site review are selected. Some eligibility requirements included in the review checklist require the reviewer to ascertain dates that precede the PUR. These items are identified in the instructions for completing the review checklist.

Request that the Federal review team leader replace a sample case with an over sample case when it is discovered that a title IV-E payment was not made for the original sample case during the PUR.

- ◆ Record in the *Comments* section of the review checklist: explanatory notes, observations about the State agency's strengths and areas needing improvement in the title IV-E program, and related information concerning the sample case. A supplemental sheet is included for additional comments and notes. Descriptions of errors and periods of ineligibility during and outside the PUR are recorded on the *Ineligibility Chart* that is attached to the review checklist.

Reviewer comments and notes must be written legibly and must clearly identify the specific review question being discussed.

- ◆ Determine whether there are ineligible title IV-E payments for the child or provider and whether the case is a non-error or error case.

An ineligible payment occurs whenever a title IV-E eligibility criterion is not met and title IV-E funds were claimed for foster care maintenance payments. A claims disallowance that includes related administrative costs is assessed for all ineligible payments.

For title IV-E review purposes, an error case occurs when the ineligible payment is for a period (1) in which an eligibility criterion related to the child's entry into foster care is not met (e.g., contrary to the welfare judicial determination, AFDC initial eligibility) or (2) in which an eligibility criterion is not met during the PUR.

Title IV-E funds cannot be claimed before all child and provider eligibility requirements are met or after eligibility ceases. If eligibility is attained within a portion of the month, title IV-E funds may be claimed retroactive to the first day of the month. In the case where a child is placed on a date other than the first of the month, title IV-E funds may be claimed from the date of the foster care placement.

# On-site Review Instrument and Instructions

NON-ERROR CASE: \_\_\_\_\_

ERROR CASE: \_\_\_\_\_

(May 2003)

Child Ineligible Payments: YES \_\_\_\_\_ NO \_\_\_\_\_  
Provider Ineligible Payments: YES \_\_\_\_\_ NO \_\_\_\_\_

**Each question must be answered.** If the question is not applicable, check the *N/A* column and indicate in the *Comments* section the reason the question does not apply to the sample case. A question where the *N/A* block is shaded must be answered *YES* or *NO*. Review the instructions that follow each section for an explanation of each question and how to answer it. This form may be annotated with additional information regarding eligibility, as necessary. Boxes outlined in bold indicate *potential* case errors.

["X" prefix indicates information obtained for this field is confidential and will not be disclosed for any purposes outside the review].

Sample review period: \_\_\_\_/\_\_\_\_/\_\_\_\_ - \_\_\_\_/\_\_\_\_/\_\_\_\_

1. State Abbreviation and Random Sample Selection Number: \_\_\_\_\_
2. Case ID: \_\_\_\_\_
3. County or Local Office: \_\_\_\_\_
4. Review Date (MM/DD/YY): \_\_\_\_\_
5. Reviewed By: \_\_\_\_\_

## Instructions:

**Sample review period:** Record the beginning and ending date of the 6-month sample review period. This 6-month time frame corresponds to the Adoption and Foster Care Analysis and Reporting System (AFCARS) reporting period from which the sample was drawn.

All statutory citations refer to the applicable section of the Social Security Act.

1. **State abbreviation and random sample selection number:** Record the two-letter State abbreviation and the sample selection number assigned to this case.
2. **Case ID:** Record the case number that is used as the identifier by the State.
3. **County or Local Office:** Record the name of the county, if applicable.
4. **Date of Review:** Record the date on which the case is being reviewed.
5. **Reviewed By:** Record the name of the individual reviewing the case. *Please print.*

A. CHILD INFORMATION	YES	NO	NA
X1. Child's name:			
6. Child's date of birth			
7. Child's age as of first day of sample review period: _____			
B. RELEVANT DATES			
8. Date child was removed from home: (MM/DD/YY) ____/____/____			
9. Date child entered foster care: (MM/DD/YY): ____/____/____			
C. REMOVAL PURSUANT TO A COURT ORDER			
10. Was child's removal the result of a judicial determination?			
11. Date of court order removing child from the home (MM/DD/YY): _____			
11(a). Does the removal order address <i>Contrary to the Welfare</i> ?		<input type="checkbox"/>	
<b>Or</b>			
11(b). If the child entered foster care prior to March 27, 2000, is there a court order or removal petition filed within 6 months of removal that results in a judicial finding of <i>Contrary to the Welfare</i> ?		<input type="checkbox"/>	
11(b)(1). Date of removal petition or court order (MM/DD/YY): _____			
12. Is there a court order that addresses <i>Reasonable Efforts to Prevent Removal</i> or <i>Reasonable Efforts to Reunify Child and Family</i> ?		<input type="checkbox"/>	
12(a). Date of court order re: reasonable efforts to prevent removal (MM/DD/YY): _____			
12(b). Date of court order re: reasonable efforts to reunify (MM/DD/YY): _____			

**Instructions:**

- X1. Child's name: Record the first and last name of the child whose case is being reviewed.
6. Child's date of birth: Enter the month, day and year of birth of the child whose case is under review.
7. Child's age as of first day of sample review period: Enter the age of the child on the first day of the sample review period. If the child was born during the sample review period, enter a zero (0). This field is used to determine the appropriate foster care maintenance payment consistent with the State's rate payment schedule.

(Note that the relevant dates for the following sections may precede the PUR).

- B. RELEVANT DATES [Statutory Citation: Section 475(5)(F);  
Regulatory Citation: 45 CFR 1355.20, 1356.21(b)(2) and 1356.22]
8. Date child was removed from home: Record the date of the child's most recent removal from the home of the parent or specified relative pursuant to a court order or a voluntary placement agreement. The removal may be the result of a physical or

**Comments:**

constructive removal, i.e., paper removal. (Constructive removals apply to removals occurring after 03-27-00 for a specific category of children under limited circumstances). The removal date is related to a child's initial eligibility for title IV-E (Questions 17-20) and is tied to the judicial determinations of contrary to the welfare (or best interest) (Question 11) and reasonable efforts to prevent removal (Question 12).

9. Date child entered foster care: Record the date the child is considered to have entered foster care, that is, *the earlier of a judicial finding of abuse or neglect or 60 days from the date the child is physically or constructively removed from home*. The State agency may use an earlier date, such as the date the child is physically removed from home. This date is related to maintaining a child's eligibility for title IV-E funding. The State agency is required to use the date the child is considered to have entered foster care in determining when to obtain the initial judicial determination that it made reasonable efforts to finalize a permanency plan (Question 16).

C. REMOVAL PURSUANT TO A COURT ORDER [Statutory Citation: Section 472(a)(1), 471(a)(15)(B)(i)  
Regulatory Citation: 45 CFR 1356.21(c)]

10. Was child's removal the result of a judicial determination? Removal of the child from home must be pursuant to a judicial determination or a voluntary placement agreement. *The judicial determination must be made in a valid court order*. The case record or reviewer's analysis of the record may not be used as a substitute for a valid court order. The court must make the requisite judicial determination. The reviewer's responsibility is to confirm that a judicial determination was made.

If the child was not removed pursuant to a court order, enter "no" and proceed to Question 13. Questions 11 and 12 are "N/A".

11. Date of court order removing child from the home: Record the date of the court order that removes the child from the home. The date of the court order is required, since Federal financial participation (FFP) cannot begin until the first day of the month in which all eligibility requirements are satisfied, including a judicial determination that remaining at home is contrary to the welfare of the child.

**Contrary to the welfare:** The precise language "contrary to the welfare" does not have to be included in the removal court order, but the order must include language *to the effect that* remaining in the home would be contrary to the child's welfare, safety, or best interest. Indicate "yes" or "no."

**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 be in a subsequent order resulting from court proceedings that are initiated (the petition filed) 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 petition must be filed within 6 months of the child's removal from home; however, the resultant court finding may occur later and must substantiate the removal petition.

**For a child who enters 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 home, even if the order is an emergency "pick-up" order. The *first* order is the order that stems from the court hearing related to the removal. The determination must be child-specific and may not merely reference State statutes governing removals. The reviewer's analysis of the case record or State agency's report and recommendation may not be used as a substitute for the appropriate judicial finding. The court's review and approval of the State agency's report and recommendation are not sufficient. The court must make the actual finding. *Affidavits* attesting that the judicial determination occurred at a previous hearing and *nunc pro tunc* ("now for then") court orders are not acceptable documentation in support of a "contrary to the welfare" judicial determination. When a *nunc pro tunc* order or affidavit is presented to meet the "contrary to the welfare" requirement, the reviewer must verify the judicial determination was made at the

**Comments:**

time of the original court proceeding and within the prescribed timeframe. A transcript of the court proceeding is the only acceptable alternative to a court order to substantiate that the judicial determination requirement was met satisfactorily.

- 11a. Does the removal order address *Contrary to the Welfare*? The response to this question is “N/A”, if the child’s removal occurred prior to March 27, 2000 and the removal order does not include the required judicial finding. Under these conditions, proceed to Question 11b. If the child’s removal occurred **on or after March 27, 2000** and the response to this question is “no”, the child is ineligible for title IV-E for the entire foster care episode and the case is an error case.
- 11b. If the child entered foster care prior to March 27, 2000, is there a court order or removal petition filed within 6 months of removal that results in a judicial finding of *Contrary to the Welfare*? This question should be answered only if the child’s removal occurred **prior to March 27, 2000**. A “contrary to the welfare” judicial finding issued within 6 months of removal may satisfy this requirement in those instances where a removal petition was not filed. If more than 6 months have elapsed and there is no court order or petition filed for a court-ordered removal, the response to this question is “no”. A “no” response means the child is ineligible for title IV-E for this entire stay in foster care and the case is an error case from the date of the child’s removal.
- 11b.1. Date of removal petition or court order: Record the filing date of the State agency’s petition to the court to remove the child from home. This date is recorded for a child who entered care prior or subsequent to March 27, 2000 (Questions 11(a) and 11(b)) and is related to a child’s initial eligibility for title IV-E (Questions 17-20). If a removal petition was not filed, indicate the date of the court order that included the requisite “contrary to the welfare” judicial finding.

12. Is there a court order that addresses reasonable efforts to prevent removal or to reunify child and family? The precise language “reasonable efforts” does not have to be included in the court order, but the order must contain language *to the effect that* reasonable efforts were made or were not required. Question 12 assesses the State agency’s performance in obtaining the requisite judicial determination. It does not review the State agency’s provision of services to prevent a child’s removal or return the child home.

**For a child who enters 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. *Record the date of the judicial determination in either Question 12a or 12b.* If both determinations were made, record the date of each determination in Questions 12a and 12b, respectively. The child is not title IV-E eligible until the requisite judicial determination is made.

**For a child who enters care on or after March 27, 2000:** 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. The judicial determination must be child-specific and may not merely reference State statutes pertaining to removals. The reviewer’s analysis of the case record or State agency’s report and recommendation may not be used as a substitute for the appropriate judicial finding. The court’s review and approval of the State agency’s report and recommendation are not sufficient. The court must make the actual finding. *Affidavits* attesting that the judicial determination occurred at a previous hearing and *nunc pro tunc* court orders are not acceptable documentation in support of a “reasonable efforts” judicial determination. When a *nunc pro tunc* order or affidavit is presented to meet the “reasonable efforts” requirement, the reviewer must verify the judicial determination was made at the time of the original court proceeding and within the prescribed time frame. A transcript of the court proceeding is the only acceptable alternative to a court order to substantiate that the judicial determination requirement was met satisfactorily. Record the date of the judicial determination in Question 12a. *Question 12b does not apply.*

If a reasonable efforts judicial determination was not made within the required time frames, the child is ineligible for title IV-E for the entire foster care episode and the case is an error case. Record error payment data on the attached ineligibility chart.

**Comments:**



D. VOLUNTARY PLACEMENTS	YES	NO	NA
13. Was the child's removal pursuant to a voluntary placement agreement?			
14. Was the voluntary placement agreement signed by the parent or legal guardian <i>and</i> the agency representative(s)?			
14(a). Date voluntary placement agreement was signed by all parties (MM/DD/YY): _____			
15. Is there a judicial determination regarding the child's <i>Best Interest</i> within 180 days of the date of placement?			
15(a). Date of judicial determination (MM/DD/YY): _____			
15(b). Was the judicial determination timely?			
15(c). If NO, were title IV-E funds claimed for the period of ineligibility?			
E. ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan ) (Applicable to Court-ordered Removals Only)			
16. Has the child been in foster care 12 months or more prior to the <b>end</b> of the period under review? (Question 9) If NO, a judicial determination regarding reasonable efforts to finalize the permanency plan is <i>not</i> due.			
16(a). If Question 16 is <i>Yes</i> , what is the date the most recent judicial determination regarding reasonable efforts to finalize the permanency plan was made <b>prior</b> to the period under review? (MM/DD/YY): _____ (Refer to additional comments in the instructions)			
16(b). What is the date that the initial <i>or</i> subsequent judicial determination was due? (MM/DD/YY): _____			
16(c). Date that the 16(b) judicial determination was made: (MM/DD/YY) _____			
16(d). Was the judicial determination timely?			
16(e). If NO, were title IV-E funds claimed for the period of ineligibility?			
<p><b>Instructions:</b></p> <p>D. VOLUNTARY PLACEMENTS [Statutory Citation: Section 472(d)(e) and (f); Regulatory Citation: 45 CFR 1356.22]</p> <p>13. <u>Was the child's removal pursuant to a voluntary placement agreement?</u> For title IV-E eligibility purposes, a child must be removed from the home pursuant to either a court order or a voluntary placement agreement. 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 continued voluntary placement is in the child's best interests.</p> <p>14. <u>Was the voluntary placement agreement signed by the parent or legal guardian and the agency representative(s)?</u> A valid voluntary placement agreement must be signed by the parent or legal guardian and the title IV-B/IV-E agency representative(s).</p>			

**Comments:**

- 14a. Record the date that the voluntary placement agreement was signed by all parties. If the signings occurred on different dates, record the date of the final signature. The date that the voluntary placement agreement is signed is required because FFP cannot begin until the first day of the month in which all eligibility requirements are satisfied. In the case of a child who is voluntarily placed into care, satisfying all eligibility requirements includes a voluntary placement agreement that is signed by the parent or legal guardian and the agency representative.
15. Is there a judicial determination regarding the child's best interest within 180 days of the date of placement? The State can claim FFP for up to 180 days for a child who is removed pursuant to a voluntary placement agreement in accordance with its State plan. If more than 180 days have elapsed since the date of the child's placement in foster care, there must be a judicial determination to the effect that this placement is in the best interests of the child. If more than 180 days have elapsed and there has been no such determination, the child's eligibility for FFP ceases on the 181<sup>st</sup> day. Title IV-E eligibility ceases also in those cases where the State agency petitions the court on or after the 181<sup>st</sup> day, but within six months of removal, and obtains a judicial removal because the State failed to meet the timeliness requirement for continued FFP. Under these conditions, the nature of the child's removal from the home cannot be changed from voluntary to court-ordered placement to claim FFP.
- 15a. Date of judicial determination: Record the date of the judicial determination regarding the child's best interest. If fewer than 180 days have elapsed since the child's date of placement and the PUR and the judicial determination has not been obtained, check "N/A."
- 15b. Was the judicial determination timely? The requisite judicial determination must have occurred within 180 days of the date of the child's foster care placement via a voluntary placement agreement. Otherwise, the child is not title IV-E eligible.
- 15c. If NO, were title IV-E funds claimed for the period of ineligibility? If the response to question 15 or 15b is "no" and the response to 15c is "yes", this is an error case. Record the periods of ineligible payments on the attached ineligibility chart.

E. ONGOING JUDICIAL ACTIVITY [Statutory Citation: Section 472(a)(1), 471(a)(15)(B)(ii) and (C);  
Regulatory Citation: 45 CFR 1356.21(b)(2)]

Question 16, for the purposes of this eligibility review, does not apply to children whose entry into foster care was the result of a voluntary placement agreement. If the sample case is a voluntary placement case, indicate "N/A" and proceed to Question 17.

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 (Question 9) 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 time frame, 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, within the required time frame, that reasonable efforts were made to reunify child and family.

Disallowances will be taken for any case that does not meet the judicial requirement after March 27, 2001. Ineligibility for title IV-E payments is from April 1, 2001 until the judicial determination requirement is met, as well for any subsequent period this requirement is not satisfied.

**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. The reviewer is not required to verify the State agency's compliance with the March 27, 2001 implementation date as a separate eligibility review issue. The reviewer is required to verify

**Comments**

whether or not the judicial determination requirement is satisfactorily met during the twelve-month period that encompasses the PUR. If the judicial determination requirement is not met, then the reviewer must go back to the date on which the requirement was met or March 27, 2001, whichever is later, to establish the period of ineligibility.

Question 16 assesses the State agency's performance in obtaining the requisite judicial determination. It does not examine the State agency's efforts to develop and finalize a permanency plan. The required judicial determinations regarding reasonable efforts must be child-specific and may not merely reference State statutes pertaining to removals. There is no requirement that the judicial determination be made at the permanency hearing, although the permanency hearing may serve as the mechanism for obtaining the judicial finding. The reviewer's analysis of the case record or State agency's report and recommendation may not be used as a substitute for the appropriate judicial finding. The court's review and approval of the State agency's report and recommendation are not sufficient to meet the judicial determination requirement. The court must make the actual finding. *Affidavits* attesting that the judicial determination occurred at a previous hearing and *nunc pro tunc* court orders are not acceptable documentation in support of a "reasonable efforts" judicial determination. When a *nunc pro tunc* order or affidavit is presented to meet the "reasonable efforts" requirement, the reviewer must verify the judicial determination was made at the time of the original court proceeding and within the prescribed time frame. A transcript of the court proceeding is the only acceptable alternative to a court order to substantiate that the judicial determination requirement was met satisfactorily.

16. Has the child been in care 12 months or more prior to the end of the period under review? Determine if 12 months have elapsed from the date in Question 9 and the last day of the PUR. If 12 months have not elapsed, a judicial determination regarding reasonable efforts to finalize the permanency plan is not due. Indicate "no" and proceed to Question 17.
  - 16a. If 16 is Yes, what is the date that the most recent judicial determination regarding reasonable efforts to finalize the permanency plan was made prior to the beginning of the period under review? Record the date that the judicial determination addressing reasonable efforts to finalize the permanency plan was made. If the due date for the initial judicial determination fell within the PUR, indicate "N/A" and continue with Question 16b. *Or*, if the due date for any judicial determination was prior to the PUR but the required determination was not made, indicate "N/A" and continue with Question 16b.
  - 16b. What is the date that the initial or subsequent judicial determination was due? Record the due date for the initial judicial determination that must have been made during the PUR. Otherwise, record the due date for the judicial determination that must have been made within 12 months from the date recorded in Question 16a. If 12 months have not elapsed since the date referenced in Question 16a or elapsed after the PUR, indicate "N/A".
  - 16c. Date that the 16b judicial determination was made. Indicate the date the judicial determination regarding reasonable efforts to finalize the permanency plan was made. If the judicial determination was due but was not made, indicate this in the space provided and continue with Question 16d.
  - 16d. Was the judicial determination timely? A judicial determination is not considered timely if the determination was not made or the court order that addressed reasonable efforts to finalize the permanency plan was dated after the due date. The date of the last judicial determination is used to determine the date the next one is due.
  - 16e. If No, were title IV-E funds claimed for the period of ineligibility? If the judicial determination was not timely, indicate whether title IV-E payments were made for the period of ineligibility. Record ineligible payment data on the attached ineligibility chart.

The case 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 case remains ineligible until a judicial determination that addresses reasonable efforts to finalize the permanency plan is made. *This is an error case if a title IV-E payment was claimed for the ineligible period and the judicial determination was: 1) due prior to or during the PUR, but was not made during the PUR, or 2) due prior to or during the PUR and was made during the PUR, but was not timely.*

Comments:

<b>F. AFDC ELIGIBILITY</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
17. Date child last lived with the specified relative prior to current foster care episode (MM/DD/YY): _____ (Question 8)			
18. Was the child living with the specified relative at Question 17 within 6 months of the initiation of court proceedings or the voluntary placement agreement?			
19. Was the child living with and removed from the same specified relative?			
20. Did the State determine that the child was AFDC-eligible during the month the voluntary placement agreement was signed or removal petition was filed? AFDC eligibility month (MM/YY): _____			
20(a). Was financial need established?			
20(b). Was deprivation of parental support or care established?			
21. If NO, were title IV-E funds claimed for the period of ineligibility?			
22. Was the child's eligibility redetermined? Date of redetermination, if applicable (MM/DD/YY): _____			
22(a). Did financial need exist throughout the entire period under review?			
22(b). Did deprivation exist throughout the entire period under review?			
22(c). If NO, were title IV-E funds claimed for the period of ineligibility?			
23. Does the State agency exercise the school attendance option for a student who is 18 years old?			
23(a). If the child was 18 or older at any time during the period under review, was (s)he a full time student in secondary school or its equivalent and expected to graduate prior to the 19 <sup>th</sup> birthday? ( <i>State Option</i> )			
23(b). If NO, were title IV-E funds claimed for the period of ineligibility?			

**Instructions:**

F. AFDC (Aid to Families with Dependent Children) ELIGIBILITY [Statutory Citation: Section 472(a)(1) and (4);  
Regulatory Citation: 45 CFR 1356.71(d)(1)(v)]

17. Date child last lived with specified relative: Record the date the child last lived with the specified relative from whom he or she was removed (Question 8). A specified relative is defined at 45 CFR 233.90(c)(1)(v). A child may be considered to meet the requirement of living with one of the relatives specified in the Social Security Act if the child is living with a parent or person in one of the following groups: (1) any blood relative, including those of half-blood, and including first cousins, nephews, or nieces; persons of preceding generations as denoted by prefixes of grand, great, or great-great; (2) stepfather, stepmother, stepbrother, and stepsister; (3) persons who legally adopt a child or the child's parent as well as the biological and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with State law; and (4) spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce.

18. Was the child living with the specified relative within 6 months of the initiation of court proceedings or the voluntary placement agreement? The court order removing the child must have been initiated, that is, the petition filed, or a voluntary placement agreement must have been signed, no longer than 6 months after the child was living with the specified relative from whom he or she was removed (Questions 8, 11, and 17). To be eligible under title IV-E, a child must be living with the specified relative

**Comments**

and eligible for AFDC in the home of that specified relative in the month the voluntary placement agreement was signed or the petition was filed. The statute does, however, allow a 6-month period during which the child may reside with an interim caretaker and still be eligible for title IV-E. In this case, the child must have resided with the specified relative, from whom he/she was removed, within 6 months of the initiation of court proceedings or voluntary placement agreement and be eligible for AFDC in the home of that specified relative. If more than 6 months have elapsed from the month of the petition or the voluntary placement agreement and the date the child last lived with the specified relative from whom removal occurs, the child is ineligible under title IV-E. The case is an error case if title IV-E funds were claimed for the period of ineligibility. Respond “yes” or “no.”

19. Was the child living with and removed from the same specified relative? If “no,” the child is ineligible for title IV-E. *The “living with” and “removal from” requirements have to be satisfied by the same specified relative.* Sections 472(a)(4)(A) and (B) of the Act require that the child either: 1) received AFDC in or for the month the voluntary agreement was signed or court proceedings leading to the removal of the child from home were initiated; or 2) would have received AFDC in or for such month if an application had been made, if he or she was living with the specified relative and would have received AFDC in or for such month if in such month he had been living with “such a relative” (i.e., the same relative) and application had been made. *The statute did not contemplate the “living with” and “removal from” requirement to be satisfied by two discrete individuals, but by the same relative.*
20. Eligibility for AFDC at removal: Using the criteria in effect in its July 16, 1996 approved 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 agency 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 filed (Questions 8, 11, and 17). Deprivation must be by reason of *death, absence, physical or mental incapacity of one parent, or the unemployment of the principal wage earner.* The basis for the determination of financial need and deprivation of parental support is the home from which the child was removed. The reviewer is not responsible for making the determination of AFDC eligibility, but for verifying, based on the documentation that is provided, that the State agency made or did not make the determination. *If the child was removed from an “active” AFDC home with an assigned AFDC case number, the reviewer may respond “yes” to this question, record the case number and proceed to Question 22.* Title IV-E eligibility is not automatic merely because the child is eligible for assistance under TANF (Temporary Assistance to Needy Families). There is no eligibility linkage between the title IV-E and TANF programs.
- 20a. Was financial need established? Indicate “yes” or “no.”
- 20b. Was deprivation of parental support or care established? Indicate “yes” or “no.”
21. If NO, were title IV-E funds claimed for the period of ineligibility? If either Question 19 or 20 is “no”, the child is not eligible for AFDC and is ineligible for payments under title IV-E from the beginning of this placement episode. Consequently, the case is an error case. Record, on the ineligibility chart, any ineligible payments that occurred relative to Questions 19 and 20.
22. Was the child’s eligibility redetermined? If the child was in care for less than 1 year prior to the end of the PUR, the response to this question is “N/A.” Proceed to Question 23.

For a child in foster care longer than 1 year, the State agency must document annually that the child continues to be financially needy and deprived of parental support or care, using the State agency’s criteria in effect in its July 16, 1996, 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. *If more than 1 year has elapsed and no*

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*redetermination was done, the State must reconstruct AFDC eligibility or the child is ineligible for title IV-E.* To respond to this question, review the case record to determine whether a redetermination was completed that encompasses the PUR. Record the date of the redetermination.

22a. Did financial need exist throughout the period under review? Refer to the State agency's mechanism to document the child's eligibility at redetermination.

22b. Did deprivation exist throughout the period under review? Refer to the State agency's mechanism to document the child's eligibility at redetermination.

22c. If NO, were title IV-E funds claimed for the period of ineligibility? If the response to either Question 22a or 22b is "no", the child is not eligible for AFDC and is ineligible for title IV-E payments. If title IV-E was claimed during the ineligible portion of the PUR, the case is in error and payments made during the entire period of ineligibility must be recovered. Record on the attached ineligibility chart all ineligible payment data that occurred relative to Questions 22a and 22b.

23. Does the State exercise the school attendance option for students who are 18 years old? When a child reaches his or her 18th birthday, eligibility for AFDC ceases unless, *as a title IV-E state plan option*, the child is a full-time student in a secondary school or its equivalent and is expected to complete the program *before* age 19. If the State agency *does not* exercise this option, eligibility for title IV-E foster care ceases at the end of the month the child turns 18. If the State agency *does* exercise this option, eligibility for title IV-E foster care ceases at the end of the month in which the child leaves school or when the child turns 19, whichever occurs earlier.

To meet title IV-E foster care eligibility under this state plan option when the State agency's jurisdiction over a child automatically ceases at age 18, the State agency must provide verification that the child agrees to remain under the responsibility of the State agency for placement and care. A court order extending the State agency's custody of the student beyond age 18 also satisfies the placement and care requirement. If the response to Question 23 is "no", proceed to Question 23b. Otherwise, continue with Question 23a.

23a. If the child was 18 or older during the period under review, was (s)he a full-time student in secondary school or its equivalent and expecting to graduate prior to the 19<sup>th</sup> birthday? The response to this question is "N/A", if the school attendance option is not elected or the child was not 18 years or older during the PUR. If the response is "N/A", proceed to Question 24.

23b. If "no", were title IV-E funds claimed for the period of ineligibility? If the answer to Question 23 or 23a is "no" and title IV-E was claimed during the ineligible portion of the review period, the case is in error. Record data concerning the ineligible payments on the attached ineligibility chart.

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<b>G. STATE AGENCY RESPONSIBILITY FOR PLACEMENT/CARE OF CHILD</b>	<b>YES</b>	<b>NO</b>	<b>NA</b>
24. For the entire time that the child is in an out-of-home placement during the period under review, does the title IV-E agency (or public agency with a title IV-E agreement) maintain responsibility for the placement and care of the child?			
25. Were title IV-E funds claimed for the period of time that the title IV-E agency (or public agency with a title IV-E agreement) <i>did not</i> have responsibility for the placement and care of the child?			
26. Agency Name:			
<b>H. PLACEMENT IN LICENSED HOME OR FACILITY (Complete for every home/facility where the child was placed during the period under review)</b>			
X2. Provider Name:			
X3. Provider Street Address:			
X4. Provider City:			
X5. Provider State:			
27. Date(s) of child's placement in this foster care facility (MM/DD/YY): from: _____ to: _____ from: _____ to: _____			
28. Date of child's departure from this facility, if applicable (MM/DD/YY): _____			
29. Type of foster care facility ( <i>check one</i> ): FFH ( ) GH ( ) Public Inst. ( ) PNP/FP Inst. ( ) Other ( ) _____			
30. Was this provider fully licensed or approved during the child's placement that falls within the period under review?			
30(a). Licensure period (MM/DD/YY): from: _____ to: _____ from: _____ to: _____			
30(b). If NO, were title IV-E funds claimed for the period that the provider is <i>not fully</i> licensed or approved?			

**Instructions:**

G. STATE AGENCY RESPONSIBILITY FOR PLACEMENT/CARE OF CHILD [Statutory Citation: Section 472(a)(2);  
Regulatory Citation: 45 CFR 1356.71(d)(1)(iii)]

24. Does the title IV-E agency maintain responsibility for placement and care? The title IV-E agency (or another public agency, including an Indian tribe, with which the title IV-E agency has a written agreement that is in effect) must have responsibility for placement and care of the child. The court order or voluntary placement agreement must indicate that the agency has this responsibility. A response of "yes" to this item indicates that the agency held this responsibility for the entire period under review. If the response is "no" and title IV-E payments were claimed for the period of ineligibility, this is an error case. (*The reviewer must verify that the title IV-E agency has a bona fide agreement in effect with the State agency in those instances where another public agency has responsibility for placement and care of the child.*)

**Comments:**

25. Were title IV-E funds claimed for the period that the title IV-E agency did not have responsibility for placement and care? If the response to Question 24 is “no,” was title IV-E claimed for the period of ineligibility? If “yes,” this child is ineligible and the case is an error case. Record the ineligible payment data on the attached ineligibility chart.

26. Agency Name: Record the name of the State agency or agencies with responsibility for placement and care of the child.

H. PLACEMENT IN LICENSED HOME OR FACILITY [Regulatory Citation: 45 CFR 1356.71(d)(1)(iv), 1355.20]

Section H is to be completed for *every* home or facility in which the child was placed during the PUR.

X2-X5. Record provider information for each home or facility in which the child was placed during the PUR.

27. Date of child’s placement in provider home or facility: Record the date that the child was placed in *each* facility that is encompassed by the PUR.

28. Date of child’s departure from provider home or facility: Record the date that the child left this facility, if not indicated in response to Question 27.

29. Type of foster care facility: The reviewer is to determine whether the child is placed in one of the following title IV-E eligible facilities: foster family home, group home, public institution of 25 children or fewer, or private non-profit or for-profit child care institution. A facility that does not fall into one of these categories is not eligible for Federal matching funds. Facilities such as detention centers, hospitals, and public institutions of more than 25 children are ineligible under title IV-E. The “other” category should be used when the child is not in one of the eligible foster care placements indicated above. *If placement is “other,” the provider is ineligible.* The case is an error case if title IV-E funds were claimed for the period of ineligibility. Record ineligible payment data on the attached ineligibility chart.

30. Was this provider fully licensed or approved during the child’s placement that falls within the period under review? The license must show that the home or facility is licensed during the child's placement there. The certificate of licensure/approval or a letter of approval can satisfy documentation of full licensure. The terms “licensed” and “approved” are used here to refer to facilities that meet all of the State’s standards for *full* licensure or approval. The title IV-E eligibility review does not evaluate the State agency’s licensing standards. Rather, the review determines that the child’s foster care placement was licensed during the PUR and that the safety requirement was addressed. Title IV-E foster care payments cannot be made on behalf of a child prior to the month the foster home or facility attained *full* licensure or approval. Interim or probationary licenses issued pending satisfaction of all licensing standards are not eligible for title IV-E reimbursements. *All providers, including those licensed or approved by a child-placing agency, effective September 28, 2000 must meet full licensure.* (No disallowances will be taken for the period of 3/27/00 - 9/27/00 for homes that were licensed prior to 3/27/00 that do not meet full licensure status during that period). Indicate whether or not the foster care home or facility, regardless of type, was licensed or approved during the PUR.

30a. Period of licensure: Record the dates of the period of licensure or approval of the facility that encompass the PUR.

30b. If the response to Question 30 is “no”, were title IV-E funds claimed for the period that the provider is not fully licensed or approved? If the response to this question is “yes”, this is an error case. Record the ineligible payment data on the attached ineligibility chart.

**Comments:**



I. SAFETY REQUIREMENTS OF PROVIDER (Complete for every home/facility where the child was placed during the period under review)	YES	NO	NA
31. Did this State opt out of the criminal records check requirement? (Applies only to prospective foster family homes and pre-adoptive family homes).			
32. Was a criminal records check satisfactorily completed on the foster/adoptive parent(s)?			
33. If the State opted out of the criminal records check requirement, did the State document that safety considerations with respect to the caretaker(s) were addressed?			
34. If the child is placed in a childcare institution, did the State document that safety considerations with respect to the staff/caretakers were addressed?			
35. Were title IV-E funds claimed prior to the month in which the safety requirements were satisfactorily met?			

**Instructions:**

I. SAFETY REQUIREMENTS OF PROVIDER [Statutory Citation: Section 471(a)(20), 475(1);  
Regulatory Citation: 45 CFR 1356.30]

This section is to be completed for every home or facility where the child was placed during the PUR.

31. Opt-out provision: Has this State opted out of the criminal records check requirement for foster and adoptive parents? The criminal records check requirement applies only to prospective foster family homes and pre-adoptive family homes licensed on or after 11-17-97, or the State agency's approved delayed effective date. A home licensed prior to 11-17-97 is not considered a prospective home, for the purposes of title IV-E eligibility. If the response is "yes," proceed to Question 33. If "no," continue with Question 32.
32. Satisfactory completion of criminal records check: Unless the State has opted out of the criminal records check requirement, the State must provide documentation that criminal records checks have been conducted with respect to prospective foster and adoptive parents. The licensing file must document the results of the record check. In reviewing the criminal records check requirement, the reviewer must ensure that the State agency has complied with the regulatory safety requirements for foster family and adoptive placements and that the foster or adoptive parent has not been convicted of any of the felonies enumerated in section 471(a)(20)(A) of the Social Security Act. Once it is determined that the safety requirement was satisfied, the reviewer does not have to verify whether a subsequent criminal records check was completed on the home during the licensing renewal process. A response of "N/A" indicates the child is not placed in a foster family home or a pre-adoptive home.
33. Safety requirements for foster/adoptive family homes when State has opted out of criminal records check: In all cases where the State opts out of the criminal records check requirement, the licensing file for that foster or adoptive family must contain documentation that verifies that safety considerations with respect to the caretaker(s) have been addressed. A response of "N/A" indicates that the child is not placed in a foster family home or a pre-adoptive home *or* that the State has not opted out of the criminal records check requirement.

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34. Safety requirements for staff/caretakers in child care institutions: In order for a child care institution to be eligible for title IV-E funding, the licensing file for the institution must contain documentation that verifies that safety considerations with respect to the staff and caretakers of the institution were addressed. A response of “N/A” indicates that the child is not placed in a child care institution.
35. Were title IV-E funds claimed prior to the month in which all safety requirements were satisfactorily met? A title IV-E foster care payment cannot be made on behalf of a child prior to the completion of the criminal records check or other safety requirement for the foster family home, pre-adoptive family home or foster care facility. If the response is “yes” and the period of ineligibility is during the PUR, this case is an error case. Record the ineligible payment data on the attached ineligibility chart.

### Case Review Findings

After this checklist is completed, determine whether or not the sample case is a non-error case and indicate this at the top of the eligibility review checklist. Also indicate, for a non-error case, whether or not ineligible title IV-E funds were claimed.

### Supplemental Tools

The following attachments are appended to record multiple foster care placements, additional reviewer comments, and data concerning error cases or ineligible payments, respectively.

Licensing /Safety Checklist for Multiple Placements  
Additional Comments Sheet  
Ineligibility Chart

## Licensing/Safety Checklist for Multiple Placements

Use this page to record multiple placements during the review period.

<b>H. PLACEMENT IN LICENSED HOME OR FACILITY</b> (Complete for every home/facility where the child was placed during the period under review)			
	YES	NO	N/A
X2. Provider Name:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
X3. Provider Street Address:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
X4. Provider City:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
X5. Provider State:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Date(s) of child's placement in this foster care facility (MM/DD/YY): from: _____ to: _____ from: _____ to: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28. Date of child's departure from this facility, if applicable (MM/DD/YY): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29. Type of foster care facility ( <i>check one</i> ): FFH ( ) GH ( ) Public Inst. ( ) PNP/FP Inst. ( ) Other ( )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30. Was this provider licensed or approved during the child's placement that falls within the period under review?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30(a). Licensure period (MM/DD/YY) from: _____ to: _____ from: _____ to: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30(b). If NO, were title IV-E funds claimed for the period that the provider <i>is not fully</i> licensed/approved?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>I. SAFETY REQUIREMENTS OF PROVIDER</b> (Complete for every home/facility where the child was placed under the period under review)			
31. Did this State opt out of the criminal records check requirement? (Applies only to prospective foster family homes and pre-adoptive homes).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32. Was a criminal records check satisfactorily completed on the foster/adoptive parent(s)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33. If the State opted out of the criminal records check requirement, did the State document that safety considerations with respect to the caretaker(s) were addressed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. If the child is placed in a child care institution, did the State document that safety considerations with respect to the staff/caretakers were addressed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35. Were title IV-E funds claimed prior to the month in which the safety requirements were satisfactorily met?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Comments:**

State \_\_\_\_\_  
Sample Number \_\_\_\_\_

### **Additional Comments**

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Use this page to record additional comments and notes.

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State \_\_\_\_\_  
 Case Reviewer \_\_\_\_\_

Case ID Number \_\_\_\_\_  
 Sample Number \_\_\_\_\_

### Ineligibility Chart

Checklist Item & *Error Description	Begin Date	End Date	Ineligible Payment Amount

\*Provide a brief description of all ineligible payments, regardless of whether or not the sample case is determined to be an error case.

Fiscal

- (A). Federal Share for Foster Care Maintenance Payments (FCMP) Calculation  
 Disallowance: Total error case FCMP x State 's Federal Medical Assistance Percentage (FMAP).
  
- (B). Federal Share for Foster Care Administration Costs Calculation  
 Disallowance: Refer to the *instructions for calculating administrative cost disallowance and formula calculation spreadsheet for initial and primary reviews* issued June 2, 2003.
  
- (C). Period of Ineligibility  
 Calculate the months of erroneous payments beginning with the first month of ineligibility to the end of the PUR. The State agency must remove from its claims payment system unallowable costs occurring after the PUR and suspend claiming the unallowable costs until the error ceases.