

June 15, 2006

Ms. Marva Livingston Hammons
Executive Director
Colorado Department of Human Services
1575 Sherman St, 8th Floor
Denver, CO 80203-1714

Dear Ms. Hammons,

The Colorado Department of Human Services, Division of Child Welfare staff, in partnership with the Administration for Children and Families (ACF) staff from the Central and Regional Offices, conducted a Title IV-E Foster Care Eligibility Review, in Denver, Colorado, from April 24th to 27th, 2006.

The purpose of the Title IV-E Foster Care Eligibility Review was to evaluate the accuracy of the state in claiming Federal Financial Participation (FFP) and assure that appropriate maintenance payments were made on behalf of eligible children placed in eligible homes and institutions.

Scope of the Review

The Colorado Title IV-E Foster Care Eligibility Review encompassed all Title IV-E foster care cases in the state during the period April 1, 2005 through September 30, 2005. A computer-drawn statistical sample of 88 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data, which was transmitted by ACF to the state agency. Eighty cases were to be used in the review, plus an over-sample of 8 cases was made available in case of any disqualifications. These 88 cases consisted of individual children who received at least one Title IV-E foster care maintenance payment during the six-month period under review. The state received the sample 60 days prior to the review, to allow time for collecting the actual case files for the review. In fact, three cases were disqualified as not having received Title IV-E payments during the period under review, and after State staff presented appropriate documentation to this effect to Regional Office staff, three cases were replaced with cases from the over-sample.

At the review, each child's file was reviewed for documentation which supported the determination of Title IV-E eligibility, and for documentation which confirmed that the foster care home or institution in which the child was placed was appropriately licensed during the period under review. Documentation of appropriate court orders and other judicial findings was also reviewed.

The Colorado IV-E Review Team included:

Cheryl Duncan, Review Team Coordinator and CDHS IV-E Program Supervisor
Sharen Ford, Permanency Manager
K.C. Robbie, Field Services
Gerri Wolfe, Adams County IV-E Eligibility Specialist

Diane Wolfe, IV-E Program Specialist
Allen Corby, Larimer County IV-E Eligibility Specialist
Linda Viales, IV-E Program Specialist.
The Children's Bureau was represented by Vicki Wright, Child and Family Program Specialist.

The ACF Regional Office was represented by:

Marilyn Kennerson, Child Welfare Team Manager
Susan L. Blumberg, Child and Family Program Specialist, Colorado Review Team Coordinator
Janet Motz, Senior Associate, Caliber/ICF Consulting
Kim Patton, Child and Family Program Specialist
Eric Busch, Child and Family Program Specialist
Kevin Gomez, Child and Family Program Specialist
Ronnie Gordon, Program Assistant.

This was Colorado's Subsequent Primary Review. A 5% margin of error was applied, allowing only four error cases before penalties would be applied. At the time of the exit interview, seven cases were found to be in error. However, Colorado was able to provide additional documentation on four of those cases within fourteen days, confirming that they did meet eligibility requirements. A description of these seven cases is included here:

Case 1: The foster care provider was provisionally licensed during the period under review and while the child was under the provider's care and receiving Title IV-E payments. The federal regulation requires that the provider be fully licensed for the entire period that the child is placed with that provider during the period under review per 45 CFR 1357.71 (d)(1)(iv).

The ineligible maintenance payment is calculated to be \$1001.00 during the period of 5/1/2005 to 5/12/2005.

Case 2: The judicial determination of *Reasonable Efforts to Finalize the Permanency Plan* was not made in a timely manner, and title IV-E funds were claimed during the ineligible period. Federal regulations require this judicial determination to be made no later than 12 months after the child has entered foster care per 45 CFR 1356.21(b)(2)

The ineligible payments are calculated to be \$13,258.20 during the period of 7/1/2005 – 1/31/2006

Case 3: The original court order awards placement and care responsibility to the county child welfare agency nunc pro tunc which invalidates the court order, including the mandatory Contrary to the Welfare finding. As a result, the child was not IV-E eligible for the full foster care episode, per 45 CFR 1356.21(c).

The ineligible payments for the entire foster care episode from 6/15/2000 to 3/31/2006 are calculated to be \$55,090.99.

Cases No Longer Found to be in Error

Case 4: The child was initially removed from a relative and after an initial placement in a family crisis center, was placed with a family friend. The child was later removed again from the friend's home and placed in foster care. Initially, this case was thought to be in error, as the child was not removed from the home of a specified relative. However, upon further investigation, it was determined that she had been removed from the home of a specified relative less than three months prior to this foster care placement and a valid AFDC determination of eligibility using this specified relative was in existence. Therefore this case was determined not to be in error.

Case 5: There was a period of seventeen days between the ending of the Voluntary Placement Agreement and the Court Order for the most recent foster care episode, though the child remained in care. Apparently, the appropriate petition was not filed which would allow the child to remain in care during this time. The case was declared an error case at the time of the review exit interview. We requested that a determination for AFDC eligibility be completed, which would complete all the necessary paperwork to treat the placement as a new foster care episode. This determination was completed within one week of the review, and this case was accepted as a non-error case at that time. However, the payments for the VPA were determined to be ineligible during this period, totaling \$332.35, with administrative costs of 1181.00

Case 6: The child's name was added to the removal order by hand with no evidence of who had done so or at what time it was added, and the child is not mentioned by name in that court order or the original petition, though he is mentioned in an amended petition and in all future court orders. The child was not present in the home of his legal guardian when the other children in the petition were removed from the home. The case was declared an error case at the time of the review exit interview. We requested a certified copy of the court order, and other documentation to prove that he was included in the original removal hearing. The certified court order and a Family Service plan explaining that a shelter order and an amended petition including this child were filed with the court on the same day as the original order were provided within 10 days of the review, and this case was accepted as a non-error case at that time.

Case 7: The foster care provider in this case had a juvenile record involving a felony larceny charge. At the time of the review, the records of the background check were incomplete, due to loss of records when the child protection agency who had licensed the provider had closed down, and destroyed their records rather than pass them on to the county child welfare agency who took over the task of monitoring these foster parents. Therefore this case was declared an error case at the time of the review exit interview. We requested further documentation that appropriate background checks had been requested on this foster parent and further information on the nature of the charges against this foster parent. Copies of the original requests for background checks were obtained, documenting that they had been requested and received prior to licensure. In addition, copies of State licensure rules were provided, showing that the type of charges against this provider fall into the category under which the State may or may not choose to issue a license depending on their review of the circumstances. In this case, a 16 year old girl broke into a neighbor's home and stole some items, and paid restitution, and served probation. The State

also provided a full record of her dealings with the court throughout her sentence. With this documentation, the case was accepted as a non-error case.

In addition, one case was determined to have an improper claim because this one case was determined to be a non-error case with an ineligible payment. This additional finding was not considered in the determination of the State's substantial compliance with the Federal requirements for this primary review.

Based on the finding of just three error cases, we find Colorado to be in substantial compliance with Federal child and provider eligibility requirements for the period April 1, 2005 through September 30, 2005. Because Colorado was found to be in substantial compliance, a secondary review will not be required, and the next primary review will be held in three years.

The IV-E Eligibility Review Team also identified certain program strengths and weaknesses and provided recommendations for further improvements. Please see the attached summary for this information.

This letter also constitutes our formal notice of disallowance of \$69,350.19 in maintenance payments and \$92,085 for the Federal portion of related administrative costs for the Title IV-E foster care claimed for the cases determined to be in error. An additional disallowance of \$3638.55 in maintenance payments and \$3,629.00 in related administrative costs was assessed for Title IV-E foster care payments claimed improperly for the two cases determined to be non-error cases with ineligible payments. The total of the disallowed amount is \$165,396.54. Since the amount of disallowed funds was previously included in Federal payments made to the State, you must repay these funds by including a prior period decreasing adjustment on the Quarterly Report of Expenditures (Form ACF-IVE-1), Part 1, Line 1, Columns (c) and (d). The IVE-1 form must be submitted within 30 days of the date of this letter in order to avoid the assessment of interest.

This is the final decision of the Administration for Children and Families. Under regulations at 45 CFR Part 16, you have an opportunity to appeal this decision to the Departmental Appeals Board (Board). This decision shall be the final decision of the Department of Health and Human Services unless, within 30 days of receiving this decision, you deliver or mail (using registered or certified mail to establish the date) a written notice of appeal to:

Department of Health and Human Services
Departmental Appeals Board, MS 6127
Appellate Division
330 Independence Ave., SW
Cohen Building, Room G-644
Washington, DC 20201

You must attach to the notice a copy of this decision, note that you intend to appeal, state the amount in dispute, and briefly state why you think this decision is wrong. A copy of your appeal also should be sent to my attention in the ACF Regional Office. The Board will notify you of further procedures.

If you appeal, you may elect to repay the amount at issue pending a decision by the Departmental Appeals Board, or you may retain the funds pending that decision. An adjustment to return the disallowed funds for the purposes of avoiding interest assessment must be made through the use of the IVE-1 form, as described above. If you retain the funds and the Board sustains all or part of the disallowance, interest will be charged starting from the date of this letter on the funds the Board decides were properly disallowed. Regulations at 45 CFR Part 30 detail how interest will be computed.

In the event you choose to take no action to return the funds, it will be assumed you have elected to retain the funds either to appeal or to delay recoupment of the funds until the next issued grant award. Interest will continue to accrue on the Federal funds retained by the State during this period.

We thank you and your staff for the excellent efforts that were made to prepare for and participate with us in this review. We look forward to working with you and your staff to continue to improve State implementation of the Federal requirements and to improve services to children and families. Please contact Susan Blumberg at 303 844 1304 if you have any questions about this review. Questions concerning the disallowance also should be directed to Susan

Sincerely,

Thomas F. Sullivan
Regional Administrator

CC: Children's Bureau Associate Commissioner Susan Orr
CO Department of Human Services, Division of Children Family and Youth Services,
Director, Stephan K. Bates
Director, Child Welfare, Ted Trujillo

Summary of Other Findings
Colorado Title IV-E Eligibility Review
April 24-27, 2006

Court Orders:

Strengths: Many court orders and court reports were very thorough and child specific. We found examples of these reports in many different counties, using both narrative and checklist formats.

Recommendations: In many counties, we found that it was difficult to find the required language. Many orders seemed to “cover all the bases” with too much verbiage, making them hard to read. We were concerned that the layout of some of the checklist orders would make them easy to mis-check or leave items unchecked by mistake.

We still found “nunc pro tunc” language in current orders despite an agreement with the state after the 2003 IV-E eligibility review that judges would be instructed not to use such language. We would like to make sure that state eligibility workers are checking for such language when they are doing AFDC eligibility reviews, as these court orders are not valid for IV-E eligibility.

AFDC Eligibility:

Strengths: The format of these forms is very good and we commend Colorado once again on these. We also commend Colorado on their system of separate eligibility workers, who specialize in completing these forms. We could clearly see the improvement from older cases to newer cases in the review.

Recommendations: In some cases, the forms were unclear. We would like to see better explanations in the space provided of the checkmarks given by the workers. We could reconstruct the information from the case files, but it is clearly intended for the information to be provided on the form itself.

Licensing Issues:

Strengths: Colorado provided excellent information on licensing coverage and safety issues. We appreciated having someone from the licensing office come to answer questions for us.

Recommendations: Out-of-state foster care settings must meet all the same licensing requirements for documentation, including start and end dates for the license, safety information and state requirements. It would be helpful to have this information at the start of the review.

Other Review Issues:

Removal Documentation: We did need more documentation on police holds, judge holds, and emergency orders. We had to search case files to find such documentation and it was often difficult to find. Colorado does not seem to have a systematic system for maintaining such documentation.

Lapses in custody or placement and care: We did find a couple of cases with such lapses without proper documentation. In most cases, the documentation was provided upon request.

Practice Issues:

Placement stability: We did find a small number of cases with a high number of placement moves, sometimes within a very short period of time. This is an issue that we are continuing to monitor as part of Colorado's non-overlapping year as we prepare for the second round of CFSRs. It warrants further conversation and planning between our office and CDHS.

Long-term foster care: We did find a small number of children in long-term foster care rather than a more permanent living arrangement. Besides the most important point that children need a permanent family, the older the case, the more likely we are to find errors from former improper practice such as the "nunc pro tunc" language found in Case #3.

These are all issues about which we would like to start having conversations with Colorado to explore strategies and solutions.