



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
1250 Maryland Avenue, S.W.
Washington, D.C. 20024

CERTIFIED MAIL
Return Receipt Requested

NOV 29 2007

Lillian B. Koller, Esq.
Director
Department of Human Services
P.O. Box 339
Honolulu, Hawaii 96809

Dear Ms. Koller:

This is in follow-up to our July 23, 2007 report of Hawaii's title IV-E Foster Care Eligibility Review. On August 22, we received an inquiry from your staff, Ms. Dana Balansag, about the disallowance of administrative costs associated with case samples #15 and #43. Specifically, Ms. Balansag suggested that since the ineligible payments associated with both of these cases were due only to licensing issues and since we permitted States to claim administrative costs associated with unlicensed foster family homes, then we should not have disallowed the administrative costs associated with these cases. The regional office notified her by phone on August 28 that, as a result of her inquiry, we would be issuing a revised report.

We appreciate Ms. Balansag bringing to our attention the oversight we made in computing the amount of disallowance associated with case #43. We concur that since the home was conditionally licensed until February 2006 and since, prior to the Deficit Reduction Act, we permitted States to claim administrative costs associated with unlicensed foster family homes, Ms. Balansag is correct in that we should not have included the \$2,392 of administrative costs associated with this case in our disallowance.

However, with respect to case #15, because the foster family home was licensed prior to the foster family clearing the criminal record checks (March 3, 2006), the previous policy permitting States to claim administrative costs associated with unlicensed foster family homes does not apply. Therefore, the previously computed disallowance of \$3,987 in administrative costs associated with Case #15 remains.

Consequently, this letter amends the July 23, 2007 report (copy enclosed) and constitutes our final decision and formal notice of disallowance of Federal financial participation in the amount of \$4,228 for ineligible foster care maintenance payments and \$3,987 for the associated administrative costs for a total of \$8,215. Pursuant to 45 CFR Part 16, you have an opportunity to appeal this decision to the Departmental Appeals Board (DAB). This decision shall be the final decision of the Department of Health and Human Services, Administration for Children and Families (ACF), 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 the DAB, at the following address:

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

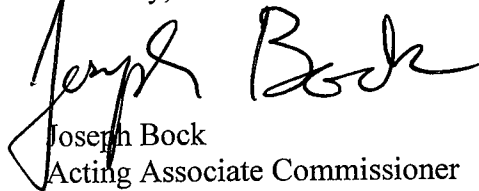
You must attach to the notice a copy of this decision, note that you intend to appeal, state the amount in dispute, and briefly state why you think this decision is wrong. A copy of your appeal should also be sent to the attention of Sally Flanzer, Child Welfare Program Manager, the Children's Bureau, in ACF's Region IX 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 DAB, or you may retain the funds pending that decision. If you retain the funds and the DAB sustains all or part of the disallowance, interest will be charged starting from the date of this letter on the funds the DAB decides were properly disallowed. Regulations at 45 CFR Part 30 explain 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.

If you have any questions about this decision, please call Sally Flanzer at (415) 437-8425, or Pat Pianko at (415) 437-8462. Questions about computing the disallowance amount should be directed to Steve Kawamura at (808) 483-4877.

Sincerely,



Joseph Bock
Acting Associate Commissioner
Children's Bureau

Enclosure

cc:

Gail Collins, Director, Division of Program Implementation; CB; Washington, DC
Sally Flanzer, Child Welfare Program Manager; CB, Region IX; San Francisco, CA
Amy Tsark, Child Welfare Services Branch Administrator, Hawaii DHS; Honolulu, HI

Hawaii Title IV-E Foster Care Eligibility Review
Revised Final Report
Period under Review: April 1, 2006 - September 30, 2006

Introduction

During the week of June 4 through June 8, 2007, the Children's Bureau (CB) staff from the Central and Regional Offices and the State of Hawaii staff conducted an eligibility review of Hawaii's title IV-E foster care program. The review was conducted in Honolulu. The purposes of the title IV-E foster care eligibility review were (1) to determine if Hawaii was in compliance with the child eligibility requirements as outlined in §472 of the Social Security Act and 45 CFR §§ 1356.21 and 1356.71 and (2) to validate the basis of Hawaii's financial claims to ensure that appropriate payments were made on behalf of eligible children and to their placement in licensed or approved foster family homes and child-care institutions.

Scope of the Review

The Hawaii 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 under review (PUR), April 1, 2006 through September 30, 2006. A computerized statistical sample of 100 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submission which was transmitted by the State agency to CB, the Administration for Children and Families (ACF), for the PUR. 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 childcare institution in which the child was placed was licensed or approved for the period of the review.

During this primary review, 80 cases were reviewed. Zero (0) cases were determined to be in error for either part or all of the review period. Since the number of error cases was fewer than five, CB has determined Hawaii to be in substantial compliance.

Four (4) cases (sample numbers 15, 21, 36, and 43) were identified that contained payments that were claimed improperly. Although these cases are not considered "error cases" for determining substantial compliance, the ineligible maintenance payments and the associated administrative costs are subject to disallowance. A disallowance in the amount of \$4,228 in maintenance payments and \$3,987 in administrative costs are assessed for these ineligible payments.

Case Record Summary

The following details the non-error cases with ineligible payments, including reasons for the ineligibility and ineligible payments, the underpayments and the appropriate citations:

Non-error cases with ineligible payments

Sample number 15: The child was placed with a provider that had not completed the criminal backgrounds check on time (Section 471(a) (20) of the SSA and 45 CFR 1356.30); all other eligibility criteria were met. The foster family home license covered the period September 22, 2005 through September 22, 2007,

but the criminal background check was not completed until March 3, 2006. Thus, ineligible title IV-E payments were made for the foster family home from October 1, 2005 through February 28, 2006.

Sample number 21: This case qualified under the Ninth Circuit *Rosales v. Thompson* court decision. Section 7404(a) of the Deficit Reduction Act of 2005 (DRA) clarified title IV-E eligibility criteria and ACYF-CB-PI-06-06 (the PI) instructed Ninth Circuit States how to implement the DRA clarification. The PI specifies that for *Rosales* cases, eligibility for title IV-E foster care maintenance payments continues through the month when the child's next annual Aid to Families with Dependent Children (AFDC) re-determination is due. In the case at issue, the re-determination that was completed for this child before February 8, 2006, covered July 2005 through January 2006. Therefore, the subsequent determination was due in January 2007 but was not completed. However, the child continued to receive title IV-E payments through February 28, 2007, which creates one month of ineligible payments.

Sample number 36: The first hearing for this case, in which contrary to the welfare and reasonable efforts determinations were met, was June 1, 2005 (see §472(a) (1) of the SSA and 45 CFR §1356.21(c)). However, the physical removal was on May 24, 2005 and the State claimed title IV-E from the date of removal (May 24, 2005) through May 31, 2005. Because all title IV-E eligibility requirements were met on June 1, 2005, the title IV-E payments made for May 24, 2005 through May 31, 2005 were ineligible.

Sample number 43: Title IV-E payments continued to a foster family home after the home was not fully licensed. The foster family's license began on October 4, 2005; however, the home was not fully licensed until February 2006. Therefore, from November 1, 2005 through January 31, 2006 the child was ineligible for title IV-E funds because the foster family home was conditionally licensed (Section 472 (c) of the SSA and 45 CFR 1355.20(a) (2) (defining 'foster family home' and requiring full licensure)).

Non- error case with identified underpayment

Sample number 53: The child was placed in a fully licensed foster family home from August 14, 2006 through February 27, 2007, but the State did not claim title IV-E funds until November 1, 2006. Therefore, from August 14, 2006 through October 31, 2006 the State could have claimed an estimated \$2,308 of title IV-E funds (Sections 472(b) and (c) of the SSA and 45 CFR 1355.20(a)). All other eligibility criteria were met.

In the State's computer system, the foster family home had two (2) provider identification numbers, and the older provider number was incorrectly selected by the case worker for this foster family home. This older provider number did not contain the information that the home was fully licensed, but

the newer provider number did contain the correct licensing information. Therefore, the foster family home was not paid title IV-E funds during this time period. The State identified entering more than one provider number for this case as a data entry error.

Summary of Disallowances

HI IVE Review JUNE 2007	NON-ERROR INELIGIBLE PAYMENTS					
FISCAL YEAR	#15	#21	#36	#43		TOTAL
2007 Maintenance Disallowance		\$ 477				\$ 477
2007 Federal Admin Disallowance		\$ -				\$ -
2006 Maintenance Disallowance	\$ 1,732			\$ 1,939		\$ 3,671
2006 Federal Admin Disallowance	\$ 3,987					\$ 3,987
2005 Maintenance Disallowance			\$ 80			\$ 80
2005 Federal Admin Disallowance			\$ -			\$ -
TOTAL FFP MAINTENANCE DISALLOWANCE	\$ 1,732	\$ 477	\$ 80	\$ 1,939		\$ 4,228
TOTAL FFP ADMIN DISALLOWANCE	\$ 3,987	\$ -	\$ -	\$ -		\$ 3,987
Reason	Criminal background checks not completed timely	Rosales case where AFDC linkage expired, but still claimed (period of ineligibility less than 15 days).	CTW and REPR made the month after the month of removal (period of ineligibility less than 15 days).	Foster family home not fully licensed		
Ineligible Payment Total	\$ 5,719	\$ 477	\$ 80	\$ 1,939		\$ 8,215

HI FMAP Rates	2005	2006	2007
	58.47%	58.81%	57.55%

Areas in Need of Improvement

AFDC Re-determination for Eligibility:

We noted that in the process for AFDC eligibility re-determination, there was confusion around the dates covered. In some cases, the signature date on the eligibility form was used as the end date for the re-determination period, but in other cases the period covered was written in the specified line on the eligibility form. In addition, there were a few cases where once the permanency plan was achieved the AFDC eligibility was not re-determined. The re-determination forms need to be completed for periods of IV-E claiming during the entire foster care episode even if the permanency plan is going to be achieved.

Ineligible Payment Cases:

As noted above, there were a few issues that arose in the non-error cases with regard to ineligible payments. Although they did not seem to be systemic issues, they are important areas for the State to review.

In one case, the subsequent criminal records check was not done in a timely matter. It may be useful for the State to review their internal systems, procedures, and staffing needs to make sure that the background check is completed before the licensed is approved.

The State may want to review the systems that link the judicial findings of reasonable efforts dates with the payments, possibly through their quality assurance (QA) process or with their automated computer system. Therefore, if the judicial findings of reasonable efforts were made in the month after the child entered care (as in one of the non-error ineligible cases), title IV-E payments would not be made until the month of the judicial findings, as appropriate.

Strengths and Model Practices

There are several areas that we saw as strengths and promising practices. They are as follows:

Court Activities

Judicial determinations that the State Agency provided reasonable efforts to prevent removal or reunify the child with the family and contrary to the child's welfare determination were clearly written and timely. The reasonable efforts to prevent removal findings were completed in less than 60 days in the cases reviewed and individualized judicial findings concerning the Agency's efforts were reflected in the court orders. In general, information provided in the court orders, petitions, safe home reports, and court reports was very comprehensive, clear, complete and child specific. We also noted that the voluntary placement agreements were consistently renewed in a timely manner and signed by both parents and agency staff.

AFDC Eligibility Linkages

We noted that Hawaii continues to have an excellent grasp of the AFDC eligibility linkage. Hawaii's performance in this area was noted in their secondary review in March 2004 and the primary review in April 2001, and this performance has continued.

The State IV-E Eligibility workers participating on the review displayed proficient knowledge of the AFDC and title IV-E eligibility requirements. It was also clear that the eligibility workers had solid communication and coordination with the licensing and court workers to ensure that title IV-E requirements were met on time. We also noted that the forms that the State uses to determine initial eligibility and recertification are very clear and effective in documenting how eligibility is confirmed.

Another strength regarding eligibility that continued since the last review is that Hawaii conducts recertification eligibility reviews every six months. This results in more accurate claiming for Federal funding.

Quality Assurance (QA) System

It was evident that the State has continued to develop their QA and automated systems that effectively identify when not all requirements are met for title IV-E payments. In many cases when eligibility criteria were not met, the payments were either paid with State funds as identified by the automated system, or they were backed out appropriately, as a result of their QA processes.

Summary of Findings

The review included a sample of 80 cases. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the 6-month AFCARS period of April 1, 2006 through September 30, 2006. Based upon the results of the review, the State of Hawaii has been determined to be in substantial compliance.