

New Mexico Title IV-E Foster Care Eligibility Review (April 1, 2005 to September 30, 2005)

Introduction

From June 26 to June 30, 2006 Administration for Children and Families' (ACF) staff from the Central and Regional Offices and State of New Mexico staff conducted an eligibility review of New Mexico's title IV-E foster care program in Albuquerque.

The purpose of the title IV-E foster care eligibility review was (1) to determine if New Mexico was in compliance with the child and provider eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act; and (2) to validate the basis of New Mexico's financial claims to ensure that appropriate payments were made on behalf of eligible children and to approved or licensed homes and institutions.

Scope of the Review

The New Mexico 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, 2005 to September 30, 2005. 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 the ACF for the period under 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 childcare institution in which the child was placed was licensed or approved for the period of the review.

During the primary review, 80 cases were reviewed. One case was determined to be in error for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report. Since the number of error cases was fewer than five, the ACF has determined New Mexico to be in substantial compliance.

An additional 61 cases were identified that contained payments that were improperly claimed. 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 \$26,690 in "incidental" maintenance payments and \$7,489 in administrative costs are assessed for these ineligible payments. Please refer to the attached Excel spreadsheet for the specific cases and disallowances.

Case Record Summary

The following details the error case with ineligible payments, reasons for the ineligibility, ineligible payments, and appropriate citations:

Sample number 63: Did not meet AFDC financial need (deprivation) standard at removal or during period under review. 42 USC 672(a) (4) (A) and (B); 45CFR 1356.71 (d) (1) (v).

The erroneous maintenance payments (Main.) and administrative costs (Admin.) associated with the one error case were calculated as follows, and include all payments claimed on behalf of the child for the entire period of the error. For the one error case, all payments claimed for the entire period of the error, Federal Medical Assistance Payment [FMAP] rate, and Federal Financial Participation [FFP] are included.

**New Mexico Maintenance Cost Disallowance
FY 2006 IV-E Eligibility Subsequent Primary Review (conducted June 26-June 30, 2006)**

Sample #	FY	Total Main.	FMAP	FFP Main.	FFP Admin.	Total Disallow.
63	FY 2001	\$3,479	73.80%	\$2,567	\$1,596	\$4,163
63	FY 2002	\$3,384	73.04%	\$2,472	\$1,631	\$4,103
63	FY 2003	\$3,415	74.56%	\$2,546	\$2,880	\$5,426
63	FY 2004	\$7,594	74.85%	\$5,684	\$2,964	\$8,648
63	FY 2005	\$5,308	74.30%	\$3,944	\$2,816	\$6,760
TOTAL				\$17,213	\$11,887	\$29,100

An Excel spreadsheet attached to this report details the 1 error case and 61 non-error cases with ineligible payments, types of ineligible payments, and amounts. These incidental payments are not allowable expenditures under applicable title IV-E regulatory provisions and policies.

Strengths and Model Practices

The review identified numerous strengths and model practices. CYFD program and information technology staff appeared to have an ongoing collaborative relationship. This facilitated efforts to obtain the full payment history after the on-site review. Additionally, CYFD staff demonstrated expertise in title IV-E eligibility with only one error case identified in the sample. Other strengths include the following:

- CYFD's decision to require specialized eligibility staff, rather than field staff, to complete the eligibility determination process was an excellent program decision. This reduces the possibility of ineligible or erroneous payments under title IV-E foster care maintenance.

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- The quality assurance system implemented prior to initiating the specialized eligibility staff was a best practice model to ensure accurate determinations of foster care eligibility. CYFD might consider reinstating a similar function, even though specialized staff is currently making eligibility determinations.
- Court orders were timely and permanency court hearings were often more frequent than required by federal regulations. Additionally, most of the court orders and affidavits provided appropriate language regarding the findings of reasonable efforts to prevent removal, reasonable efforts to achieve permanency, and contrary to the welfare for the child to remain in the home. In addition, CYFD staff provided child-specific details in their court reports and affidavits.
- CYFD staff participating in the on-site review readily collaborated with the federal reviewers and demonstrated good teamwork. This resulted in a positive experience for all the reviewers.
- The FACTS data system design appropriately determines eligibility. The ability for staff to document comments within the eligibility windows ensures a sound audit trail for eligibility determinations. As noted previously by ACF, the FACTS system did reach TIER One status prior to the title IV-E eligibility review. CYFD is to be commended for the enhancements made to FACTS to achieve this status.

Areas in Need of Improvement

Prior to the on-site title IV-E eligibility review, extensive preparation of state and federal staff is required. Not having a full payment history for the children included in the sample significantly delayed determining allowable costs and substantial compliance of the CYFD title IV-E eligibility program. The amended and final payment history was received by ACF two weeks after the completion of the on-site review.

While a program improvement plan is not required, ACF notes that policies regarding reimbursements to providers under the Children, Youth, and Families Department (CYFD) policy section entitled, Permanency Planning Procedures (8.10.8 NMAC) are often vague and should be clarified with regard to allowable expenditures under the title IV-E foster care maintenance program. The federal Child Welfare Policy Manual (CWPM), Chapter 8.3B.1 and OMB Circular No. A-87 explain allowable costs under the foster care maintenance program.

Unallowable Costs

- Respite Care

Respite care is only allowable when payment is made to a licensed or approved foster care provider and not simultaneously to the primary provider. In the CYFD payment history, the primary provider was paid for the days the child was with a respite provider. The CWPM (8.3B.1, Question 3) addresses respite care as an allowable title IV-B (Child Welfare Services) expense and not an allowable expenditure under title IV-E foster care maintenance.

Recommendation: CYFD should amend its policy to clarify when respite care is an allowable IV-E expense and when it is appropriately charged to title IV-B and provide training to staff to assure appropriate claiming.

- Babysitting

CYFD policy (8 NMAC 10.8), section 10.6, states that babysitting is included in the monthly basic maintenance payment. However, incidental babysitting expenses were noted on the payment history for the children within the sample. Informal, episodic child care is presumably included in the basic title IV-E maintenance payment per the federal CWPM (8.3 B. 1).

Recommendation: CYFD should amend its policy to clarify when babysitting is an allowable expense under title IV-E foster care maintenance and provide training to staff to assure appropriate claiming.

- Property Damages and Legal Expenses

During the on-site review several personal incidental payments were included in the payment history and in the child's record that are not allowable expenses under title IV-E foster care maintenance. These included carpet cleaning for a foster home, car repairs for a foster parent, and legal services for a child in foster care. The federal CWPM, Chapter 8.3B 1, Question 1, addresses allowable and un-allowable costs based on section 475 (4) of the Social Security Act.

Recommendation: CYFD should amend its policy to clarify allowable expenses under title IV-E foster care maintenance and provide training to staff to assure appropriate claiming.

- Educational Services and Tutoring

In the payment history and in the child's record there were educational and tutoring expenses under title IV-E foster care maintenance. Educational expenses are not allowable under title IV-E foster care maintenance. The CWPM, Chapter 8.3B. 1, Question 1, addresses allowable and un-allowable costs based on section 475 (4) of the Social Security Act.

Recommendation: CYFD should amend its policy to clarify allowable expenses under title IV-E foster care maintenance and provide training to staff to assure appropriate claiming.

- Youth Skills Expenses

In the payment history there were three charges for youth skills expenses under the title IV-E foster care maintenance program. Youth skills expenses are allowable charges to the Chafee Foster Care Independence Program rather than title IV-E foster care maintenance program.

Recommendation: CYFD should amend its policy to clarify allowable expenses under the title IV-E foster care maintenance and provide training to staff to assure appropriate claiming. Similar youth skills expenses should be charged to the Chafee Foster Care Independence Program (CFCIP).

Court Orders and Court Hearings

During the on-site review several cases were missing the date of the court hearing. Additionally, some Adjudication Hearings were not held within 60 days per New Mexico Children's Code.

Recommendation: CYFD and the Court Improvement Project need to work toward improving the timeliness of Adjudication Hearings and ensure the hearing date is included within court orders.

Provisional Licenses within FACTS

While the FACTS system does not permit foster care maintenance payments to provisionally licensed homes, incidental payments are allowed to be paid on behalf of the child placed in a provisionally-licensed home. Until a provider meets all licensing requirements, a child is not eligible for title IV-E reimbursement.

Recommendation: CYFD should amend the program coding in FACTS to prevent title IV-E incidental payments on behalf of a title IV-E eligible child until the provider meets all licensing requirements.

Disallowances

The review included a sample of 80 cases. The sample was drawn from the universe of cases that received at least one title IV-E foster care maintenance payment during the 6-month AFCARS period from April 1, 2005 to September 30, 2005. Based upon the results of the review, the State of New Mexico has been determined to be in substantial compliance. One case was determined to be in error and ineligible for funding under title IV-E foster care pursuant to 45CFR §1356.71 (j) (1). A disallowance in the amount of \$29,100 in Federal Financial Participation (FFP) is assessed for the entire period of time that this case was determined to be in error.

The review also determined 61 cases with erroneous payments for title IV-E foster care maintenance. A disallowance in the amount of \$34,180 in Federal Financial Participation (FFP) is assessed for these cases within the sample.

The total amount of federal funds disallowed is \$63,280.