

## **Tennessee Title IV-E Foster Care Secondary Eligibility Review For the Period October 1, 2005, to March 31, 2006**

### **Introduction**

During the week of September 25-29, 2006, Administration for Children and Families (ACF) staff from the Central and Regional Offices, consultant reviewers, and State of Tennessee staff conducted an eligibility review in Nashville of Tennessee's title IV-E foster care program.

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

This secondary review was conducted because of the findings of the primary review that was completed during the week of December 1, 2003. At that time, Tennessee was found not to be in substantial compliance with the title IV-E eligibility requirements for the period under review. As required, Tennessee submitted a Program Improvement Plan (PIP) to correct the areas found deficient in its eligibility program for foster care. The ACF's approval of the PIP was based on the State's reports of progress and final implementation of the planned improvements.

### **Scope of the Review**

The Tennessee title IV-E foster care secondary 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 October 1, 2005, to March 31, 2006. A computerized statistical sample of 150 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submission which was transmitted by the ACF to the State agency for the period under review. Each child's case file was reviewed for the determination of title IV-E eligibility, and the provider's file was reviewed to ensure that the foster home or child care institution in which the child was placed was licensed or otherwise approved for the period of the review.

This review was classified as a secondary review as defined in the Title IV-E Foster Care Eligibility Review Guide, which was transmitted to State and Territorial agencies by Information Memorandum ACYF-CB-IM-01-11, dated November 30, 2001, and revised in March 2006. In a secondary review, an extrapolated disallowance will be assessed if both the child/provider (case) ineligibility and dollar rate exceed 10 percent. Since the percentage of error did not exceed this parameter, we have determined that Tennessee is in substantial compliance with Federal requirements as outlined in 45 CFR 1356.71(h) (2) (i) for the period of October 1, 2005, to March 31, 2006. The next primary review will be conducted in 3 years.

### **Case Record Summary**

During the secondary review, 150 cases were reviewed. Thirteen cases were determined to be in error for either part or all of the review period. The areas where the 13 cases were determined to be in error relate to:

- Need for documentation of a valid removal of the child from the home during the period under review;
- Court orders that removed a child from the home but did not contain proper language regarding the judicial determination that continuation in the home was contrary to the child's welfare;
- Reasonable efforts to prevent removal;
- Reasonable efforts to finalize the permanency plan; and
- Placement in a licensed foster care facility.

An additional 18 cases were identified by the review team that contained ineligible payments occurring outside the review period. The reasons for these errors were related to reasonable efforts to finalize permanency plans, placement in licensed foster care facilities, and respite payments being paid with title IV-E funds. Attachments A and B of this report detail each sample case, the reasons for ineligibility, and the ineligible dollar amounts associated with each case.

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

**Error Cases**

	<b>Case Sample Number</b>	<b>Reason for Error</b>	<b>Social Security Act and Code of Federal Regulations Citations</b>	<b>Period of Ineligibility</b>
1	5	Reasonable efforts to prevent removal finding was not obtained until 12/09/05; therefore, IV-E claiming should have begun 12/01/05 rather than 11/21/05.	472(a)(1), 471(a)(15)(B)(i), 45 CFR 1356.21(c)	11/01/05-11/31/05
2	23	Licensure - IV-E paid while child in unlicensed home It appears that IV-E funds were used to make a one time clothing purchase for the child and there is no documentation in the child file to substantiate licensure of the home.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	01/20/06-02/03/06
3	29	Licensure -- IV-E paid while child in unlicensed home. There was no verification of final approval of home for licensure. It appears that IV-E funds were used to make a payment for a clothing allowance claimed on 01/25/06. No IV-E board payments were made.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	01/25/06-01/25/06
4	36	Licensure - IV-E paid while child in unlicensed home: Child entered DCS custody 12/21/05 and placed in an expedited foster home. There was no verification that the home had final approval for licensure. Although no IV-E funds were used to make foster care maintenance payments, a one time clothing purchase was made for the child.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	01/05/06-01/05/06
5	38	Licensure - IV-E paid while child in unlicensed home. Child placed with relative – relative’s home was not licensed – clothing allowance was drawn down as IV-E payment.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	01/20/06-02/03/06

	<b>Case Sample Number</b>	<b>Reason for Error</b>	<b>Social Security Act and Code of Federal Regulations Citations</b>	<b>Period of Ineligibility</b>
6	42	Contrary to the welfare not met – Initial 07/07/05 court order (signed 08/10/05) does not contain “contrary to the welfare” or other language that reflects the court’s sanction of the removal. Amended court order (signed 08/18/05) does have decision; however, it does not constitute the required initial order. Error for entire foster care episode. No IV-E received in 07/05. Ineligible IV-E payments made 08/01/05 to 08/31/05 which is outside the PUR.	472(a)(1), 471(a)(15)(B)(i), 45 CFR 1356.21(c)	08/01/05 -08/31/05  10/01/05-03/31/06
7	48	Valid removal not met – Court order removing custody from parent obtained 04/15/05, but mother took children & could not be located until 05/20/05. At that time the child was placed in foster home. Original order was not vacated, nor was a subsequent order issued. Physical removal does not coincide with judicial determination. Also, Ineligible IV-E payments made 05/20/05 to 09/30/05 which is outside the PUR.	475(5)(F); 45 CFR 1355.20, 1356.21(b)(2), 1356.22	05/20/05-09/30/05  10/01/05-03/31/06
8	60	Safety requirements not met – Criminal records check not completed satisfactorily, information missing. Also, Reasonable efforts to finalize permanency plan not satisfied – Ineligible IV-E payments made 04/01/01 to 04/30/01 and 07/01/03 to 09/30/05 which is prior to the PUR.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	04/01/01 to 04/30/01  10/01/05-03/31/06
9	62	Licensure – IV-E paid while child in unlicensed home – IV-E payments received 10/20/05. There is no evidence of final approval of home for licensure.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	10/20/05-10/20/05
10	86	Licensure - IV-E paid while child in unlicensed home –No provider file, cannot determine licensure or safety requirements. Also, Ineligible IV-E payments made	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	05/01/05-09/30/05  10/01/05-12/31/05

	<b>Case Sample Number</b>	<b>Reason for Error</b>	<b>Social Security Act and Code of Federal Regulations Citations</b>	<b>Period of Ineligibility</b>
		05/20/05 to 09/30/05 which is outside the PUR.		
11	127	Licensure requirements not met-IV-E paid while child in unlicensed home – Child was placed with mother on trial home visit during PUR. IV-E payment was made for clothing allowance while child on trial home visit.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	12/02/05-12/02/05
12	129	Licensure requirements not met-IV-E paid while child in unlicensed home – Resource parent home study incomplete – no recommendation for approval. Home never fully approve Also, Ineligible IV-E payments made 12/01/02 to 09/30/03 and 03/01/04 to 09/30/05 which is prior to the PUR .	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	12/01/02-09/30/03 03/01/04-09/30/05
13	133	Licensure requirements not met-IV-E paid while child in unlicensed home – Foster home was under contract with another contracting agency that closed. Foster home file not provided. Also, Ineligible IV-E payments made 08/17/05 to 09/30/05 which is prior to the PUR.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	10/01/05-03/31/06

***Non-Error Cases with Ineligible Payments***

	<b>Case Sample Number</b>	<b>Reason for Ineligibility</b>	<b>Social Security Act and Code of Federal Regulations Citations</b>	<b>Period of Ineligibility</b>
1	6	Reasonable efforts to finalize permanency plan not satisfied – Judicial determination for Reasonable efforts to finalize Permanency Plan was made 10/26/05. Ineligible title IV-E funds were claimed as a result of the untimely judicial determination.	472(a)(1), 471(a)(15)(B)(ii), 471(a)(15)(C), 45 CFR 1356.21(b)(2)	06/01/05-09/30/05
2	7	Licensure requirements not met- Foster family home not licensed 7/04	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	07/01/04-07/31/04
3	22	Contrary to the welfare not met prior to payment – IV-E claimed for the month prior to all eligibility criteria being met including contrary to the welfare.	472(a)(1), 471(a)(15)(B)(i), 45 CFR 1356.21(c)	10/28/04-10/31/04
4	30	Licensure requirements not met – Child (ren) placed in foster home 04/11/05; however, Foster family home not approved until 05/09/05.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	03/01/05-04/30/05
5	32	Safety requirements not met – No criminal background checks on adult household members.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	03/01/04-08/30/05
6	49	Licensure requirements not met – Title IV-E funds claimed before the month in which the foster care provider is fully licensed.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	07/01/03-04/30/04
7	71	Licensure requirements not met – Ineligible title IV-E funds claimed before the month in which the foster care provider is fully licensed. No IV-E funds drawn 12/05 – 07/06.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	07/01/05-08/31/05
8	82	Title IV-E claimed prior to removal – 06/12/03 is the removal date and the date the child entered foster care. Title IV-E funds were claimed for a 06/09/03 date of service.	475(5)(F), 45 CFR 1355.20, 1356.21(b)(2), 1356.22	06/09/03-06/11/03
9	119	Licensure requirements not met – Ineligible IV-E payments before approval of foster home but outside PUR.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	06/26/02-12/19/02
10	146	Title IV-E claimed prior to contrary to the welfare – Title IV-E funds claimed before the	472(a)(1), 471(a)(15)(B)(i), 45 CFR 1356.21(c)	08/30/05-08/31/05

	Case Sample Number	Reason for Ineligibility	Social Security Act and Code of Federal Regulations Citations	Period of Ineligibility
		month that Contrary to the Welfare requirement is met. Also, title IV-E funds claimed before the month of the judicial finding of Reasonable Efforts to Prevent Removal or Reasonable Efforts to Reunify Child and Family.		
11	OS-2	Licensure requirements not met – Unable to locate foster care providers license	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	02/01/01-08/30/01
		Reasonable efforts to finalize permanency plan not satisfied - Title IV-E funds were claimed for a period during which a permanency hearing was needed for continued claiming.	472(a)(1), 471(a)(15)(B)(ii), 471(a)(15)(C), 45 CFR 1356.21(b)(2)	03/01/02-08/30/02
12	OS-8	Licensure requirements not met - Ineligible title IV-E funds claimed before the foster care provider is fully licensed.	472(b), 472(c), 45 CFR 1356.71(d)(1)(iv), 1355.20	12/19/03-04/04/04

### Areas Identified Onsite as Strengths in the Title IV-E Foster Care Eligibility System

- The eligibility staff has a good understanding of AFDC eligibility determination and redetermination. In most of the cases reviewed, we found documentation that the child was financially needy and deprived of parental support at the time of removal. There were no error cases related to AFDC eligibility.
- There is noted improvement in determinations of “reasonable efforts to finalize the permanency plan.” Most issues were found in older cases. Court oversight appears to be meaningful and well documented in the more recent court orders found in the cases reviewed.
- The State has successful reunifications of children with their parents, so children did not linger in foster care.

### Areas in Need of Improvement

During the review, the following was identified as an area in need of improvement:

**Placement in fully approved foster family home or child care institution.** In order for foster care payments made on behalf of a child to be eligible for Federal reimbursement, the child must be placed in a facility that meets all of the State agency standards of approval. Provisional, temporary, or emergency approval of a facility that has not met all of the standards is not eligible for Federal Financial Participation (FFP). Likewise, those facilities or homes that were approved before criminal background checks were imposed cannot be “grandfathered” in, minus criminal background checks, and still receive FFP. Because of the State’s past heavy reliance on relative care homes, an abrupt change of policy could adversely affect the needed availability of foster care resources. The review team noted that the State is thorough in completing the criminal background check; however, it appears to be somewhat cumbersome. The review team suggests that the agency should do a study to make this process more streamline and efficient.

## **Findings and Disallowances**

The review included a sample of 150 cases with a total dollar value of \$569,840. 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 October 1, 2005, to March 31, 2006. Based on the results of the review, Tennessee has been found to be in substantial compliance; however, 13 cases were determined to be in error and are not eligible for funding under title IV-E foster care. Therefore, a disallowance in the amount of \$24,494 in FFP is assessed for the entire period of time that these cases were determined to be in error. The State is also ineligible for title IV-E foster care administrative costs related to the error cases. We have calculated the amount of unallowable administrative costs to be \$2,696. The State also has an obligation to identify and repay ineligible payments that occurred for these error cases subsequent to the period under review.

In addition to the above cases found with errors during the period under review, the review team identified 18 cases with ineligible payments occurring outside the period under review. These additional findings were not considered in the determination of Tennessee's substantial compliance with Federal requirements. The State is nevertheless ineligible to receive FFP for these cases under the title IV-E program. The amount of ineligible maintenance assistance payments for these cases amounts to \$46,769 in FFP. The respective unallowable administrative costs for these cases amount to \$9,030 in FFP.

Five cases were determined to have underpayments in the amount of \$10,527 for title IV-E foster care maintenance payments, and the State is eligible to receive FFP for these cases under the title IV-E foster care program; however, only the amount of \$10,089 is still eligible for the State to claim. This report constitutes our formal notice of disallowance of \$82,989 in Federal Financial Participation (FFP) title IV-E foster care maintenance payments and related title IV-E administrative costs. The standard methodologies used by the ACF for the computation of both of these disallowances is enclosed in Attachments A and B for your information.