

**WEST VIRGINIA TITLE IV-E  
FOSTER CARE ELIGIBILITY REVIEW  
June 6, 2005 – June 10, 2005  
July 28, 2005**

**I. INTRODUCTION**

During the week of June 6, 2005 Administration for Children and Families' (ACF) staff from the Regional and Central Offices, and staff of the West Virginia Department of Health and Human Resources (DHHR) conducted a secondary eligibility review of West Virginia's title IV-E foster care program in Charleston, West Virginia.

Title IV-E foster care funds enable States to provide foster care for children who were or would have been eligible for assistance under a State's title IV-A plan, as in effect on July 16, 1996, but for their removal from the home. The Social Security Act includes requirements that define the circumstances under which a State may make foster care maintenance payments (section 472(a)), and mandate a child's placement in an approved or licensed facility (sections 472(b) and (c)).

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

**II. SCOPE OF THE REVIEW**

The West Virginia title IV-E foster care review encompassed a sample of all the title IV-E foster care cases that received a foster care maintenance payment during the period from April 1, 2004 to September 30, 2004. A computerized statistical sample of 180 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which was transmitted by the State agency to the Administration for Children and Families. 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 child care institution in which the child was placed was licensed.

During this secondary review, 150 cases were reviewed. Eighteen cases were determined to be ineligible for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report. The dollar value of the sample was \$785,978 in Federal Financial Participation (FFP) with the error cases totaling \$94,079 in FFP. These data indicate that West Virginia's dollar error rate (12 percent) is greater than 10 percent and the error cases error rate (11.97 percent) is greater than 10 percent. Therefore, West Virginia is considered to not be in substantial compliance.

### III. CASE RECORD SUMMARY

The following details the error cases and reasons for the error:

Case Number	Reason Case Was Not Eligible
11	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
30	The foster family provider was not licensed or approved for the period the child was placed in the home. (472(a)(3),(b) & (c); 45 CFR 1355.20(a); 45 CFR 1356.71(d)(1)(v))
33	The child aged out of care and payments continued. 472(1) and (4); 45 CFR 1356.71(d)(1)(v).
60	<p>The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))</p> <p>There was not a judicial determination that remaining in the home would be contrary to the welfare of the child. (472(a)(1), 471(a) (15)(B)(i), 45 CFR 1356.21 (c).</p>
62	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
64	There was not a judicial determination that remaining in the home would be contrary to the welfare of the child. (472(a)(1), 471(a) (15)(B)(i), 45 CFR 1356.21 (c).
76	The foster family provider was not licensed or approved for the period the child was placed in the home. (472(a)(3),(b) & (c); 45 CFR 1355.20(a); 45 CFR 1356.71(d)(1)(v))
82	There was not a judicial determination for reasonable efforts to prevent the child’s removal from the home. 472(a)(1); 45 CFR1356.21(c)
92	The child was not removed pursuant to a court order and remained in the home. (472(a)(1); 45 CFR1356.21(c))

Case Number	Reason Case Was Not Eligible
93	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period(472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
100	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
115	There was no judicial determination regarding the child’s best interest within 180 days of a voluntary placement. 472(d)(e) and (f), 45 CFR 1356.22
118	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
128	<p>The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))</p> <p>The foster family provider was not licensed or approved for the period the child was placed in the home. (472(a)(3),(b) &amp; (c); 45 CFR 1355.20(a); 45 CFR 1356.71(d)(1)(v))</p>
135	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
137	The child was not removed pursuant to a court order and remained in the home. (472(a)(1); 45 CFR1356.21(c))
143	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
OS154	The child aged out of care and payments continued to be made. 472(a)(1) and (4); 45 CFR 1356.71(d)(1)(v).

#### IV. West Virginia Payment Error Summary

The following details the payment error cases and reasons for the error:

Sample Number	Reason Case Was Not Eligible
29	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
38	Court costs, legal advertisements and related costs to Beckley newspaper were charged to Title IV-E. 45 CFR 1355.20 and 45 CFR 1356.60
69	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
70	The judicial determination that addressed reasonable efforts to finalize the permanency plan was not obtained within a twelve month period. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
74	Title IV-E payment issued to a for-profit provider. Section 472 and 473 of the Social Security Act. ACYF-CB-PA-97-01
110	Title IV-E payment for shelter placement for services not rendered. 45 CFR.1355.20
112	There was no judicial determination that addressed reasonable efforts to finalize the permanency plan that was in effect. (472(a)(1); 471(a)(15)(B)(ii); 45 CFR 1356.21(b)(2))
126	Payment made for an eligible child in error. 45 CFR.1355.20

#### STRENGTHS

Several strengths were identified over the course of the title IV-E review. These include the following:

- The State demonstrated significant progress from two years ago related to the judicial determinations regarding reasonable efforts to finalize a permanency plan within a twelve

month period. Although there were 9 case errors in this secondary review, there were over 20 case errors for this reason in the primary review of 80 cases in 2003. More importantly, the 2005 secondary review had almost twice the number of cases reviewed compared to 2003, which truly reflects a great deal of improvement.

- The review also demonstrated improvement with respect to judicial determinations of contrary-to-welfare and reasonable efforts to prevent placement.
- The initial eligibility determinations and re-determinations were completed in a timely manner.
- Several of the cases reviewed were voluntary placements. These cases had agreements that were well executed and signed timely. The majority of these cases had judicial determinations that remaining in placement was in the best interest of the child and the findings were rendered well within the 180-day time requirement.
- Although this is not a child eligibility requirement, case documentation revealed that permanency hearings were occurring more frequently than once every twelve months.
- There was evidence that the agency was attempting to move children toward permanency through termination of parental rights and voluntary relinquishments, where appropriate.
- The agency demonstrated its capacity to know the whereabouts of children in its care by providing detailed placement histories.
- The majority of providers met licensing requirements.
- The safety requirements were met in all reviewed cases. Criminal background checks were contained in all sample case files.
- The review identified prudent fiscal oversight. Title IV-E payments were backed out of the system when the agency worker discovered the child was not title IV-E eligible.

## **V. AREAS OF CONCERN**

West Virginia was determined not to be in substantial compliance with the regulations governing the title IV-E foster care program. The review identified some areas that need improvement. These areas include the following:

- The juvenile justice cases present a challenge to workers and judges in terms of permanency and court orders as approximately 44% of the error cases involved juvenile justice children. More importantly the juvenile justice cases represent only about 35 % of the title IV-E population. Several juvenile justice cases were in error because they lacked judicial determinations regarding contrary to the welfare of the child and reasonable efforts to prevent the child's removal from the home. Resolution of this problem may require communication and collaboration between the child welfare agency, the juvenile justice agency and dependency court judges.
- A statewide mechanism is needed to ensure the requirement for a judicial determination of reasonable efforts to finalize a permanency plan is obtained in a timely manner.
- In some cases, children who entered care prior to 2001 had no initial judicial determination of reasonable efforts to finalize a permanency plan. For these children, the

initial judicial determination was due no later than March 27, 2001. Several cases still do not meet this requirement.

- The fact that termination of parental rights has occurred for a particular child does not relieve the agency of the responsibility to ensure that the requirement for a judicial determination of reasonable efforts to finalize a permanency plan is met.
- Two cases were determined to be in error because the children were not removed as the result of a court order. Although the court order indicated that it was contrary to the welfare of the child to remain in the home, the child in each case remained in the home for several weeks thereafter.

## **VI. OTHER IDENTIFIED ISSUES**

Other areas needing attention include the following:

- West Virginia's Families and Children Tracking System (FACTS) which is the Statewide Automated Child Welfare Information System does not update the payment system when retroactive payments are issued for eligible children. Consequently, there is no current and accurate payment history for all clients.
- There were two errors identified in the review as a result of a contractor authorizing payments to children who were not eligible. More importantly, the eligibility worker had correctly determined the case as not eligible and did not authorize title IV-E payments. The contractor later reviewed the cases, however, changing the codes to make the child eligible and generating a payment for a non-eligible child

## **VII. DISALLOWANCES**

The review included a sample of 150 cases with a total dollar value of \$ 785,978. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the six month AFCARS period from April 1, 2004 to September 30, 2004. Based upon the results of the review, West Virginia is not in substantial compliance since eighteen cases were not eligible for title IV-E foster care and the case and dollar error rates both exceed 10 percent.

The disallowance based on the on-site review for the 18 error cases is \$301,585 in FFP. See Attachment "A" for details of the FFP dollar errors associated with the error cases and the total federal share for maintenance payments and administrative costs. There were 10 non-error cases with ineligible payments. The disallowance, based on these 10 payment error cases, is \$40, 469. See Attachment "B" for details of the FFP dollar errors associated with the error cases and the total federal share of maintenance payments and administrative costs.

We have projected the results of the review over the universe from which the sample was drawn and have determined that \$398,429 in title IV-E funds were inappropriately claimed as foster

care maintenance payments. In addition, the proportionate share of administrative dollars of \$19,809 is disallowed. Therefore the total disallowance is \$418,238 in Federal Financial Participation (FFP).

## **VIII. REVIEW TEAM**

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