

# **Illinois Title IV-E Foster Care Eligibility Review Final Report**

**Period Under Review: October 1, 2006 through March 31, 2007**

## **Introduction**

Staff from the Children's Bureau (CB), Administration for Children and Families (ACF), and the Illinois Department of Child and Family Services (DCFS), conducted an eligibility review of Illinois' title IV-E foster care program in Chicago during the week of August 13-17, 2007. The purpose of the Title IV-E Foster Care Eligibility Review was to determine whether payments were made on behalf of eligible children placed in licensed or approved homes and institutions in accordance with title IV-E (Sections 471 and 472) of the Social Security Act (the Act) and title 45 of the Code of Federal Regulations (CFR), Section 1356.71.

## **Scope of the Review**

The Illinois 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), which was October 1, 2006 to March 31, 2007. A computerized statistical sample of 100 cases (80 plus 20 over-sample cases) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data, which was transmitted by the State Agency to CB 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 fully licensed during the PUR.

This review was Illinois' second primary review. Of the 80 cases reviewed, two cases were determined to be in error, one case was determined to be a non-error case that included ineligible payments made outside the PUR, and two cases were identified as having improper payments. CB has determined Illinois to be in substantial compliance, as the number of error cases did not exceed four. States which are determined to be in substantial compliance are not required to submit a Program Improvement Plan or undergo a secondary review.

## **Case Record Summary**

This section summarizes both error cases and the non-error case with ineligible payments. A sample case is found to be in error when a review of the case record indicates that a title IV-E eligibility criterion is not met and a title IV-E maintenance payment is made during the PUR. A non-error case with ineligible payment(s) occurs whenever a title IV-E eligibility criterion is not met and title IV-E funds for foster care maintenance or administrative costs are paid outside of the PUR. All title IV-E funds associated with error cases, as well as any identified ineligible payments, are disallowed in accordance with applicable Federal statutes and regulatory provisions. Of the 80 eligible cases, two were error cases and one was a non-error case with ineligible payments. The total amount of Federal dollars associated with these three cases is \$418,582.21. The two error cases concerned living with and removal from a specified relative and a late judicial finding of reasonable efforts to prevent removal, respectively. The non-error case with ineligible payments related to payments made on behalf of an otherwise eligible child placed in an unlicensed foster home.

Separately, CB also identified two cases as non-error, non-ineligible cases with improper payments. These payments were not associated with a child's title IV-E eligibility, but rather, were maintenance payments made on behalf of eligible children for respite services not approved for title IV-E reimbursement. The total amount of Federal dollars associated with these two cases is \$146.50.

## **Error Cases**

In sample case #6 the child was removed from the care of his/her biological mother on November 24, 1993. However, at the time of removal, the child was residing with an aunt and there was no evidence present in the case file which indicated the child had lived with the specified relative, in this case the mother, at any point during the six months prior to the initiation of court proceedings. These circumstances render this child title IV-E ineligible for the life of the case. Pursuant to Aid to Families with Dependent Children (AFDC) removal from a specified relative criteria (for a child removed from the home before March 27, 2000), there must be a "physical removal" of the child from the specified relative's home in which the child resided during the month the child was legally removed from that specified relative and placed into foster care. Furthermore, if the child is not living with the specified relative (from whom removed) during the month of the initiation of court proceedings, a physical removal from an interim caretaker may only satisfy the removal requirements provided that the child has lived with that specified relative at some point during the six months before the initiation of court proceedings. Federal regulations at 45 CFR 1356.21(k)(1) and (2), 233.90(c)(1)(v), as well as 472(a)(1) and (4) of the Act specifically address living with and removal from a specified relative. The total disallowance for this case is \$393,554.52, with \$346,256.13 attributed to maintenance costs and \$47,298.39 attributed to administrative costs.

In sample case #49 the child was removed from the home on June 17, 2003; however, there was no conclusive judicial finding of reasonable efforts to prevent removal within 60 days of the date of removal. As verified in court transcripts, the earliest discernable date of a reasonable efforts finding was made on November 3, 2003, which exceeds the aforementioned 60 day requirement. The child is, therefore, ineligible for title IV-E reimbursement according to initial title IV-E eligibility guidance which states that for a child removed on or after March 27, 2000, the judicial determination that reasonable efforts were made, or were not required, to prevent removal must be made no later than 60 days from the date of removal. If this eligibility criterion is not satisfied within the time frame prescribed in the Federal regulations, the child is not eligible under title IV-E for the duration of the foster care episode. Federal regulations at 45 CFR 1356.21(b)(1) specifically address reasonable efforts to prevent removal. The total disallowance for this case is \$24,468.15, with \$8,328.73 attributed to maintenance costs and \$16,139.42 attributed to administrative costs.

## **Ineligible Payments**

In sample case #2, the child was placed in a relative foster home beginning January 4, 2006. The provider was not fully licensed during the child's placement until December 18, 2006, and title IV-E payments were made on behalf of the child prior to the provider being fully licensed. All children placed with a foster care provider on or after March 27, 2000 must be placed in a title IV-E eligible facility and that facility must meet the standards for full licensure or approval

established by the State for payments to be made. Therefore, the child was ineligible for title IV-E reimbursement from the date of placement until the date of full licensure. This case was determined to be a non-error case with ineligible payments because while the period of ineligibility exists partially during the PUR (January 4, 2006 – November 30, 2006), all ineligible payments were made prior to the PUR (i.e., in February 2006). Federal regulations at 45 CFR 1356.71 and 1355.20(a) as well as Section 471(a)(10) of the Act specifically address placement in a licensed foster family home or childcare institution. The total disallowance assessed for this case is \$559.54, with \$181.27 attributed to maintenance costs and \$378.27 attributed to administrative costs.

### **Improper Payments**

In both sample cases #13 and #40, improper payments were made which were not associated with a child's title IV-E eligibility, but were maintenance payments made on behalf of eligible children for respite services not approved for reimbursement with title IV-E funds. Respite care is defined in Federal regulation as an allowable title IV-B child welfare service, but is not an allowable expenditure under title IV-E foster care maintenance. Federal regulation 45 CFR 1356.60 and Sections 472, 474 and 475 of the Act specifically address allowable title IV-E maintenance payments. The total disallowance assessed for sample case #13 is \$80.00, with \$80.00 attributed to maintenance costs and \$0.00 attributed to administrative costs. Separately, the total disallowance assessed for sample case #40 is \$66.50, with \$66.50 attributed to maintenance costs and \$0.00 attributed to administrative costs.

### **Strengths and Model Practices**

*State Pre-Review and Review Activities:* The Illinois staff, both at the State and County level, did an excellent job preparing for this review. Both State program and fiscal staff were very responsive to Federal requests and supplied needed information in a timely manner. Once onsite, case records were well organized, and reviewers had little difficulty locating the required information. Several reviewers commented on the helpfulness of the case summary 8041 forms provided, which were very well done and clearly detailed several pertinent title IV-E eligibility criteria. These noteworthy efforts continued during the onsite review, as all participating State and contracted staff worked diligently to ensure that the review flowed as smoothly as possible. State reviewers were especially helpful in locating both AFDC eligibility and licensing determination information.

*Placement and Care:* In order for a child to be eligible for title IV-E reimbursement, the State title IV-E agency (or another public agency, including an Indian Tribe, with which the title IV-E agency has a written agreement that is in effect) must maintain responsibility for the child's placement and care for the entire time that he/she is in an out-of-home placement [45 CFR 1356.71(d)(1)(iii)]. In all 80 cases reviewed, the Illinois court orders explicitly vested placement and care responsibility with the appropriate Illinois public agency. The clarity of placement and care responsibility, despite the diversity in the court orders, throughout the State was consistently appropriate.

*AFDC Eligibility Checks:* Reviewers found the DCFS' practice of continuous checks for potential changes in children's eligibility to be very positive. Federal staff was impressed with

the automated system of communications with Department of Labor, Social Security, Veteran's Affairs and other public benefit offices. Particular acclaim is also deserved related to the ease in locating and interpreting the State's 185% AFDC standard of need. Overall, needs standards, deprivation factors and income changes were each very easy to locate and often very current.

*Permanency Hearings and Judicial Determinations to Finalize the Permanency Plan:*

Reviewers consistently noted strong efforts to ensure timely judicial determinations were made related to reasonable efforts to finalize permanency plans. Additionally, in each instance where such judicial determinations were not achieved in a timely manner, title IV-E claiming ceased and began appropriately. This practice was found throughout the review and across the State. DCFS is to be congratulated on exercising these solid and reliable practices.

*Placement Documentation and Stability:* Case placement records repeatedly demonstrated a marked reduction in the number of foster care placements in comparison to the number of placements noted during the previous primary review. This noticeable improvement in placement stability is commendable and is reflective of the great amount of work the State has accomplished in improving the permanency of children.

## **Areas in Need of Improvement**

*Judicial Order Notations:* While not found in the majority of cases, several cases did contain orders which failed to list the child by name, and instead noted the children via court appointed code or number and/or coupled children within a sibling group code or number. Each affected case was ultimately able to be deciphered to determine what orders applied to the child in question, however, this practice made the review of these cases exceedingly complicated.

*Licensing and Safety Documentation:* First and foremost, the licensing practices were noted to be sound and very appropriate. The LEADS Agreement between DCFS and the Illinois State Police is a model practice demonstrating streamlined, cross-system collaboration. However, there was a concern with the appropriateness of the corresponding documentation provided in the case records. As delineated in the Title IV-E Eligibility Review Guide, one purpose of the review is to verify that the safety documentation provided by the State contains the official results of the criminal records checks. The licensing files during this review mostly contained the computer printouts illustrating that the provider had been licensed and the criminal checks completed, but did not contain official copies of results of either process. Ultimately, we were very impressed with the State's licensing processes and our concerns were assuaged following the receipt of additional documentation and a personalized walk-through of the background check process. To complement DCFS' effective licensing work, we request that the State provide the type of documentation received during this onsite review when preparing for future onsite reviews.

## **Disallowances**

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 six-month AFCARS period of October 1, 2006 to March 31, 2007. Based upon the results of the review, Illinois has been determined to be in substantial compliance. Five cases (two error cases, one non-error case

with ineligible payments, and two non-error cases with improper payments) were determined not to be eligible for funding under title IV-E foster care. Therefore, a disallowance in the amount of \$418,728.71, Federal financial participation (FFP), is assessed for the entire period of time that these cases were determined to be ineligible. Of this total, \$354,912.63 pertains to ineligible title IV-E foster care maintenance payments (\$354,584.86 related to the error cases and \$327.77 related to the non-error case) and \$63,816.08 pertains to ineligible title IV-E foster care administrative costs (\$63,437.81 related to the error cases and \$378.27 related to the non-error case).

Moreover, it is noteworthy that the above-referenced disallowance only encompasses the period of ineligibility, ending with the last day of the PUR, March 31, 2007. It does not encompass any disallowances that may be associated with the error cases claimed against the title IV-E foster care program after March 31, 2007. Therefore, we request that Illinois review its records with respect to the three cases referred to above and ascertain whether any additional ineligible maintenance payments and related administrative costs were claimed against the title IV-E foster care program after March 31, 2007. Any additional ineligible payments beyond the PUR must be added to the total disallowance.

Since the amount of disallowed funds was previously included in Federal payments made to the State, Illinois 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). Illinois should identify the adjustments by Federal fiscal year (FFY), by quarter, and by case number when making these adjustments on the Part 2, Section B: Decreasing Adjustments of the Form ACF-IV-E-1, which must be submitted within 30 days of the date of the accompanying letter in order to avoid the assessment of interest [45 CFR 30.12(a) and 30.13]. DCFS will be liable for interest on the amount of funds disallowed by CB, in accordance with the provisions of 45 CFR 30.13(a), if the disallowance is not paid within 30 days from the date of the letter. Regulations at 45 CFR 30.14, provide guidance on paying the debt or accruing interest while pending a formal review of the debt. Illinois may appeal this disallowance to the Departmental Appeals Board (the Board) within 30 days from receipt of the accompanying letter [45 CFR 16.7(a)]. Please refer to these regulations for procedures for appealing this disallowance. This decision shall be the final decision of the U.S. Department of Health and Human Services (the Department) unless within 30 days after receipt of this decision you deliver or mail (using registered or certified mail to establish the date) a written notice of appeal to:

U.S. 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

Should the State choose to appeal, please attach to the notice a copy of this decision, a note of the States intention to appeal, the amount in dispute and a brief statement as to why DCFS believes this decision is incorrect. A copy of the appeal should also be sent to CB's Region V Office. The Board will notify you of further procedures.

If DCFS appeals, the agency may elect to repay the amount at issue, pending a decision of the 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 a supplemental submission of the Form ACF-IV-E-1. Interest will be charged, starting from the date of the letter, on the funds the Board decides were properly disallowed, if the State retains the funds and the Board sustains all or part of the disallowance. Regulations at 45 CFR Part 30 detail how interest will be computed.

In the event DCFS chooses to take no action to return the funds, it will be assumed the State has 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.

### **Conclusion**

Overall, the results of Illinois' primary review indicate strong practice in the area of title IV-E eligibility. Building upon the State's substantial compliance with Federal requirements in their previous primary review in 2004, the results of this more recent review revealed that the State has continued to make improvements in title IV-E eligibility and case practice. Several model practices were distinguished throughout the course of this primary review, and the time and effort that DCFS State and County personnel have invested in improving the State foster care system is notable.

As Illinois is found to be in substantial compliance with Federal title IV-E requirements, the State can anticipate the next primary Title IV-E Foster Care Eligibility Review to take place in approximately three years.