



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

Regional Office VI
1301 Young Street, Suite 914
Dallas, Texas 75202-5433

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December 2, 2004

Secretary Ann S. Williamson
Office of the Secretary
Department of Social Services
State of Louisiana
P.O. Box 3776
Baton Rouge, Louisiana 70821

Dear Secretary Williamson:

The final report of the findings obtained from the July 26-30, 2004 joint federal-state eligibility review of Louisiana's title IV-E foster care program is enclosed. In accordance with our regulations, this primary review was conducted after the September 22-28, 2001 initial primary review. The purpose of the July 2004 review was (1) to determine Louisiana's compliance with the child and provider eligibility requirements as outlined in 45 Code of Federal Regulations 1356.71 and Section 472 of the Social Security Act, as amended; and (2) to validate the accuracy of Louisiana's claims to assure that appropriate payments were made on behalf of eligible children, to eligible providers at allowable rates. The period under review (PUR) was October 1, 2003 through March 31, 2004.

We commend Ms. Janice Washington and the Office of Community Services' title IV-E eligibility staff for their excellent efforts in preparing for and participating in the review as members of the federal-state teams. The enclosed final report identifies strengths and provides recommendations for improvement.

The July 2004 review resulted in finding three ineligible cases and two cases where additional documentation was required. We received your August 13, 2004 letter and the requested documentation relating to those two pending cases. Because questions remain, we requested additional documentation. We also received your Bureau of General Counsel October 8, 2004 letter. That letter provided additional information relating to the full licensure issue and how that applied to the providers in the two pending cases. Based on our review of those letters and consultation with the Children's Bureau Division of Program Implementation and our Office of the General Counsel, I have determined that the two pending cases are ineligible cases. Thus, the review team determined that five cases were ineligible for Federal funding. I have enclosed seven documents that were considered in making the determination.

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We have determined the State of Louisiana's title IV-E foster care maintenance program not to be in substantial compliance with Federal child and provider eligibility requirements for the period October 1, 2003 through March 31, 2004. Pursuant to 45 CFR 1356.71(i), Louisiana is required to develop a Program Improvement Plan (PIP) designed to correct those areas needing corrective action as identified in the enclosed report. The PIP is not to exceed one year. It will be developed by the State, in consultation with ACF Regional Office staff, and must be submitted to the ACF Regional Office by March 28, 2005. This deadline may be extended an additional 30 days if Louisiana submits additional documentation to ACF Regional Office in support of cases determined to be ineligible as a result of the July 26-30, 2004 on-site eligibility review. The PIP must include the following components:

- Specific goals;
- Action steps required to correct each identified area needing improvement;
- A date by which each of the action steps is to be completed; and
- A description of how progress on the PIP will be evaluated by the State and reported to the ACF Regional Office, including the frequency and format of the evaluation procedures.

Also, pursuant to 45 CFR 1356.71(j)(2), following the completion of the PIP, a secondary review must be held between March 2, 2006 and April 1, 2006. The sample for the secondary review will be 150 cases plus a ten percent oversample of 15 cases drawn from Louisiana's most recent Adoption and Foster Care Analysis and Reporting System (AFCARS) data.

The financial penalty to be taken for this primary review will be for the payments, including the administrative costs, associated with the five error cases as indicated in the following chart:

INELIGIBLE CASE (SAMPLE #)	MAINTENANCE AMOUNT CLAIMED	X 71.63% FMAP MAINTENANCE DISALLOWANCE	ADMINISTRATIVE COSTS DISALLOWANCE
XXXXX3810 (LA 02)	\$ 7,092.68	\$ 5,080.48	\$ 10,505.00
XXXXX8511 (LA 27)	\$ 941.67	\$ 674.52	Not Applicable
XXXXX6282 (LA 36)	\$ 8,036.45	\$ 5,756.52	2,917.00
XXXXX3814 (LA 13)	\$ 10,699.73	\$ 7,664.22	Not Applicable
XXXXX2275 (LA 22)	\$ 12,320.07	\$ 8,824.87	Not Applicable
TOTAL	\$ 39,090.60	\$ 28,000.61	\$ 13,422.00

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This letter also constitutes our formal notice of disallowance of \$28,000.61 in Federal Financial Participation (FFP) for title IV-E foster care maintenance payments and \$13,422.00 (FFP) for related title IV-E administrative costs. In accordance with ACYF-CB-PI-02-08 (dated October 2, 2002), administrative costs were not taken for cases LA 27, LA 13 and LA 22.

Since the amount of disallowed funds was previously included in Federal payments made to the State, you 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, Column (c) and (d). A supplemental IVE-1 form must be submitted within 30 days of the date of this letter in order to avoid the assessment of interest. A supplement submission must contain only the adjustment described above; other claims or revisions must not be included and will not be accepted. The original report should be submitted to the following address with a copy to the ACF Regional Office [Attn: Laurie Hagedorn]:

Administration on Children, Youth and Families
Office of Management Services
330 C Street, SW, Room 1427
Washington, D.C. 20447

This is the final decision of the Administration for Children and Families (ACF). Under the regulations at 45 CFR Part 16, you have an opportunity to appeal this decision to the Departmental Appeals Board (Board). This decision shall be the final decision of the Board 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:

Department of Health and Human Services
Departmental Appeals Board
Room 635-D HHH Building
200 Independence Avenue SW
Washington, D.C. 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 also should be sent to my attention and to Thurston L. Jones in the ACF Regional 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 Departmental Appeals 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 IVE-1 form, as described above. If you retain the funds and the Board sustains all or part of the disallowance, interest will be charged starting from the date of this letter on the funds the Board decides were properly disallowed. Regulations at 45 CFR Part 30 detail how interest will be computed.

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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.

Again, we extend appreciation to you and your staff in the Office of Community Services for their efforts in preparing for and participating in the July 26-30, 2004 on-site review. We look forward to working with you and your staff to continue to improve Louisiana's implementation of the Federal requirements and to improve services to Louisiana children and families.

If you have any questions, please contact June Lloyd, Program Manager, at 214.767.8466, Laurie Hagedorn, our Fiscal Team Coordinator, at 214.767.8029, or Thurston “T.J.” Jones, Children and Families Program Specialist, at 214.767.4158, Office of State and Tribal Programs.

Sincerely,

Leon R. McCowan
Regional Administrator

Enclosures
Final Report

cc: Assistant Secretary Marketa Gautreau
Office of Community Services
Louisiana Department of Social Services

Janice Washington
OCS/DSS Co-Leader
Title IV-E Eligibility Review Team
Office of Community Services
Louisiana Department of Social Services

Margreta Silverstone, Children’s Bureau
330 C Street, S.W., Room 0000
Washington, D.C. 20447

Susan Orr
Associate Commissioner
Children’s Bureau
330 C Street, S.W., Room 1416
Washington, D.C. 20447

FINAL REPORT: TITLE IV-E ELIGIBILITY REVIEW

Office of Community Services
Department of Social Services
State of Louisiana
July 26 – 30, 2004

PERIOD UNDER REVIEW: October 1, 2003 - March 31, 2004

I. INTRODUCTION

During the week of July 26-30, 2004, ACF Region VI and State of Louisiana staff conducted the primary title IV-E eligibility review of the Office of Community Services/Department of Social Services (OCS/DSS) title IV-E foster care program. The entrance and exit conferences were conducted on July 26, 2004 and July 30, 2004, respectively.

The purpose of the review was to validate the accuracy of the OCS/DSS title IV-E claims to assure that appropriate payments were made on behalf of eligible children, to eligible homes and institutions, and at allowable rates.

II. SCOPE OF THE REVIEW

The primary foster care eligibility review was conducted in the OCS/DSS state office in Baton Rouge, Louisiana. The review encompassed all title IV-E foster care cases during the period October 1, 2003 to March 31, 2004. A computerized statistical sample of 100 cases with 20 case oversample was drawn from the federal Adoption and Foster Care Analysis and Reporting System (AFCARS). The sample was transmitted to ACF Region VI on June 2, 2004. The sample was subsequently transmitted to the OCS/DSS title IV-E review lead Janice Washington and the OCS/DSS data team Terry Skaggs and Donna Duscoe on June 2 and June 3, 2004. Consultation (regarding any questions/problems with the sample) between the ACF Region VI and OCS/DSS review team leads occurred on June 10, 2004. The sample consisted of cases of individual children who received at least one title IV-E foster care maintenance payment during the six-month period under review, i.e., October 1, 2003 to March 31, 2004. For each sample case, the case file was reviewed for the accuracy of the title IV-E eligibility determination, for determining whether the foster home or institution in which the child was placed was licensed, and for determining whether criminal background checks had been completed.

III. COMPLIANCE REQUIREMENTS

During the primary review, eighty (80) cases were reviewed. Since the number of ineligible cases did exceed four (4), a finding of ***not in substantial compliance*** was made. Disallowance was assessed for the five (5) ineligible cases. The next title IV-E eligibility review will be a **secondary review**. It will occur following the completion of the PIP (between February 17, 2006 and March 31, 2006). The sample for the secondary review will be 150 cases plus a ten percent oversample of 15 cases drawn from Louisiana's most recent Adoption and Foster Care Analysis and Reporting System data.

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IV. FINDINGS

This review resulted in determining that there were five (5) ineligible cases, and a finding of ***not in substantial compliance***. The reasons for the ineligibility determinations are

provided in the Case Record Summary section of this report. Reviewers also identified strengths (Part B), and improvement areas and recommendations (Part C) below.

A. Case Record Summary

The following narrative details the ineligible cases, reasons for the ineligibility determination, and ineligible dollars (disallowed maintenance claims: \$39,090.60 [**Federal share \$28,000.61**]) and \$13,422.00 (disallowed FFP administrative costs).

Case ID Number XXXXX3810 (Sample #02). Facility did not meet criminal records check requirement. The amount of funding claimed was \$7,092.68 [**Federal share \$5,080.48**; based on the FFY2004 FMAP (71.63%)]. Related administrative costs (FFP) in the amount of \$10,505.00 were disallowed. Section 472 (c), Social Security Act, as amended, requires that foster families be licensed for the care of children under title IV-E, or approved as meeting the standards established for such licensing. The Adoption and Safe Families Act (ASFA) requires that safety be the primary concern in decisions about children and requires criminal background clearances on foster and adoptive homes prior to the placement of children. Our regulations at 45 Code of Federal Regulations 1356.30(a) requires that the State provide documentation that criminal records checks have been conducted with respect to prospective foster and adoptive parents. Additionally, 45 CFR 1356.71(g)(2) requires that the licensing file contain documentation that the State has complied with the safety requirements for foster and adoptive placements in accordance with 45 CFR 1356.30.

Case ID Number XXXXX8511 (Sample #27). Delay in recertification of family foster home. The amount of funding claimed was \$941.67 [**Federal share \$674.52**; based on the FFY2004 FMAP (71.63%)]. Our regulation at 45 CFR 1356.71(g)(1) requires that the State make available a licensing file which contains the licensing history for providers. The file provided by Louisiana reflected a delay from December 20, 2003 to January 21, 2004 in recertifying the provider.

Case ID Number XXXXX6282 (Sample #36). Facility did not meet criminal records check requirement. The amount of funding claimed was \$8,036.45 [**Federal share \$5,756.52**; based on the FFY2004 FMAP (71.63%)]. Related administrative costs (FFP) in the amount of \$2,917.00 were disallowed. Section 472 (c), Social Security Act, as amended, requires that foster families be licensed for the care of children under title IV-E, or approved as meeting the standards established for such licensing. The Adoption and Safe Families Act (ASFA) requires that safety be the primary concern in decisions about children and requires criminal background clearances on foster and adoptive homes prior to the placement of children.

Case ID Number XXXXX3814 (Sample #13). Provisional license. The amount of funding claimed was \$10,699.73 [**Federal share \$7664.22**; based on the FFY2004 FMAP (71.63%)]. Our regulations at 45 CFR 1356.71(g)(1) requires that the State make available a licensing file which contains the licensing history for providers. The licensing file provided by Louisiana contained December 31, 2003 letter indicating that the provider did not meet minimum licensing standards. Section 472 (c), Social Security Act, as amended, requires that foster families be licensed for the care of children under title IV-E, or approved as meeting the standards established for such licensing.

Case ID Number XXXXX2275 (Sample #22). Provisional license. The amount of funding claimed was \$12,320.07 [**Federal share \$8,824.87**; based on the FFY2004 FMAP (71.63%)]. Section 472 (c), Social Security Act, as amended, requires that foster families be licensed for the care of children under title IV-E, or approved as meeting the standards established for such licensing.

B. Identified Strengths

1. Timely judicial determinations.
2. Certifications of foster homes well documented.
3. Organization of case files facilitated the review process. Represented a significant improvement from the September 23-28, 2001 title IV-E eligibility review.
4. Permanency improved. Cases showed that children were moved quickly to adoption.
5. Good placement stability. Overall average was one placement per case. Multiple foster care placements were minimal.
6. Court orders contained appropriate language.
7. Eligibility determinations were well documented.
8. Office of Youth Development (OYD) has implemented uniform court orders to insure statewide consistency.

C. Improvement Areas and Recommendations

1. Update TIPS or insure that ACCESS includes a field for facility information, i.e., approval status and definitions of license status.
2. Bureau of Licensing needs to seek legislative change, or to develop policy and practice manual (in the absence of legislation), to clarify what constitutes **full licensure**. The use of provisional as a license category is problematic. The policy or practice that the Bureau of Licensing promulgates should include provisions that:

- a. Distinguish between safety and non-safety deficiencies;

- b. Provide for timely corrections of deficiencies;
 - c. Provide for timely follow up to determine if corrections are made;
 - d. Provide for timely and appropriate decisions; and
 - e. Provide for timely notification to OCS eligibility unit of any change (s) to license category.
3. Bureau of Licensing should develop training on the new policy or practice manual to include the facility license and approval process. OCS and OYD staff should be included in the target audience.
 4. Louisiana should insure that procedures require documentation of income.
 5. Maintain court orders/affidavits in case files for clarity and determinations that ASFA requirements are met.
 6. Minimize the time lapses (three to four months) between court hearings and the issuance of court orders.

7. OCS/DSS and Bureau of Licensing should develop training for Bureau of Licensing staff (attorneys and non-attorneys) on Louisiana legislative audit and ACF title IV-E eligibility review processes.
8. Improve internal communication (Bureau of Licensing and Office of Community Services) with focus on the role of Bureau of Licensing in title IV-E eligibility reviews. Bureau of Licensing staff participation in and availability have been problematic during both title IV-E eligibility reviews (September 23-28, 2001 and July 26-30, 2004).
9. Improve internal communication regarding the effects of program and financial deficiencies on DSS child welfare practice.
10. Collaborate with the Court Improvement Program staff to develop informational materials and/or training sessions for judges to show how differences in court orders affect compliance with title IV-E eligibility requirements.
11. Documentation of criminal records checks (OYD facilities) needs to show that records were received and accepted, rather than only documenting that the criminal records checks were requested.