

**MAINE BUREAU OF CHILD AND FAMILY SERVICES  
TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW  
MAY 17 - 20, 2004**

**I. INTRODUCTION**

During the week of May 17<sup>th</sup>, 2004, staff from the Regional and Central Offices of the Administration for Children and Families (ACF) and Maine's Bureau of Child and Family Services conducted a *secondary* eligibility review of the State of Maine's (ME) Title IV-E Federal Foster Care program. This review is a secondary review since the State was not found in substantial compliance with the title IV-E eligibility requirements in the initial primary review conduction in March of 2001.

The purpose of both primary and secondary reviews of Title IV-E eligibility requirements is to validate the accuracy of the State's federal claims, to ensure that appropriate payments were made on behalf of eligible children, to eligible homes and institutions and at the allowable rates.

**II. SCOPE OF THE REVIEW**

Maine's Title IV-E review encompassed a sample of all Title IV-E foster care cases open during the period April 1, 2003 through September 30, 2003. A computerized statistical random sample of 150 cases and an over-sample of 60 cases were drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data that were transmitted by the State Agency to ACF. The sampling frame consisted of cases of individual children who received at least one Title IV-E foster care payment during the six-month period noted above. For each case, the child's case file was reviewed for accuracy in the determination of Title IV-E eligibility and to ensure that the foster care setting in which the child was placed was fully licensed for the entire period under the review, as applicable.

Of the 150 cases were reviewed, 140 cases were determined to be eligible. Ten cases were found to be in error for either part or all of the review period for reasons identified in the Case Record Summary of this report.

**III. RESULTS**

Since the number of ineligible cases was not above the allowable threshold of fifteen cases, Maine is considered to be in substantial compliance with the Title IV-E eligibility requirements. Thus, the next primary review will not be conducted until Federal Fiscal Year 2007.

The detailed findings of this review follow.

#### IV. FINDINGS

##### A. STRENGTHS

- ❖ The State has made significant improvements in the licensing and re-licensing of foster homes. In the initial primary review, 18 cases were in error due to licensing issues (including fire inspections). During this review:
  - All of the cases reviewed were found to have criminal records checks on foster/adoptive parents and documentation that safety checks were being performed for child care institution staff/caretakers.
  - All of the cases reviewed had fire inspections completed within the State's required time frames.
  - Only one of the cases reviewed was found in error due to a lapsed license.
- ❖ Judicial determinations – with a few exceptions - were made and the documentation of these determinations in the court orders was much improved since the time of the primary review.

##### B. AREAS IN NEED OF IMPROVEMENT

Based on the findings of this secondary review, we recommend that the State further develop and/or implement procedures to improve the following areas:

- Finding  
In the records under review, four cases were found to be in error because the financial need and/or deprivation of parental support for the child were not established.

##### IV-E Requirement

The Personal Responsibility and Work Opportunity Reconciliation Act (1996) replaced the Aid to Families with Dependent Children (AFDC) Program with the Temporary Assistance to Needy Families (TANF) but

continued to link IV-E eligibility to the AFDC Program. States, therefore, must determine a child's IV-E eligibility based on AFDC policies and procedures - excluding any Section 1115 waiver standards, disregards, etc. - that were in effect on July 16, 1996. For purpose of IV-E eligibility, the State is required to determine the need and deprivation of parental support of the child in the home from which he/she is being removed at the time the petition leading to this removal is filed.

#### Discussion

In determining IV-E eligibility under this requirement, ME mistakenly determined financial need for four cases in which the household income would not have met the State's 1996 AFDC Needs Standards. In two of these cases, the State failed to appropriately apply the rules regarding the child's living arrangement and the specified relative from whom the child was removed. Finally, in one case, the information provided showed that the child was not deprived of parental support.

In addition, prior to the sample being drawn for this review, the State submitted a claim to the Federal Regional Office in which there were decreasing adjustments for 223 cases. Forty per cent of these applicable adjustments were related to inaccurate AFDC eligibility determinations.

#### Corrective Action Needed

The State must continue to develop and implement a IV-E eligibility determination process which accurately establishes that the child being removed is from a household that meets the correct AFDC eligibility criteria. Thus, at the time of removal and annually thereafter, the State must determine whether or not the child is needy (financial need) and dependent (deprived of parental support) based on the 1996 AFDC needs standards and procedures (excluding any waiver standards, disregards, etc.)

We suggest that the State re-train the eligibility workers on these AFDC policies and procedures. We also suggest that State strengthen its quality control processes to ensure that only the allowable costs of AFDC-eligible foster children are claimed for IV-E reimbursement.

- Finding

In the records reviewed, three cases were found to be in error because Court Orders did not have either timely or appropriately documented judicial determinations regarding Contrary to Welfare and/or Reasonable Efforts to prevent removal or Reasonable Efforts to Finalize the Permanency Plan.

IV-E Requirement

If a child is removed by an Order of the Court (versus a Voluntary Agreement), the judicial determination regarding Contrary to the Welfare of the Child to remain at home must be child specific and documented in the first court order sanctioning removal of the child. Secondly, the judicial determination of Reasonable Efforts to prevent this removal (as appropriate) must be made and documented in a Court Order within 60 days of the removal. Thirdly, ASFA created a new Reasonable Efforts requirement to ensure that the State (Court and Child Welfare Agency) are giving close attention to the permanency needs of children who remain in care for 12 months or more. Thus, a judicial determination regarding Reasonable Efforts to finalize the permanency plan for the child must be made within 12 months and every 12 months thereafter.

Discussion

Several issues contributed to cases being found in error under this requirement:

- The required judicial determinations were either not made or were not made in accordance with the federal timeframes.
- The required judicial determinations were not sufficiently documented in Court Orders. The only acceptable documentation other than the Court Order is the Court transcript. A number of cases necessitated a review of the Court transcript to determine if the federal requirements for these judicial determinations were met. This was a labor intensive process for all parties - Court staff, BCF staff, and reviewers.
- ME (not unlike most other states) incorporated the federal requirement for a judicial determination of Reasonable Efforts to finalize the permanency plan into the permanency hearing. However, there is the likelihood that such hearings may be delayed or continued. Such delays result in the State obtaining a judicial determination of Reasonable Efforts to finalize the permanency plan beyond the 12 months required by federal regulation.

#### Corrective Action Needed

As noted under “Strengths”, the State has done much work in this area. However, the Court and the Agency should continue to develop and implement practices and procedures to ensure complete and timely Court Orders for all removals. In addition, the State must develop and implement practices and procedures to ensure complete and timely judicial determinations of Reasonable Efforts to finalize the permanency plan regardless of the timing of the Permanency Hearing. Finally, the MACWIS system should be reviewed to ensure the proper functioning of the edit suspending IV-E claiming until this judicial determination is made.

- Finding

As noted under “Strengths”, the State has significantly reduced the number of errors in IV-E provider eligibility due to lack of full licensure of the provider. While only three cases were found to be in error because of not being fully licensed during the period under review, two of these cases raised questions concerning the State’s approach to relative licensing.

#### IV-E Requirement

For the purpose of title IV-E eligibility, individual or family homes, group homes, and child care institutions that provide 24-hour out-of-home care for children must be fully licensed or approved as meeting the standards established by the State licensing or approval authority(ies).

#### Discussion

It appears that the State pursues licensing of relatives but either the child is placed prior to full licensure or the relative’s home does not meet the State’s standards.

#### Corrective Action Needed

We suggest that the MACWIS system be reviewed to ensure the proper functioning of the edit suspending IV-E claiming until/unless full licensure of the relative home is achieved.

- Finding

Prior to the sample being drawn for this review, ME submitted a claim in which there were decreasing adjustments for approximately 223 cases. Due to an extensive quality control review by State staff, 183 cases were found to be ineligible for title IV-E and should not have been claimed either for the period to be reviewed or in some cases, for the child's stay in foster care.

Discussion

Earlier in this report, we noted that 40% (74 cases) of the decreasing adjustments related to errors in the determination of the AFDC eligibility of the child whose maintenance cost were being claimed for title IV-E reimbursement. Another 30% (55 cases) of these decreasing adjustments related to legal issues within the purview of the Bureau to correct. The greater proportion of which (38 of the 55 cases) indicated that the agency did not have legal custody of the child being claimed for IV-E.

Corrective Action Needed

Eligibility technicians need to be kept current on any changes in ACF policy related to the initial or on-going eligibility of children in out-of-home care and the providers of this 24-hour substitute care for these children.

In addition, we recommend that the State develop/strengthen its on-going quality assurance process to ensure the accuracy of the IV-E determination process and validity of the claims submitted for title IV-E reimbursement. This quality assurance process needs to inform the appropriate management staff when deficiencies in either process are found. Corrective action should be taken in a more timely and efficient manner than that evidenced by this most recent claim submittal.

The following details the ineligible cases, reasons for ineligibility, and the period and amount for each ineligible claim. The disallowance for each failed case encompasses the entire period of ineligibility for which IV-E FFP was claimed.

ACYF-CB-PI-02-08 delayed the effective date of the provision disallowing FFP for administrative costs regarding otherwise IV-E eligible children in unlicensed foster family homes pending the issuance of a Final Rule. Therefore, no disallowance has been made for those cases involving unlicensed homes.

□ **Sample #2** Case ID: XXXXXX

The child was determined to be ineligible from 06/07/00 - 09/30/03 because the State failed to obtain the initial judicial determination of contrary to the welfare of the child to remain at home in the first court order sanctioning removal of the child and within sixty days of the child's removal from home, the State failed to obtain the judicial determination that the agency made reasonable efforts to prevent the removal of the child from home.

Total IV-E Maintenance      \$ 38,287 (FFP)

Total IV-E Administration \$ 2,068 (FFP)

□ **Sample #4** Case ID: XXXXXXXX

The child was determined to be ineligible from 12/21/00 – 09/30/03 because the State did not establish that within six months prior to petition leading to removal, the child had lived in the home of certain relatives as defined in CFR Section 233.10 (b) (2) (ii) (a) (3) and 233.90 (A)(v) for purposes of determining AFDC eligibility based on 1996 criteria as specified in title IV-A of the Social Security Act.

Total IV-E Maintenance      \$ 12,914 (FFP)

Total IV-E Administration \$ 1,767 (FFP)

□ **Sample #22** Case ID: XXXXXXXX

The provider was determined to be ineligible from 08/01/03 – 09/30/03 because during this time period, the license for the provider's home lapsed and therefore, the home was not fully licensed according to the State's licensing standards.

Total IV-E Maintenance      \$ 1,979 (FFP)

Total IV-E Administration \$ -0- (FFP)

□ **Sample #32** Case ID: XXXXXXXX

The child was determined to be ineligible from 09/25/00 – 09/30/03 because the State did not establish that within six months prior to petition leading to removal, the child had lived in the home of certain relatives as defined in CFR Section 233.10 (b) (2) (ii) (a) (3) and 233.90 (A)(v) for purposes of determining AFDC eligibility based on 1996 criteria as specified in title IV-A of the Social Security Act.

Total IV-E Maintenance      \$ 21,010    (FFP)

Total IV-E Administration    \$ 1,203    (FFP)

□ **Sample #62** Case ID: XXXXXXXX

The child was determined to be ineligible from 08/08/02 - 09/30/03 because the State failed to obtain the initial judicial determination of contrary to the welfare of the child to remain at home in the first court order sanctioning removal of the child and within sixty days of the child's removal from home, the State failed to obtain the judicial determination that the agency made reasonable efforts to prevent the removal of the child from home. In addition, the child would not have met the State's 1996 AFDC requirement of dependency since the child was not deprived of parental support in the household from which he/she was removed.

Total IV-E Maintenance      \$ 537    (FFP)

Total IV-E Administration    \$ 738    (FFP)

□ **Sample #86** Case ID: XXXXXXXX

The child was determined to be ineligible from 09/06/01 - 09/30/03 because unearned income was not included in the calculations required for determining financial need for purposes of AFDC eligibility. When this income is included, the household income no longer meets the State's 1996 AFDC Needs Standard. Thus, child was removed from a household that would not have met the 1996 AFDC Needs Standards at time of removal.

Total IV-E Maintenance      \$ (486)    (FFP)

Total IV-E Administration    \$ 1,306    (FFP)

□ **Sample #140** Case ID: XXXXXX

The child was determined to be ineligible from 05/01/02 – 08/31/03 because the State failed to obtain a timely judicial determination of reasonable efforts to finalize the permanency plan required within 12 months of entry and every 12 months thereafter

Total IV-E Maintenance      \$ 26,879    (FFP)

Total IV-E Administration      \$    840    (FFP)

□ **Over-Sample #30** Case ID: XXXXXX

The provider was determined to be ineligible from 04/01/03 – 09/30/03 because during this time period the provider's home was not fully licensed according to the State's licensing standards.

Total IV-E Maintenance      \$ 305    (FFP)

Total IV-E Administration      \$ -0-    (FFP)

□ **Over-Sample #39** Case ID: XXXXXX

The child was determined ineligible from 8/2/99 – 4/28/03 because while it appears that the child was removed from home through a voluntary placement agreement, this agreement was not provided for review. In addition, if it were determined that the child entered care on the date provided, the State failed to obtain within 180 days of this date, the judicial determination that it was in the best interests of the child to remain in care.

Total IV-E Maintenance      \$ 42,258    (FFP)

Total IV-E Administration      \$ 2,295    (FFP)

□ **Over-Sample #42** Case ID: XXXXXX

The provider was determined to be ineligible from 09/11/02 – 09/30/03 because during this time period the provider's home was not fully licensed according to the State's licensing standards.

Total IV-E Maintenance      \$ 28    (FFP)

Total IV-E Administration      \$ -0-    (FFP)