

**VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES
TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW
MAY 9 - 13, 2005**

I. INTRODUCTION

During the week of May 9th, 2005, staff from the Regional and Central Offices of the Administration for Children and Families (ACF) and Vermont's Department for Children and Families (DCF) conducted a *secondary* eligibility review of the State of Vermont's (VT) title IV-E Federal Foster Care program. A secondary review was required since in the initial *primary* review conducted in September 2002, the State was found to be not in substantial compliance with the title IV-E eligibility requirements. As a result of this finding, the State was required to develop and implement a Program Improvement Plan (PIP). The State reported completion of this PIP on February 18, 2004.

Upon completion of the PIP, ACF conducted a secondary review of VT's title IV-E Foster Care Program. As with the primary review, the purpose of a secondary review of Title IV-E eligibility requirements is to validate the accuracy of the State's federal claims ensuring 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

VT's title IV-E review encompassed a universe of all title IV-E foster care cases open during the period April 1, 2004 through September 30, 2004. A computerized statistical random sample of 150 cases and an over-sample of 30 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/approved for the entire period under the review, as applicable.

III. RESULTS

Of the 150 cases reviewed, 143 cases were determined to be eligible. Seven 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. The total disallowance for these seven cases is \$47,113 (FFP).

Since the number of ineligible cases was not above the allowable threshold of fifteen cases, Vermont is considered to be in substantial compliance with the title IV-E eligibility requirements. Thus, the next primary review will be conducted in or about May 2008.

IV. FINDINGS

A. STRENGTHS

- Prior to and during the PIP period, VT DCF strengthened policies and practices as well as revised forms and procedures to ensure a more accurate and complete title IV-E eligibility determination system. Some of these efforts and results are noted below:
 - ❖ The State made significant improvements in their system for determining if a child was removed from a home that qualified or would have qualified for Aid to Dependent Children (AFDC) according to State's July 16, 1996 guidelines as required by Sections 406(a) and 407 of the Social Security Act and as amended by the Public Law 104-193.

In VT's initial primary review, 14 cases were found to be error because the children involved in these cases did not meet the State's AFDC guidelines for financial need and/or deprivation of parental support. During this secondary review, no such errors were found indicating that the State's enhanced procedures for AFDC determinations are functioning well.

- ❖ The Court Improvement Project Coordinator has been collaborating with DCF staff to ensure that in accordance with Federal Regulations, the judicial determinations of Contrary to Welfare, Reasonable Efforts to prevent placement, and Reasonable Efforts to finalize the permanency plan are made within the specified timeframes and that these determinations are sufficiently documented in the appropriate Court Orders. While improvements were seen – with only six of 150 cases in error in the secondary review versus eight of 80 cases in the primary review – reviewers still found some problems with some of the court orders currently in use.
- ❖ All of the cases reviewed were found to have criminal records checks on foster parents and documentation that safety checks were being performed for child care institution staff/caretakers. While verifying this information, however, the reviewers noted an area that may warrant the attention of DCF. This issue is discussed under Section B., Areas in Need of Improvement.

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 reviewed, three cases were found in error because of the lack of the required judicial determination of Contrary to the Welfare of the child/youth to remain at home.

Title 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 (after 3/2000) must be documented in the first court order sanctioning removal of the child.

Discussion

Contributing to cases being found in error under this requirement were:

- The required judicial determination was either not made or was not made in accordance with the federal timeframes.
- The required judicial determination was not sufficiently documented in court orders. The only acceptable documentation other than the court order is the court transcript. A number of cases necessitated that VT DCF request a copy of the court transcript to support or to document the relevant judicial determination. These transcripts were reviewed to determine if the Federal requirements for these judicial determinations were met. This was a labor intensive process for all parties - Court staff, DCF staff, and reviewers.

During the period of the PIP, DCF staff worked with the Court Improvement Program staff to revise court orders such as the emergency detention orders and juvenile “pick-up” orders to ensure greater reliability in the State process for obtaining the necessary judicial determination of Contrary to the Welfare in all cases in which a child is removed from his/her home and placed into foster care. However, the State’s current “pick-up” order for juveniles does not always contain adequate documentation of this judicial determination. Also, since there are still children in care who entered under the prior orders, some older court orders did not have either timely or appropriately documented judicial determinations regarding Contrary to the Welfare.

Corrective Action Needed

As noted under “Strengths”, prior to this review, the State has done much work in reinforcing the importance of these judicial findings not only to comply with title IV-E eligibility requirements but also to ensure that children are not removed unnecessarily and are achieving permanency in a timely manner. In addition, legislation was introduced to support these efforts. The State reports that on 5/12/05, VT’s legislature passed a Bill (H 515) that amended Sec. 1. 33 V.S.A. § 5513 and Sec. 2. 33 V.S.A. § 5515 of the State’s statutes concerning detention of children. This legislation clarifies and requires VT’s Courts to make appropriate and timely judicial findings of Contrary to Welfare and Reasonable Efforts.

We encourage the Court and the Agency to continue to develop and implement practices and procedures in support of this new legislation to ensure complete and timely court orders for all removals.

- Finding

In the records reviewed, two cases were found to be in error because Court Orders did not have either timely or appropriately documented judicial determinations of Reasonable Efforts to Finalize the Permanency Plan.

Title IV-E Requirement

ASFA created a new Reasonable Efforts requirement to ensure that the State’s 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

VT (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. It should be noted that the requisite judicial determination need not be tied to a permanency hearing but may, at the pleasure of the court, be made at any other relevant court proceeding.

Corrective Action Needed

The State should continue to 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 State's automated MIS system should be reviewed to ensure the proper functioning of the edit suspending title IV-E claiming until this judicial determination is made.

- Finding

Two cases were found to be in error because of not being fully licensed during the period under review.

Title 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). As part of this licensing/approval process, the State must conduct a criminal background check of the prospective and current foster parent(s) as well as group home or child care institution staff to ensure that the placement is a safe place for a foster child.

Discussion

Several of the cases reviewed raised questions concerning the State's approach to licensing/approval of foster parents and child care staff of group homes and institutions who had an ongoing history of illegal activities. While the State's standards for licensing/approval did not prohibit an applicant or current foster parent from obtaining/retaining a license/approval to care for foster children for any one of these offenses, when viewed in their entirety, they indicated a pattern of illegal activities and/or inappropriate behavior. Reviewers expressed concern that prospective or current foster parents or child care staff with a record of repeated offenses may present an environment that at a minimum, is not conducive to the well-being of children placed in such a home and at its worst, may put a foster child's safety at risk.

Corrective Action Needed

Reviewers urge VT DCF staff to strengthen their licensing/approval policy and practice regarding foster parents and child care staff with histories of illegal activities and/or inappropriate behavior.

V. CASE RECORD SUMMARY

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 for maintenance and administration. Please note that 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 administrative cost disallowance has been made for those cases involving unlicensed homes.

o Sample #46 Case ID: 11439

The provider was determined to be ineligible from April 21, 2004 – May 16, 2004 because, for the time period that the child was placed with this provider, the home was not fully licensed/approved according to the State’s licensing/approval standards.

Total IV-E Maintenance \$ 366 (FFP)

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

o Sample #65 Case ID: 7049

The child was determined to be ineligible from August 15, 2002 – September 30, 2004 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.

Total IV-E Maintenance \$ 7,444 (FFP)

Total IV-E Administration \$ 5,785 (FFP)

o Sample #69 Case ID: 8461

The child was determined to be ineligible from September 14, 2001 – September 30, 2004 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.

Total IV-E Maintenance \$ 10,883 (FFP)

Total IV-E Administration \$ 8,447 (FFP)

○ Sample #106 Case ID: 10836

The child was determined to be ineligible from October 25, 2003 – September 30, 2004 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.

Total IV-E Maintenance \$ 8,037 (FFP)

Total IV-E Administration \$ 2,575 (FFP)

○ Sample #118 Case ID: 6663

The provider was determined to be ineligible from April 2, 2004 - April 24, 2004 because the child was on runaway status from April 2 through April 8 and for the time period that the child was placed with this provider, the home was not fully licensed/approved according to the State's licensing/approval standards.

Total IV-E Maintenance \$ 472 (FFP)

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

○ Sample #134 Case ID: 10610

The child was determined to be ineligible from June 1, 2004 – September 30, 2004 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 \$ 345 (FFP)

Total IV-E Administration \$ 936 (FFP)

○ Over-Sample #16 Case ID: 9115

The child was determined to be ineligible from May 1, 2004 – September 30, 2004 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 \$ 653 (FFP)

Total IV-E Administration \$ 1,170 (FFP)

VI. TOTAL DISALLOWANCE

The dollar amount to be refunded to the Administration for Children and Families is \$28,200 (FFP) for ineligible foster care payments and \$18,913 (FFP) in related administrative costs for a total disallowance of \$47,113 (FFP).