



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau

Title IV-E Foster Care Eligibility Review Guide

March 2006

Preface

This Title IV-E Foster Care Eligibility Review Guide (Guide) provides a consistent and uniform approach for Federal and State staff to use in complying with requirements set forth in 42 U.S.C. §672 and 45 CFR §1356.71. The Guide contains policy and procedural guidance on planning, conducting, and completing a foster care eligibility review. It is intended to complement, not supplant, applicable statutory and regulatory provisions. In the event of conflict or inconsistency between this Guide and the statute or regulations, the latter govern.

This Guide applies solely to the periodic title IV-E foster care eligibility reviews. It does not apply to other types of reviews or checks on eligibility, such as those that may be conducted by the Office of the Inspector General or that arise out of the Administration for Children and Families Regional Office reviews of title IV-E claims filed by States.

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Chapter 1

Framework for the Title IV-E Foster Care Eligibility Reviews

Purpose of the Reviews

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

The periodic title IV-E foster care eligibility reviews assist in the validation of the accuracy of a State's claim for reimbursement of payments made on behalf of eligible children placed in eligible homes and institutions. The validations are made most effectively by an examination of the case records of the child and provider and payment documentation. Payment eligibility also is monitored and reviewed by audits conducted by the Office of the Inspector General and the Administration for Children and Families (ACF) Regional Office when conducting a claims review. In conducting foster care eligibility reviews, ACF is fulfilling its financial and programmatic stewardship responsibilities, while also complying with statutory provisions mandated in the Improper Payments Information Act (IPIA) of 2002. The IPIA requires Federal agencies to manage and reduce or eliminate, where possible, improper payments in Federal programs.

Ultimately, this effort is expected to enable the Federal Government to provide more accurate financial assistance to States, enable programs to service additional eligible recipients without increasing their budgets, and reduce program costs.

The periodic eligibility reviews:

- Help determine whether Federal funds are spent on behalf of eligible children, in eligible placements, and in accordance with Federal statute, regulation, and policy;
- Help identify improper payments, which consist of underpayments, erroneous payments, overpayments, duplicate payments, and otherwise ineligible program payments;
- Provide a link to the joint planning, technical assistance, and program improvement processes that exist between the ACF Regional Offices and the States; and
- Provide timely and specific feedback to States that can directly impact the proper and efficient administration and implementation of their title IV-E foster care maintenance payments programs.

Review Process

The title IV-E foster care eligibility review is a collaborative effort between the Federal and State governments and is conducted by review

teams composed of both Federal and State staff. The review is conducted on site, typically in the State capital where the child welfare central office is located. The State agency may negotiate an alternative location with the ACF Regional Office, if warranted due to record access or other logistical concerns.

The eligibility review process began with an *initial primary review* of foster care cases to ensure that children for whom title IV-E foster care maintenance payments are made meet the eligibility requirements at §472(a) of the Act and the implementing regulations at 45 CFR §1355 and §1356. The initial primary review was the first title IV-E foster care eligibility review conducted in a State following the passage of the final rule in the Federal Register on January 25, 2000, and afforded States an opportunity to implement the various requirements in the regulations. During the initial primary review, 80 cases were reviewed and 8 or fewer error cases were allowed for a State to be determined to be in substantial compliance with the eligibility requirements. If the State was determined not to be in substantial compliance, the State was required to develop and implement a Program Improvement Plan (PIP) designed to correct the areas of non-compliance and a secondary review was conducted following the completion of the implementation of the PIP.

A subsequent *primary review* must be conducted within 3 years from the date of the initial primary review, or of the secondary review, if the State was determined not to be in substantial compliance during the initial primary review. During the primary review, the review team examines 80 cases. If five or more cases are in error, the State is determined not to be in substantial compliance and is required to develop a PIP. Like the initial primary review, the State has a maximum of 1 year in which to implement and complete the provisions of the PIP unless State legislation is required. In such instances, an extension

may be granted, with the ACF and the State negotiating the terms and length of the extension, not to exceed the last day of the first legislative session after the projected date of the PIP completion. States determined to be in substantial compliance based on the primary review will be reviewed at 3-year intervals. States that are determined not to be in substantial compliance will undergo their next primary review 3 years from the date of the secondary review.

A *secondary review* must be conducted whenever a State is determined not to be in substantial compliance based on the findings of a primary review (or the initial primary review). During the secondary review, a substantially larger number of sample cases is reviewed following full implementation of the PIP. If a State exceeds the error threshold for the case error rate and the dollar error rate, the State is determined not to be in substantial compliance.

Following the evaluation of the State's performance in achieving compliance with the eligibility requirements, *improper payments* are identified and a *payment disallowance* is assessed for any sample case identified as having *ineligible payments*, which are title IV-E payments made for an unmet eligibility criterion, for a duplicate payment, for an overpayment, or for any other unallowable program cost. The payment disallowance includes all title IV-E foster care maintenance payments and administrative costs associated with the ineligible payment occurrence and covers the entire period that the ineligible payments are made. In addition to the ineligible payments, the identification of improper payments will include *underpayments* that are observed during the review of a sample case. An underpayment will be considered to have occurred when a title IV-E maintenance payment or administrative cost is not claimed, but may be claimed, for an allowable title IV-E activity or a period of eligibility.

Requirements Subject to Review

States are reviewed against the requirements of title IV-E of the Act regarding:

- The eligibility of the children on whose behalf foster care maintenance payments are made (§472(a)(1)-(4), (e), (f), and (g) of the Act) to include:
 - Judicial determinations regarding “reasonable efforts” and “contrary to the welfare” in accordance with 45 CFR §1356.21(b) and (c), respectively;
 - Voluntary placement agreements in accordance with §472(e), (f), and (g) of the Act and 45 CFR §1356.22;
 - Responsibility for placement and care vested with the State agency in accordance with §472(a)(2) of the Act and 45 CFR §1356.71(d)(iii);
 - Placement in a licensed foster family home or childcare institution as defined in §472(b) and (c) of the Act and 45 CFR §1355.20(a); and
 - Eligibility for AFDC under the State plan that was in effect on July 16, 1996, in accordance with §472(a)(4) of the Act and 45 CFR §1356.71(d)(1)(v).
- Allowable payments made to foster care providers that comply with §471(a)(10), §471(a)(20), and §472(b) and (c) of the Act and 45 CFR §1356.30. During the title IV-E foster care eligibility review, the provider’s license or approval document is examined to determine whether the provider is an appropriate type of foster care facility, the license is valid for the duration of the child’s placement during the period under review (PUR), and the safety requirements at 45 CFR §1356.30 are met. A provider is considered an

appropriate type of foster care facility when the provider is a foster family home or childcare institution as defined in the Act at §472(b) and (c) and the Federal regulations at 45 CFR §1355.20(a).

The reviewers will use the most current On-Site Review Instrument and Instructions (checklist) to determine compliance with the eligibility requirements. (See Appendix I.) The review instrument may be updated intermittently by the Children’s Bureau and is available to State agencies through the ACF Regional Offices, and is posted on the Children’s Bureau Web site.

Sampling Guidance

Selecting the Sample and Oversample

The sample of cases to be read for the review will be drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data that are transmitted by the State agency to the ACF Central Office. ACF statistical staff will draw the sample utilizing probability sampling methodologies such as simple random sampling to make sure that the case record of each child in the State’s title IV-E foster care maintenance payment program will have an equal and independent chance of being selected for inclusion in the review sample. Other probability methodologies may be used, when necessary, to ensure that the review sample represents to a greater degree the characteristics of the child population that makes up the State’s title IV-E foster care maintenance payment program. For example, in selecting cases for the primary review, the sample may be stratified to make sure the sample includes a sufficient representation of children who receive title IV-E foster care maintenance payments through a placement and care agreement between the State child welfare agency and another public agency such as the State

juvenile justice agency or tribal child welfare agency.

To make sure a sufficient number of sample cases are available for review, an oversample that consists of 10 percent or more cases will be randomly selected in addition to the 80 sample cases that must be drawn for the primary review or the 150 cases that must be drawn for the secondary review.

In summary:

- For *primary reviews*, a sample of 80 cases (plus at least a 10 percent oversample of eight cases) will be selected from the most recent AFCARS data submission using a probability sampling methodology. An alternate data source may not be substituted for the AFCARS for sample selection purposes.
- For the *secondary review*, a sample of 150 cases (plus at least a 10 percent oversample of 15 cases) will be drawn from the most recent AFCARS data submission using a probability sampling methodology. An alternate data source may not be substituted for the AFCARS for sample selection purposes.

The case sample and oversample drawn for review will consist of cases of individual children who received at least one title IV-E foster care maintenance payment during the 6-month reporting period reflected in the State's most recent AFCARS data submission. The AFCARS reporting period is the PUR, which serves as a reference point for determining whether a sample case will be considered a case in error. The "most recent AFCARS data submission" is usually the reporting period that ends at least 3 to 6 months before the date of the on-site review. The AFCARS data are submitted to the ACF Central Office within 45 calendar days following the end of the reporting period and are not available for use

until 30 calendar days later. Therefore, the AFCARS data submission for the October 1 thru March 31 reporting period must be transmitted to the ACF Central Office no later than May 15 and for the April 1 thru September 30 reporting period must be transmitted no later than November 14.

The review sample is drawn and provided to the State agency a minimum of 60 calendar days before the on-site review. The ACF Regional Office may negotiate with the State agency to obtain a case sample that is drawn closer to the scheduled date of the on-site review, but under no circumstance will the review sample be drawn later than 4 weeks before the on-site review. In this instance, the ACF Regional Office should consult with the ACF statistician or team leader for eligibility monitoring before approving the State agency's request to draw a sample that is closer to the begin date of the on-site review.

The validity of the sample and oversample depends on the accuracy with which the State agency completes the AFCARS data element #59, Title IV-E Foster Care. The AFCARS data element #59 inquires whether or not title IV-E foster care maintenance payments are being paid on behalf of a child in foster care. If title IV-E foster care maintenance payments are being paid on behalf of the child, the data element should be coded "1." If title IV-E foster care maintenance payments are not being paid on behalf of the child, the data element should be coded "0."

The sampling frame will consist of all cases (children) with a "1" coded in AFCARS data element #59 for the PUR. It is critical, therefore, that State agencies report data element #59 accurately.

Verifying the Sample

The State agency must verify, before the review is conducted, that each child coded as a "1" in data element #59 received a title IV-E

foster care maintenance payment during the PUR. If a child did not receive a title IV-E foster care maintenance payment during the PUR, the child's case cannot be included in the sample. This also is true if a child's case is closed before the PUR and a payment for that case is made during the PUR. In addition, if the State agency determined that title IV-E foster care maintenance payments for a child were claimed improperly during the PUR, the child's case must be excluded from the sample of cases to be drawn if all title IV-E payments made on behalf of the child during the PUR are rescinded before the sample being provided to the State agency. Payments are "rescinded" if any adjusting claim submitted by the State agency to reflect these payments is received by the ACF Regional Office before the sample is provided to the State agency.

If a child's title IV-E eligibility is affected by a State's participation in a federally approved title IV-E waiver demonstration project, the child's case should be eliminated from the sample as well. Before the on-site review, the State agency must provide the ACF Regional Office with a list of all cases eliminated from the sample and the supporting documentation to substantiate the case elimination. The ACF Regional Office must verify the accuracy of the information included on the list and determine the appropriateness of eliminating the case from the review sample.

Using the Oversample

When it is established that a case is incorrectly coded with a "1" in data element #59, the case may be replaced with a case from the oversample, under special circumstances. However, sample cases must not be replaced with an oversample case because of difficulties in performing the review or because of problems in obtaining the necessary information about the case. If the case file or information documenting the child's or provider's eligibility cannot be located, that case will be considered to be in

error and a disallowance will be taken. An oversample case cannot be used as a substitute for a closed adoption case (Child Welfare Policy Manual Section 5.2)¹ or for a sample case in which the State agency retained placement and care responsibility of a child the State agency placed with an out-of-state foster care provider. Therefore, cases from the oversample will be substituted and reviewed for a sample case only when the case is included in the sample erroneously.

Some examples of sample cases included erroneously that may be substituted with oversample cases are the following:

- There has been no title IV-E foster care maintenance payment made for the case during the PUR.
- Compliance with the title IV-E eligibility requirements is excluded under a federally approved title IV-E waiver demonstration project.
- Documentation verifies that the title IV-E payment is made in error and subsequently rescinded before the eligibility review sample is transmitted to the State agency.

Any instructions to the State agency by the ACF Central Office statistician regarding sampling and oversampling or special sampling requirements will be provided in writing, either electronically or in hard copy. The ACF Regional Office should receive copies of all correspondence related to sampling and participate in all necessary conference calls between the ACF Central Office statistician and the State agency staff.

¹ The Child Welfare Policy Manual may be accessed at www.acf.hhs.gov/programs/cb/laws_policies/.

Payment History

For each of the sample and oversample case records, the State agency must provide the ACF Regional Office with the *complete payment history* before the on-site review [45 CFR 1356.71(b)(2)]. The complete payment history consists of all foster care payments, including title IV-E maintenance payments and administrative costs, claimed for the *most recent foster care episode*. The most recent foster care episode refers to the period that begins with the date of the child’s last removal from the home and placement in foster care before the end of the PUR and continues to the child’s discharge from foster care for such removal. If a child has multiple entries into foster care during the PUR, the child’s title IV-E eligibility is examined for each foster care entry during the PUR. If a child has remained in foster care since the original removal from the home, the duration of this foster care event is considered the most recent episode.

The ACF Regional Office will review the payment history to make a preliminary assessment of the accuracy of the payment profile and to determine whether a case should be removed from the review sample. While on site, the State agency must provide an *updated payment history* for each sample and oversample case record to help identify payments claimed between the time the sample is drawn and the on-site review. The updated payment history must include all title IV-E maintenance payments and administrative costs that are made before the beginning of the on-site review and continuing through the end of the service month that is before the month in which the on-site review will be conducted.

All payments in the payment history should include the following:

- the invoice number or other identifier,

- the date of the invoice,
- the amount paid and service period covered,
- the activity or service paid and funding source,
- the date of payment,
- the date of payment adjustment or reversal and period covered,
- the child’s name and case number, and
- the provider’s name and number.

The ACF Regional Office must retain all documentation provided by the State agency for calculating maintenance and administrative cost disallowances. This includes the complete payment history for all sample cases including those sample cases in which a disallowance is not assessed. Retention of the material is necessary to calculate the State-by-State and national payment error rates for the title IV-E foster care program in order to comply with the IPIA.

Compliance Standards

Compliance is based on the number of cases or amount of payments (when applicable), that are found to be *in error* during an eligibility review. A sample case is determined to be in error when a review of the case record indicates that a title IV-E eligibility criterion is not met at the time of the child’s removal from home, or any time during the PUR, and a title IV-E maintenance payment or administrative cost is made for the ineligible period. An eligibility criterion that must be satisfied at removal, such as “contrary to the welfare” or “reasonable efforts to prevent removal” that is not met timely will render the child ineligible

for the entire foster care episode. When the previously claimed title IV-E payment is rescinded in either situation, the case is in error if the ineligible payment is not rescinded before the State agency receives the case sample, as verified by the payment history and the receipt of a payment adjustment on a Form ACF-IV-E-1 by the ACF Regional Office.

Substantial Compliance. Substantial compliance means that the case error threshold is not exceeded. For primary reviews held subsequent to the initial primary review, the total number of error cases must be four or fewer. (For the initial primary review, the total number of error cases must have been eight or fewer). For the secondary review, substantial compliance means that either the case error rate or dollar error rate is 10 percent or less.

Noncompliance. Noncompliance means not in substantial compliance. For primary reviews held subsequent to the initial primary review, if five or more cases are determined to be in error, the State is not in substantial compliance. (For the initial primary review, nine or more sample cases meant the State was noncompliant). For secondary reviews, noncompliance means both the case error rate and the dollar error rate exceed 10 percent.

Improper Payments

Disallowing Ineligible Payments

Disallowance of ineligible payments refers to the amount of Federal funds to be recovered by the ACF and is determined by the extent to which a State is not in substantial compliance with the eligibility provisions of title IV-E or applicable regulations in 45 CFR Parts 1355 and 1356. A payment disallowance is assessed whenever a title IV-E eligibility criterion is not met and title IV-E funds are paid, or a title IV-E payment is made for an unallowable activity or cost. The payment disallowance

includes all unallowable title IV-E foster care maintenance payments and related administrative costs² of the error cases and non-error cases that occurred during the foster care placement episode, including ineligible periods that occurred in each foster care entry during the PUR.

A case is determined to be in error and a payment disallowance is assessed when a review of the sample case record indicates that a title IV-E payment for a maintenance or administrative cost is made during the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility, including ineligible periods that occurred in each foster care entry during the PUR.

A payment disallowance is assessed for a non-error case when a review of the sample case record indicates that a title IV-E payment for a maintenance or administrative cost is made solely outside the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility.

For States that are found to be in substantial compliance following either a primary or secondary review, a disallowance will be assessed on the basis of maintenance payments and administrative costs associated with error cases and non-error cases for all title IV-E payments made during the entire period that these cases are ineligible for the title IV-E payments. The findings and payment disallowances that pertain to the non-error cases are not considered in the determination of the State's substantial compliance with Federal requirements. If a child has multiple entries into foster care during the PUR and case errors are identified for more than one entry, the sample case is counted as one error case in determining

² Federal financial participation may be claimed for the administrative costs associated with an otherwise title IV-E eligible child placed in an unlicensed foster family home. Refer to Program Instruction ACYF-CB-PI-02-08.

substantial compliance regardless of the number of foster care entries determined to be in error during the PUR.

For States found not to be in substantial compliance during a primary review, a disallowance will be assessed on the basis of maintenance payments and administrative costs associated with error cases and non-error cases for all title IV-E payments made during the entire period that these cases are ineligible for title IV-E payments. The findings and payment disallowances that pertain to the non-error cases are not considered in the determination of the State's substantial compliance with Federal requirements.

For States found not to be in substantial compliance following a secondary review, an extrapolated disallowance will be assessed for the PUR on the basis of the universe of claims paid during the PUR. The universe of claims paid refers to the Federal share of maintenance payments and administrative costs expended and claimed by the State agency for the period of time that a case is ineligible. The extrapolated disallowance is equal to the lower limit of a 90 percent confidence interval for the population's total dollars in error for the amount of time corresponding to the AFCARS reporting period (PUR). Disallowance of foster care maintenance and administrative payments for non-error cases determined to have received ineligible title IV-E payments during the PUR are included in the computation of the extrapolated disallowance. (These cases are excluded in the determination of the case error rate for the secondary review). If a child has multiple entries into foster care during the PUR and errors are identified for more than one entry, then the amount of dollars identified as payments being made for either (or both) of the episodes would be included when calculating the dollar error rate. In addition to the extrapolated disallowance, a case specific disallowance will be assessed on the basis of maintenance payments and administrative

costs associated with error and non-error cases for ineligible payments that occurred prior and subsequent to the PUR.

The ACF Regional Office will calculate maintenance payment and administrative cost disallowances on an individual case basis. The ACF Central Office statistician will calculate the extrapolated disallowances to be taken following a secondary review, at the request of the Regional Office staff.

The disallowances reported in the final findings of the on-site review will consist of all ineligible maintenance payments and administrative costs that occurred during the period of ineligibility beginning with the first month of ineligibility and continuing through the date that is the earlier of the end of the month that immediately precedes the month of the on-site review or when the ineligibility ceases for the most recent foster care episode. Any ineligible payments claimed for non-error cases also must be included in the disallowances reported.

If an ineligible payment occurred after the on-site review, the State agency is instructed, and expected, to remove the ineligible payments from its financial claiming system and suspend claiming the unallowable costs until ineligibility ceases. These post on-site review costs should be identified separately in the final report letter to the State agency. A summary of the disallowance of foster care maintenance and administrative costs that differentiates the error cases, non-error cases with ineligible payments, and extrapolations (if applicable) will be included in the report of final findings of the eligibility review. (See "Final Report," Chapter 5.)

Guidance on the methodology for computing payment disallowances for the primary and secondary reviews is included in the information packet entitled "Calculation of the Maintenance Payment and Administrative Cost Disallowances for the Title IV-E Primary

and Secondary Foster Care Eligibility Reviews and of the National Foster Care Error Rate for the Title IV-E Foster Care Program.” (See Appendix XIV.)

Reporting Underpayments

The fundamental purposes of the title IV-E foster care eligibility reviews are to determine State compliance with the Federal requirements for title IV-E reimbursement and to systematically correct improper payments, which include ineligible payments and underpayments. An underpayment will be considered to have occurred when a title IV-E maintenance payment or administrative cost is not made, but may be made, for an allowable title IV-E activity or a period of eligibility. If an underpayment is observed during the review of the case record, provider documentation or payment documentation, the information will be recorded on the case summary log and reported in the final findings of the eligibility review. (See “Title IV-E Foster Care Eligibility Reviews Table of Completed Case Records and Description of Improper Payments,” Appendix VI; and “Final Report,” Chapter 5.)

Underpayments identified as the result of the review may be claimed subsequently by a State by filing an increasing adjustment on its form IV-E-1 in the next quarter, but no later than 2 years after the calendar quarter in which the State agency made the expenditure (45 CFR §95.7).

Steps in the Review Process

The following general steps in the review process include both Federal and State roles, and some joint Federal/State responsibilities. (See “Timeframes for Title IV-E Foster Care Eligibility Review Activities,” Appendix X.)

- 1. Determine the dates for the review.** The ACF Regional Office, in consultation with the ACF Central Office team leader for eligibility monitoring, collaborates with the State officials to determine the dates for the on-site review. A date for the on-site review should be determined at least 4 to 6 calendar months before the Federal fiscal year in which the review must be conducted. Reviews must be conducted within the time frames specified in the regulations governing the frequency of State reviews. [See 45 CFR §1356.71(a)(3)]. The State agency must be given written confirmation of the review date within 120 calendar days before the scheduled date of the on-site review. (See “Sample State Notification Letter,” Appendix II.)
- 2. Identify the review team.** This involves identifying Federal and State members of the review team. The State agency determines which State staff will participate on the review team. The ACF Regional Office determines which Federal Regional Office staff will participate on the review team. At least one ACF Regional Office program specialist and fiscal specialist and ACF Central Office representative will participate on the review team. (See “The Review Team,” Chapter 2.)
- 3. Select the sample.** On the basis of the review to be conducted (that is, either primary or secondary), 80 or 150 case records (plus at least a 10 percent oversample) are selected by the ACF Central Office from the State’s most recent AFCARS submission. The ACF Central Office statistician works directly with the State agency to determine the sample. The sample is drawn at least 60 calendar days before the on-site review.
- 4. Arrange the on-site review logistics.** The ACF Regional Office, in collaboration

with the State agency, plans logistical arrangements for the review, including hotel accommodations and transportation for review team members and space for meetings and review activities. One large room is preferable for the on-site review to enable Team Leaders to provide technical assistance to reviewers, thereby increasing consistency in the review process and findings.

5. Organize sample cases for review.

Before the on-site review, the State agency assembles the sample cases in accordance with the list of random numbers provided by the ACF Central Office statistician. Both the ACF Central and Regional Offices will work with the State agency to resolve issues regarding the selection and preparation of cases before the on-site review. The tagging, labeling, or segregating of sample case documents to identify specific material pertaining to the PUR or on-site review is not encouraged or recommended. Nor is it recommended that separate case folders be established primarily for the on-site review. The complete case record under review must be accessible on site to help resolve issues pertaining to case-specific eligibility that may arise during the on-site review. This includes the records pertaining to eligibility, child welfare services, and provider licensure.

6. Conduct pre-review conference call. At least 45 calendar days before the beginning of the on-site review, the ACF Regional Office arranges and leads a telephone conference call with the State agency and the ACF Central Office representative assigned to the review. The purpose of the conference call is to initiate discussions pertaining to relevant State policies and practices and to discuss the on-site review logistics and schedule. Policy and reference material submitted by the State agency should be reviewed by

the ACF representatives before this conference call. (See “Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review,” Appendix III; and “Recommended Topics for Discussion During the Pre-Review Conference Call and Before Reviewing Records On-Site,” Appendix IV.) Additional conference calls may be scheduled as needed.

7. Conduct entrance conference. An

entrance conference on the first day of the on-site review will be convened with the review team and State officials identified by the State agency. Representatives from the State’s Court Improvement Program, licensing agency, eligibility program, and foster care program should be invited to attend the conference. The ACF Regional Office, in collaboration with the ACF Central Office, will provide an overview of the eligibility review process, including the purpose and scope; Federal/State partnership; standards of substantial compliance; and agenda for the review week. This activity usually requires approximately one hour.

8. Provide orientation and/or training for review team members. Typically, this is

provided on site by the ACF Regional Office Review Team Leader. The ACF Central Office representative will assist in providing the on-site training to reviewers when necessary. The training will consist of a focused discussion of the On-Site Review Instrument and Instructions and will be supplemented with pertinent State laws and policies on eligibility. (See “On-Site Review Instrument and Instructions,” Appendix I; “Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review,” Appendix III; and “Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team During the Pre-Review Conference Call and Before Reviewing Records On-Site,” Appendix IV.)

9. Conduct the on-site review in the State.

The on-site review is conducted in the State capital or other location as negotiated between the ACF Regional Office and the State agency. The review is completed within 5 working days by the Federal and State review team. The case record, provider documentation and payment documentation tied to the sample cases are reviewed by the team to verify title IV-E funds are paid for eligible children and their foster care providers; to identify any erroneous payments, including duplicate payments and overpayments; and to provide technical assistance to help improve the State’s foster care maintenance payment program. The review team also will examine the case record, provider documentation, and payment documentation of the sample cases to identify and record underpayments to assist the State agency in accurately claiming title IV-E funds.

A sample case in which eligibility is in question because State agency documentation is insufficient or lacking during the on-site review may be assigned a preliminary finding of undetermined at the exit conference. See the below discussion topic “Complete and disseminate the final report” for further information on resolving a sample case finding of undetermined.

10. Conduct exit conference. An exit conference at the conclusion of the on-site review will be held with the review team and State officials identified by the State agency. The representatives from the State agency should include the child welfare director and senior management staff. The ACF Regional Office Review Team Leader will provide a summary of the review week and tentative findings, including determination of substantial compliance, estimated disallowances, error case findings, estimated underpayments

and other eligibility issues; provide observations about the State’s foster care maintenance payment program focusing on strengths, areas needing improvement and technical assistance for program enhancements; and identify the next steps in the review process.

11. Complete and disseminate the final report. The ACF Regional Office Review Team Leader, in consultation with the ACF Central Office review representative and team leader for eligibility monitoring, prepares the final report of the review, which includes the written determination regarding compliance. The final report must be sent to the head of the State agency within 30 calendar days of the completion of the on-site review. If State agency documentation is not provided on site or within 30 calendar days of the completion of the on-site review, the case finding is changed from an undetermined sample case to an error sample case. The ACF Regional Office Review Team Leader can negotiate with the State agency regarding an opportunity for submitting additional documentation to correct an error case. However, the 30-day deadline for completing and disseminating the report must be met and must not be delayed pending receipt of supplemental material from the State agency. (See “Final Report,” Chapter 5.) The final report is signed and issued by the Regional Administrator and an electronic copy is forwarded to the ACF Central Office team leader for eligibility monitoring. The report should be transmitted to the State by certified mail, with a request for a return receipt.

If additional documentation is received after the final report is issued, and the documentation results in a change to the review compliance determination or payment disallowance, written notification of the revised finding must be provided to

the State. The notification is signed and issued by the Regional Administrator and an electronic copy is forwarded to the ACF Central Office team leader for eligibility monitoring.

- 12. Withhold Federal funds.** The amount of funds to be disallowed will be determined by the extent to which the State agency complies with child or provider title IV-E eligibility provisions.

States determined to be in substantial compliance during the primary or secondary review will have disallowances determined on the basis of individual cases reviewed and found to be in error or not in error with ineligible payments. The amount of the disallowance will be computed on the basis of title IV-E maintenance payments and associated administrative costs for the entire period that an ineligible payment was claimed in each case.

States found to be in noncompliance during the primary review will have disallowances determined on the basis of individual cases reviewed and found to be in error or not in error with ineligible payments; will enter into a PIP; and will undergo a secondary review of 150 cases following the PIP completion. If both the case and dollar error rates of a secondary review exceed 10 percent, a disallowance that includes maintenance payments and administrative costs will be determined on the basis of extrapolation from the sample to the universe of claims paid for the duration of the AFCARS reporting period (the PUR). An additional disallowance is assessed for individual cases with periods of ineligibility that occur outside the PUR. If neither the case error rate nor dollar error rate exceeds 10 percent, an extrapolated disallowance is not assessed. In this instance, the amount of disallowance will be computed on the

basis of payments and administrative costs associated with error cases and non-error cases for the entire period these cases have been determined to claim ineligible payments.

- 13. Conduct subsequent primary review.**

Once States are determined to be in substantial compliance following the completion of a primary or a secondary review, subsequent primary reviews will be conducted at 3-year intervals. The subsequent primary review must be conducted within 3 months of the anniversary date on which the previous on-site review is completed. For example, if an on-site review was conducted during the week of May 10, 2004, a subsequent primary review should be completed no later than August 31, 2007.

- 14. Develop the PIP.** A PIP is required whenever a State is found not to be in substantial compliance. The State agency, in collaboration with the ACF Regional and Central Offices, develops a PIP that covers all areas of noncompliance and submits it to the ACF Regional Office for approval within 90 calendar days of receiving the written notice of noncompliance. During PIP development, the ACF Regional Office may negotiate with the State agency regarding an opportunity to extend the PIP deadline up to 30 calendar days for submitting supplemental documentation to reverse a finding related to a period of ineligibility. If additional documentation is received that results in a change to the review compliance determination or payment disallowance, written notification of the revised finding must be provided to the State agency. The notification is signed and issued by the Regional Administrator and an electronic copy is forwarded to the ACF Central Office team leader for eligibility monitoring.

An electronic copy of the approved PIP and the ACF notification letter, with the date of PIP approval by ACF, should be sent to the ACF Central Office team leader for eligibility monitoring. (See “Program Improvement Plans,” Chapter 6.)

If the State agency does not submit an approvable PIP or complete its PIP in accordance with the provisions at 45 CFR §1356.71(i)(1) and (2), a secondary review will be conducted as soon as feasible.

15. Schedule the secondary review, if necessary. At the completion of the PIP, the State must undergo a secondary review where 150 cases are reviewed. The sample for the secondary review is drawn from the State’s AFCARS data that represent the first full reporting period that immediately follows the PIP completion date. The secondary review then is conducted during the next AFCARS reporting period. This

will afford States a sufficient opportunity to make changes in accordance with the PIP and come into substantial compliance.

The PIP completion date is the date that is the earlier of the latest completion date of an action item in the ACF approved PIP or 12 calendar months from the approved implementation date of the PIP. For example, if the ACF approved implementation date for the State PIP is May 10, 2003, and there are three action steps outlined in the PIP with completion dates of November 1, 2003, January 30, 2004, and April 30, 2004, the PIP completion date is April 30, 2004 (not May 10, 2004). The case sample, and oversample, will be drawn using AFCARS data from the October 1, 2004 - March 31, 2005, AFCARS report period. The secondary review will be conducted during the AFCARS report period of April 1, 2005 - September 30, 2005.

Chapter 2

The Review Team

Composition of the Review Team

A team of individuals, including the following members, conducts the reviews:

- ACF Central and Regional Office staff, and
- State central and local office staff.

The State agency may elect to include representatives on the State team who are external to the State agency. The external representatives should possess expertise that can be utilized to assist the State agency in identifying strategies for training, technical assistance, and program improvement, and to augment the knowledge of State agency staff about the title IV-E eligibility requirements. Examples of external representatives the State agency may consider including on the State team are staff of the judicial system and tribal and public agency representatives who entered into a title IV-E “placement and care” agreement with the State agency.

A designated ACF Regional Office staff person leads the review team. If possible, the review teams should always consist of an equal number of Federal and State staff as negotiated between the ACF Regional Office and the State agency. From 8 to 10 team members have proven to be an ideal number for a primary review and from 12 to 14 team members for a secondary review. At times, it may be advantageous to have a greater number of State staff, if there is not an equal number of Federal staff. The team also may include cross-ACF Regional or cross-State representatives at the option of the State

agency to be reviewed and at the expense of the ACF Region or State sending staff to the review. An ACF Regional Office or State interested in participating in another State’s review will make its requests through the ACF Regional Office that is leading the review. The ACF Regional Office review leader will obtain the review State’s consent for cross-State or cross-Region participation.

Functions of the Review Team

The role of the review team is to verify every element of eligibility and decide whether the State agency made a correct determination of eligibility for the sample cases. If an incorrect determination is made, the review team must decide which elements of eligibility and payment are incorrect and when the improper payment occurred. The effectiveness of the eligibility review depends on the performance of the review team. Information gathered by the review team is used to identify all sources of improper payments, calculate underpayments and disallowances, and formulate Program Improvement Plans (PIPs). Therefore, it is important that decisions concerning the correctness of sample cases are based on an evaluation of the available facts and are thoroughly and accurately documented on the review instrument. Membership on the review team involves a significant commitment of time and effort.

All team members are expected to:

- participate in any scheduled orientation or training sessions before or during the review;

- remain present at the review site for the duration of the on-site review, including participation in all scheduled review activities from the entrance conference through the exit conference;
- conduct all assigned activities associated with the review of case records, including completion of the review instrument(s);
- participate in a debriefing before the exit conference to discuss the strengths and areas in need of improvement noted during the review;
- remain available for consultation following the review, if needed, to clarify or supplement information recorded on the instruments; and
- perform quality control functions as designated by the Team Leader.
- plan the details of the on-site review with the ACF Central Office and State agency representatives, including arranging conference calls as needed, transmitting review instructions and procedures to State agency liaisons, and transmitting State material to Federal team members;
- provide leadership for entrance and exit conferences at the beginning and conclusion of the on-site review;
- coordinate the development of the written notification letter regarding substantial compliance to the State;
- coordinate with the ACF Central Office the development, revision, circulation, and release of the final report of the review;
- provide guidance, as needed, to designated State agency staff toward development of the PIP, when a PIP is necessary;

Leadership of the Review Team

The On-Site Review Team Leader will be a Federal staff member from the ACF Regional Office who is the liaison to the State agency for the title IV-E foster care eligibility review and who consults with the ACF Central Office in planning the review. The Team Leader serves as the official spokesperson for the ACF while on site and is responsible for ensuring the completion of all tasks. The major responsibilities of the Team Leader and any staff assisting the Team Leader include the following:

- serve as the liaison with State agency leadership in planning review activities;
- ensure that the sample data are sent to the State agency on a timely basis and that the sample and payment history are available in time to plan the on-site review;
- designate someone on the team to perform quality control of the On-Site Review Instruments, in order to identify missing information and inconsistencies (see “Suggested On-Site Quality Control Tasks for the Administration for Children and Families Regional Office Team Leaders,” Appendix V);
- ensure a 10 percent, or more when necessary, quality control review of all cases read (see “Suggested On-Site Quality Control Tasks for the Administration for Children and Families Regional Office Team Leaders,” Appendix V);
- participate in review activities by reading case records or performing quality assessments of the On-Site Review Instruments;

- maintain a log indicating whether a case is a sample or an oversample case, who read the case, the result of the case review, and a description of the errors, ineligible payments, and underpayments (for an example of a case summary log, see “Title IV-E Foster Care Eligibility Reviews Table of Completed Case Records and Description of Improper Payments,” Appendix VI);
- maintain a list of missing documentation that the State agency could provide that would change a case with ineligible payments to an accurate case;
- if adequate documentation is provided during the on-site review, apply it to the appropriate case record and adjust the On-Site Review Instrument accordingly, in consultation with the case reviewer;
- maintain a list of sample cases that are eliminated from the sample indicating the replacement oversample case and reason for substitution;
- retain all documentation provided by the State agency pertaining to underpayments and required for calculating maintenance and administrative cost disallowances that includes the complete payment history for all sample cases including those sample cases in which a disallowance is not assessed (see “Calculation of the Maintenance Payment and Administrative Cost Disallowances for the Title IV-E Primary and Secondary Foster Care Eligibility Reviews and of the National Foster Care Error Rate for the Title IV-E Foster Care Program”, Appendix XIV).

Chapter 3

On-Site Reviews

Advance Preparation for the On-Site Review

The ACF Central Office Team Leader for Eligibility Monitoring serves as the contact point for questions and concerns before, during, and after the on-site review.

ACF Central Office Responsibilities

- Develop a national review schedule based on information provided by the ACF Regional Offices with input from States.
- Identify the ACF Central Office review team member(s) and ensure that each team member is available for the entire review period.
- Provide the ACF Central Office reviewer(s) with training and preparation to participate as reviewers or in a leadership role.
- Consult with the ACF Regional Office and the State agency on the sample and issues needing particular attention in the review.
- Provide from the AFCARS data a listing of random numbers that will be used to identify the sample of cases to be reviewed on site, and work with the ACF Regional Office to provide the sample to the State agency, no less than 60 calendar days before the on-site review.
- Coordinate, in collaboration with the ACF Regional Office, the transportation and

lodging of the ACF Central Office team member(s).

ACF Regional Office Responsibilities

- Transmit to State agency officials within 120 calendar days before the on-site review a written confirmation of the scheduled primary or secondary review and notify the State agency of material it is required to provide before and during the on-site review. (See “Sample State Notification Letter,” Appendix II.)
- Assign an overall review team leader and identify other ACF Regional Office staff, including a fiscal specialist, to serve on the review team.
- Consult with the ACF Central Office and State agency staff about the review team size and composition, including representatives from other ACF Regional Offices or States, if appropriate.
- Coordinate with the ACF Central Office to obtain the random sample of foster care cases from the AFCARS to be reviewed on site.
- Arrange for and lead conference calls among the ACF Central and Regional Offices, and the State agency, as needed, to discuss issues that may need clarification before the on-site review, for example, sampling, case payment history, State policy on AFDC and title IV-E eligibility, and electronic files.

- Coordinate the orientation and training of review team members.
- Consult with State agency staff and the ACF Central Office to discuss how the State Automated Child Welfare Information System (SACWIS) or other electronic files support the State's eligibility process, and the system's role in facilitating the on-site review, if electronic files will be used during the on-site review. It is expected that the ACF Regional Office will become familiar with the State's automated system before the pre-review conference call and on-site review. (See "Electronic Files," Chapter 3.)
- Develop the agenda for the review in collaboration with the State agency and lead the entrance and exit conferences.
- Request advance copies of information from the State agency at least 120 calendar days before the on-site review, ensure that all Federal team members have copies of materials, and become familiar with materials, for example, policy on eligibility determinations, case record format, criminal background check processes, safety requirements, sample court orders, agreements for placement and care (§472(a)(2) of the Act), and payment and placement histories for the sample cases. The request for advance material from the State agency may be included in the letter that confirms the date of the on-site review. (See "Sample State Notification Letter," Appendix II.) The ACF Regional Office team leader must be familiar with the State's AFDC plan as it was in effect on July 16, 1996, or earlier; the eligibility determination process; and the most recently approved title IV-E plan and amendments.
- Designate one or more team members to perform quality control functions during the on-site review in order to ensure consistency, objectivity, and accuracy in reviewing cases.

State Agency Responsibilities

- Assign a State coordinator for the review to act as the liaison with the ACF Regional Office in making arrangements for the review.
- Ensure that all State reviewers are oriented to the review process and are available for the entire review week.
- Consult with the ACF Regional Office staff on logistical arrangements for the review, including the identification of locations for entrance and exit conferences.
- Ensure that all sample and oversample case files are available and ready for review.
- Provide information requested by the Federal team leader at least 90 calendar days before the on-site review, for example, policy on eligibility determinations, case record format, and safety requirements. Material may be transmitted electronically.
- Provide payment and placement histories to the Federal team leader at least 60 calendar days before the on-site review. Material may be transmitted electronically.

Case Selection and Review

Sample of Cases Reviewed

The ACF Central Office statistician selects the sample of foster care cases to be reviewed on site from the most recent AFCARS data and transmits the sample by e-mail to the State agency. The ACF Regional Office may request a stratified sample to ensure the sample proportionally represents the title IV-E foster care population when the State agency has a title IV-E agreement for placement and care with another public agency, such as the juvenile justice agency or a federally recognized tribal agency.

Cases selected for the sample must have a related title IV-E foster care maintenance payment during the 6-month period under review (PUR). Before the on-site review, the State coordinator must record the reason for eliminating any cases from the sample of cases that will be reviewed on site and furnish that information to the ACF Regional Office team leader.

Preparation of Case Records for Review

Case records must be organized and up to date. The tagging, labeling, or segregating of sample case documents to identify specific material pertaining to the PUR or on-site review is not encouraged or recommended. Nor is it recommended that separate case folders be established primarily for the on-site review. The State agency must make sure that all documents needed to substantiate individual child and provider eligibility in each of the sample cases are available to the review team. The review team will not infer or speculate about the eligibility of a child or provider. The determination of case compliance must be supported by the appropriate documentation, even when the

State agency placed a child with an out-of-state foster care provider and the placing State agency retained placement and care responsibility of the child. If acceptable documentation is not provided during the on-site review, the case may be assigned a preliminary finding of *undetermined*. Subsequently, if acceptable documentation is not provided before the issuance of the final report of review findings the case will be determined to be *in error*.

Sample case records being reviewed must be available at the review site so that the reviewers will have access to pertinent case material. Furthermore, the State agency must provide any records maintained separately, i.e., provider records and/or eligibility records necessary for the review. During the on-site review, the reviewer typically should be able to examine the child's entire case record, family record, and provider licensing file. This allows for a thorough review of the child's placement beginning from entry into foster care and extending throughout the life of the foster care episode. It also affords the review team better insight into how the State implements the foster care maintenance payment program, and provides the State agency an opportunity to receive immediate training and technical assistance on site. The ACF authority for requiring access to sample case records is included in the Federal regulations at 45 CFR Parts 92 and 1356. The following list provides general guidelines concerning pertinent case documentation:

- The child's service records, including all court orders, must be available for review to establish that the judicial requirements of "contrary to the welfare" and "reasonable efforts" are met for initial and ongoing eligibility concerning children who are judicially removed. The voluntary placement agreements and subsequent court orders must be available for review to establish that the initial and ongoing

requirements are met for children who are removed pursuant to a voluntary placement agreement.

- The foster family home provider's licensure file must contain, at a minimum, the licensing history and a copy of the provider license, certificate, or letter of approval that verifies licensure status and type covering the entire PUR. The license/letter should include the provider name, provider type, starting and ending date of licensure, and some indication of the State agency's endorsement. For those States that have not opted out of the criminal records check requirement, documentation that a criminal records check has been conducted and that the prospective foster parent has not been convicted of any of the felonies enumerated in §471(20)(A)(i) and (ii) of the Act also must be provided. For those States that have opted out of the criminal records check requirement, documentation that verifies that safety considerations with respect to the prospective foster parent have been addressed must be provided.
- The childcare institution's licensure file must contain, at a minimum, the licensing history and a copy of the provider license or letter of approval that verifies licensure status and type covering the entire PUR. The license/letter should include the institution name, institution type, starting and ending date of licensure, and an indication of the State agency's endorsement. The licensing record must contain documentation verifying that safety considerations with respect to the staff of the institution have been addressed.
- For the initial AFDC determination of the child's financial need and deprivation, the child's case file should contain documentation verifying that the family's financial need is evaluated, including

resources, and indicating the reason that the child is deprived of parental support or care. The manner used to substantiate that the school attendance criterion is satisfied for the 18-year-old youth should be included as well. At a minimum, the documentation should include an eligibility worksheet that contains the name of the household for which the child's AFDC eligibility is based, period of eligibility, eligibility decision, basis of eligibility decision, and an indication of the State agency's sanction of the decision, such as a supervisory signature on the worksheet. The eligibility worksheet or summary should provide a clear, evidence-based path to the eligibility decision. The documentation should verify whether the child is AFDC eligible during the month the voluntary placement agreement is signed or the month the removal petition is filed, or removal court order is granted if a petition is not filed.

- At annual intervals, there should be documentation that the AFDC-related criteria are re-determined. The documentation, at a minimum, should include an eligibility worksheet that contains the eligibility decision, period of eligibility, basis of decision, and an indication of the State agency sanction of the eligibility decision, such as a supervisory signature on the worksheet. The eligibility worksheet or summary should provide a clear, evidence-based path to the eligibility decision. The documentation should verify whether the child is AFDC eligible during the entire PUR.

For further information on the review procedures pertaining to the title IV-E foster care eligibility requirements, refer to Chapter IV of this review guide.

Use of Electronic Files for Review

The State agency may use electronic files to substantiate title IV-E eligibility. If electronic files are used on site, the State agency should make computers and technical assistance available to the reviewers for viewing the electronic records or obtain hard copies of all the files or portions of the files that contain information relevant to the review. The State agency must provide training to the review team members to acquaint the team with the State's child welfare data system, and provide staff to assist reviewers in obtaining documentation that verifies the child's eligibility. The electronic files may be used to provide evidence of: the child's removal as a result of judicial determinations of "contrary to the welfare" and "reasonable efforts" or via a voluntary placement agreement; responsibility for placement and care vested with State agency; placement in a licensed foster family home or childcare institution; eligibility for AFDC under the State plan as it was in effect on July 16, 1996; and verification of safety requirements for children placed in foster care.

Before the on-site review, the ACF Regional Office should request that the State agency demonstrate how the automated system sustains the functional aspects of the eligibility program, such as provider licensing, AFDC eligibility determination, and court documentation. Perusal of ACF Action Transmittal (AT) ACF-OSS-05 and consultation with the ACF Office of State Systems will assist the ACF Regional Office in assessing the extent to which the State's automated system will support the on-site review and alleviate the State agency's burden to reproduce paper documentation. The AT ACF-OSS-05, issued August 21, 1998, provides guidance to States with State Automated Child Welfare Information Systems concerning the level of automation required for supporting title IV-E eligibility determination, and lists a number of

approaches States may take to automate the determination process. This document is located on the Children's Bureau Web site at <http://www.acf.hhs.gov/programs/cb/systems/sacwis/at98.htm>.

The ACF Regional Office also should become familiar with the State statutes and administrative policies on electronic files, including signature and document authentication. It is expected that the State's automated system will document the data used to establish child and provider eligibility and apply all eligibility factors consistently and accurately in every eligibility determination. The ACF Regional Office's assessment of the automated process should entail a basic exploration of:

- source of eligibility data in the system;
- how data is input into the system;
- how financial eligibility, legal decisions, and provider licensure/approval (including safety considerations) are determined and documented;
- how eligibility decisions are sanctioned by the agency;
- policy for accepting or certifying electronic signatures;
- how the system captures all of the necessary factors considered in calculating eligibility;
- how the system ensures that the eligibility rules are applied uniformly in every eligibility determination;
- how data accuracy is ensured;
- how data is maintained, updated, and secured; and

- how agency sanction of eligibility decisions and case actions is documented.

The above information is not intended to be an exhaustive list of all the factors to consider in examining the State’s automated system. In general, the State agency should demonstrate to the satisfaction of the ACF Central and Regional Offices that the automated system is a valid representation of the State’s business practice and policy pertaining to the eligibility determination process. A comparison of information in actual case records to that contained in the electronic files also will help the ACF Regional Office determine the validity of the State agency’s automated system and degree of representation.

On-Site Review Instrument and Instructions

The On-Site Review Instrument and Instructions (checklist) used for the review will be provided to the team by the ACF Regional Office or its designee (at least 100 copies for the primary review). Copies of the On-Site Review Instrument also are available on the Children’s Bureau Web site at www.acf.hhs.gov/programs/cb. (See “On-Site Review Instrument and Instructions,” Appendix I; see also “Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program,” Appendix VII; and “Title IV-E Foster Care Eligibility Chart,” Appendix XI.)

An On-Site Review Instrument is completed for each sample case in which at least one title IV-E foster care maintenance payment is made during the PUR. If the child exits and subsequently re-enters foster care during the PUR, an On-Site Review Instrument is completed for each foster care entry during the PUR.

On-Site Review Activities

It is preferable to conduct the review in one large room rather than several small rooms to allow for effective interaction among the team members. The room should be accessible to the review team at all times and secure to protect the confidentiality of the case records. Team members are expected to be flexible about their working hours in order to complete the review of all cases in the allotted 5 working days.

The State agency schedules the following activities for the on-site review:

- An entrance conference for Federal staff to meet with the review team members to discuss the structure and agenda of the week’s activities and provide opportunities to raise and clarify issues pertinent to the review. This usually requires approximately 1 hour. State officials should be invited to attend the entrance conference.
- An orientation of the review team members at the start of the review to the On-Site Review Instrument, the orientation questions, the case record format, electronic files, if any, and the functions of the review team. The ACF Regional Office typically conducts the orientation to the On-Site Review Instrument. The State is responsible for providing information in response to the orientation questions. From 1 to 3 hours should be set aside to complete these activities. (See “Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team During the Pre-Review Conference Call and Before Reviewing Records On-Site,” Appendix IV.)
- A meeting of the entire review team at the end of the review week to compile a

summary of error cases, if any, to discuss the model practices and areas in need of improvement that were revealed during the review, and to prepare for the exit conference. Team members also may raise concerns and offer suggestions that will help to improve the review process, on-site review activities, and the On-Site Review Instrument. About 1 to 2 hours should be allotted for the review team debriefing.

- An exit conference for Federal staff to meet with the senior management staff identified by the State agency. During this conference, the ACF staff provide an overview of tentative findings of the review, discuss next steps, and raise and clarify issues related to the review or the findings. It is usually sufficient to allow 1 hour to complete the exit conference. The entire review team should be present for the exit conference.

Chapter 4

Eligibility Requirements

States will be reviewed against the requirements of title IV-E of the Act regarding the eligibility of the children on whose behalf the foster care maintenance payments are made, including their placement in a properly licensed or approved foster care facility.

The following documentation must be provided to verify the child's eligibility:

- evidence of judicial removal as a result of judicial determinations of “contrary to the welfare” and “reasonable efforts” or via a voluntary placement agreement;
- responsibility for placement and care vested with the State agency or another public agency with which the State agency has a title IV-E [§472(a)] agreement;
- eligibility for AFDC under the State plan as it was in effect on July 16, 1996, or earlier, if the child was removed before this date;
- placement in a licensed or approved foster family home or childcare institution; and
- verification of safety requirements for children placed in foster care.

The child is not eligible for title IV-E funding until all eligibility criteria pertaining to the child's removal from home and placement in foster care are met. This means that if the judicial finding of “contrary to the welfare” is rendered in November 2004, and the finding of “reasonable efforts to prevent removal” is rendered in January 2005, title IV-E eligibility and Federal financial participation may not begin until January 2005, on the

condition that State agency responsibility for placement and care, provider eligibility and AFDC eligibility are established in January 2005 or earlier for the most recent foster care episode. The child also is not eligible for title IV-E funding if the child is not removed pursuant to a judicial determination or a voluntary placement agreement.

Documentation for ongoing eligibility also includes evidence of: a judicial determination regarding reasonable efforts to finalize a permanency plan; a judicial determination within 180 days of placement through a voluntary placement agreement that the placement continues to be in the child's best interest; and continued eligibility for AFDC.

The eligibility requirements are summarized in the narrative that follows and the “Title IV-E Foster Care Eligibility Chart,” Appendix XI.

Judicial Removals

Removals pursuant to a court order must be the result of judicial determinations of “contrary to the welfare” and “reasonable efforts.” A removal is considered to not have occurred in situations in which the child is judicially removed from the parent or another specified relative and the child is permitted to remain in that same relative's home under the supervision of the State agency. The physical removal from the home must coincide with the judicial ruling that authorizes the child's removal from the home and placement in foster care under the responsibility of the State agency. In these situations, the child is not eligible for title IV-E funding for the duration

of the foster care episode, in accordance with 45 CFR §1356.21(k)(2).

The judicial determinations of “contrary to the welfare” and “reasonable efforts” must be made in valid court orders, that is, court orders that the State’s statute defines as legally enforceable within the State. For the eligibility review, a court order is considered valid if it conforms to the State’s statutory definition of a legally enforceable vehicle that conveys a judicial ruling within the State about a particular course of action or behavior. A distinction is not made about the type of court order in which the “contrary to the welfare” or “reasonable efforts” determination is required. Nor is it necessary for the judicial determination to take place during a court hearing.

Judicial determinations must be made on a case-by-case basis; explicitly stated in the court order; and signed by a reviewing judge or other State designated court official, if a signature is required in State law; and in conformity with regulatory timeframes. The judicial determination that relies solely on references to State statutes in an attempt to substantiate the requisite judicial finding or implies a judicial finding is not explicit and is not sufficient for title IV-E eligibility. To be explicit, the court orders must definitively articulate the judge’s child-specific ruling pertaining to the “contrary to the welfare” and “reasonable efforts” determinations. The judicial determinations do not need to include the exact term “reasonable efforts” or “contrary to the welfare,” but the findings must specifically convey that the court determined that reasonable efforts were made or were not required to be made by the State agency, or that it was contrary to the welfare of the child to remain in the home. The eligibility reviewer may not infer a determination made by the court.

Courts may demonstrate that the judicial determination is child specific and has been made on a case-by-case basis in a number of

different manners, including referencing in the court order “the facts of a court report, related psycho-social report, or sustained petition.” [See Preamble to the Final Rule, 65 FR 4020, 4056 (January 25, 2000)]. Such documentation establishes that the judge reviewed the particular facts and circumstances of the specific child. Although not required, including in the court order the facts upon which the “contrary to the welfare” and “reasonable efforts” determinations are based significantly improve the quality of the court order. The date the court ruling is rendered, rather than the date the court order is signed, should be used to establish timeframes for judicial determinations related to a child’s eligibility for title IV-E foster care.

The reviewer’s analysis of the case record or State agency’s report and recommendation cannot serve as a substitute for the appropriate judicial finding. The court’s mere review and approval of the State agency’s report and recommendation absent an expressed ruling concerning “contrary to the welfare” or “reasonable efforts” are not sufficient. The court must make a definitive finding. Affidavits attesting that the judicial determination occurred at a previous hearing and nunc pro tunc (“now for then”) court orders that change the substance of a prior judicial determination or constitute a judicial determination not previously made are not acceptable documentation in support of a judicial determination. If an acceptable court order containing the requisite judicial determination is not furnished, a transcript of the court proceeding is the only alternative to a court order to substantiate that the judicial determination requirement is met satisfactorily. When an affidavit or nunc pro tunc order is presented to document a judicial determination the reviewer must examine the court transcript to verify that the judicial ruling is made at the time of the court proceeding in question and within the specified timeframe.

Contrary to the Welfare

A child's removal from the home must be the result of a judicial determination to the effect that continuation in the home would be contrary to the child's welfare, or that placement in foster care would be in the best interest of the child.

For a child removed before March 27, 2000, the judicial determination regarding "contrary to the welfare" may be made in the removal order or in a subsequent order resulting from court proceedings that are initiated (the petition filed) no later than 6 months from the date the child is removed from home, consistent with Departmental Appeals Board Decision Number 1508 (DAB 1508). In that decision, the DAB ruled that a petition to the court stating the reason for the State agency's request for the child's removal from home, followed by a court order granting custody to the State agency, is sufficient to meet the contrary to the welfare requirement. The petition must be filed within 6 months of the child's physical removal from home; however, the resultant court finding may occur in a later court ruling and must sustain the removal petition. The removal petition alone will not satisfy the title IV-E eligibility requirement. There must be a judicial finding of "contrary to the welfare." However, if the petition contains the "contrary to the welfare" finding and the court sustains the petition, the eligibility requirement is met. Title IV-E eligibility may not begin before attaining the requisite judicial finding.

For a child removed on or after March 27, 2000, the judicial determination regarding "contrary to the welfare" must be made in the first order that sanctions the State agency's action to remove the child from the home. This requirement is applicable even when the order is an emergency order or "pick-up" order. The child's physical removal from the home must coincide with the judicial ruling of "contrary to the welfare." A physical removal

that does not coincide with the judicial determination requirement will not comply with 45 CFR §1356.21(c) and the child is not eligible for title IV-E funding for the duration of the foster care episode.

Reasonable Efforts

The State agency must obtain a judicial determination that it made reasonable efforts to (1) maintain the family unit and prevent the unnecessary removal of a child from the home, as long as the child's safety is ensured, and (2) make and finalize a permanency plan in a timely manner. The State agency's performance in obtaining the requisite judicial determination is assessed through the title IV-E foster care eligibility review. The judicial decision concerning whether or not the State agency has made necessary and reasonable efforts to prevent the child's removal from the home or made reasonable efforts to finalize a permanency plan is an eligibility criterion. However, the activity that the State agency undertakes to prevent the child's removal from the home or to make and finalize a permanency plan is a State plan requirement. Compliance with the title IV-E State plan is assessed during the course of the child and family services review (CFSR).

If the eligibility criterion of "reasonable efforts" is not satisfied, the child is not eligible for title IV-E funding. All judicial determinations with respect to "reasonable efforts," even determinations that such efforts are not required, must be clearly documented in the judge's ruling and must be obtained within the prescribed time frames. The reasonable efforts requirements do not apply to children who enter foster care as a result of a voluntary placement agreement.

Reasonable Efforts to Prevent Removal

For a child removed before March 27, 2000, the judicial determination that reasonable efforts were made to prevent removal or that reasonable efforts were made to reunify the child and family satisfies the reasonable efforts requirement. The judicial determination may be made at any point in the foster care episode. However, as stated previously, title IV-E foster care maintenance payments may not begin until the first month all eligibility requirements pertaining to the removal are satisfied. If the “reasonable efforts to prevent removal” criterion is not satisfied at any point in the episode, the child is not eligible for title IV-E funding on his behalf for the duration of the foster care episode.

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 the child’s removal from the home [45 CFR §1356.21(b)(1)]. The State agency may obtain this judicial determination earlier than 60 days from the date of removal. If the 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.

Reasonable Efforts to Finalize the Permanency Plan

Once title IV-E eligibility has been established initially, a judicial determination regarding the efforts the State agency made to finalize a permanency plan is required annually to maintain title IV-E eligibility.

A judicial determination regarding reasonable efforts to finalize the permanency plan [45 CFR §1356.21(b)(2)] must be made within 12 months of the date on which the child is considered to have entered foster care and at

least once every 12 months thereafter while the child is in foster care. If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within this timeframe, the child is ineligible at the end of the 12th month from the date the child is considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts is due, and remains ineligible until the beginning of the month in which such a judicial determination is made.

If the court finds that the agency has not made reasonable efforts to finalize the permanency plan, the case is ineligible until the court determines such efforts have been made. Although the permanency hearing may serve as the mechanism for obtaining the judicial determination of “reasonable efforts to finalize,” there is no requirement that the judicial determination be made at the permanency hearing. (The requirement to hold a permanency hearing is a State plan requirement for title IV-E. It is not an eligibility criterion. If the State agency fails to hold timely permanency hearings, it is out of compliance with the title IV-E State plan requirements, and the child is not ineligible for title IV-E funding solely for this reason).

The court’s ruling regarding “reasonable efforts to finalize” may be based on the State agency’s efforts pertaining to the permanency plan that was in effect at the time that the State agency sought the judicial determination; a permanency plan that had been in effect for a brief period of time immediately preceding the judicial ruling; or the activities related to achieving permanency that took place over the 12 months immediately preceding the judicial ruling, even if the plan had been abandoned during that 12-month period. Generally, a finding that the agency is making reasonable efforts to reunify the family is not sufficient if the permanency plan is not or has not been reunification during the past 12 months. The

judicial determination should reflect the court's judgment as to whether the agency activities that were performed during the previous 12 months were meaningful in bringing about permanency for the child.

The effective date of the "reasonable efforts to finalize" provision is March 27, 2001, in order to allow States a transition period to fulfill this requirement for children who were already in foster care for 12 months or longer at the time the final rule was published.

For a child removed before March 27, 2000, the judicial determination of "reasonable efforts to finalize" must have been made no later than March 27, 2001, because such a child would have been in care for 12 months or longer. If the judicial determination of "reasonable efforts to finalize" was not made by March 27, 2001, the child became ineligible for title IV-E foster care maintenance payments from April 1, 2001, until such time that a judicial determination of "reasonable efforts to finalize" was made. The title IV-E foster care eligibility review does not verify the State agency's compliance with the March 27, 2001, implementation date as a separate eligibility review issue. Rather, it examines whether or not the judicial determination requirement is satisfactorily met during the 12-month period that encompasses the PUR. If the judicial determination requirement is not met, the reviewer must go back to the date on which the requirement is met or March 27, 2001, whichever is later, to establish whether title IV-E payments are made for a period of ineligibility.

For a child removed on or after March 27, 2000, the judicial determination of "reasonable efforts to finalize" must be made no later than 12 months from the date the child is considered to have entered foster care. The date the child is considered to have entered foster care is defined as the earlier of the date of the first judicial finding of child abuse and/or neglect; or, the date that is 60 calendar

days after the date on which the child is physically or constructively removed from the home. [See 45 CFR §1355.20(a).] A State may assign an earlier date, such as the date of the child's physical removal from the home. However, for the purposes of title IV-E eligibility, the *date child entered foster care* is the date as defined in the regulatory reference cited here. This regulatory definition applies irrespective of how the child enters foster care. The date child entered foster care should not be confused with the date the child is removed from the home, which is the date that the child is physically or constructively removed and placed in a foster care setting. The purpose of the "date child entered foster care" is to set the timing for certain case review system requirements, including the permanency hearing, and the judicial determination of reasonable efforts to finalize the permanency plan.

The *judicial finding* of child abuse or neglect refers to the definitive ruling by the court that a child was subjected to abuse or neglect. Typically, this definitive finding does not take place at a shelter or emergency placement hearing where the State agency is given temporary custody of the child due to an allegation of child abuse or neglect. The judicial finding of child abuse or neglect typically is the result of the court's adjudication or settlement of a formal allegation of child maltreatment.

The On-Site Review Instrument requires the State agency to document the date child entered foster care for each sample case under review with a removal date of March 27, 2000, or after, for the most recent foster care episode. The timing for securing the initial judicial determination of "reasonable efforts to finalize" is no later than 12 months from the date the child is considered to have entered foster care. Subsequent judicial determinations of "reasonable efforts to finalize" must occur at regular 12-month intervals and no later than 12 months from the month in which the prior

determination actually is obtained. If the judicial determination of “reasonable efforts to finalize” is not made or is not timely, the child becomes ineligible from the time the finding is due and remains ineligible until such a judicial determination is made.

The members of the review team examine a case record to discern whether the “reasonable efforts to finalize” judicial determination requirement is satisfied during the 12-month period encompassing the PUR. However, if through the conduct of the case record examination the reviewer determines that a judicial determination of “reasonable efforts to finalize” is not made timely, the related ineligible payments will be disallowed. The untimely judicial determination of “reasonable efforts to finalize” for which ineligible payments are made, will render the case in error if the judicial determination is: due before or during the PUR, but is not made during the PUR; or due before or during the PUR and is made during the PUR, but is not made timely during the PUR. The exception to this Federal policy occurs when a judicial determination of “reasonable efforts to finalize” is not made until some time during the month following the month such determination is due.

The untimely judicial finding will not render the case ineligible because of the *end of the month-beginning of the month* eligibility principle. Under this principle, when a judicial determination regarding reasonable efforts to finalize a permanency plan is not made, title IV-E eligibility exists until the end of the month in which the judicial determination is required to be made [45 CFR §1356.21(b)(2)ii]. Title IV-E eligibility may begin again on the first day of the month in which the judicial determination regarding reasonable efforts to finalize a permanency plan is satisfied, irrespective of the date during the month the judicial determination is satisfied. Thus, in the case when the “reasonable efforts to finalize” judicial

determination is obtained during the month following the month that it should be obtained, there is no period of ineligibility regarding this judicial requirement.

Voluntary Placements

A voluntary placement is an out-of-home placement of a minor child by or with the participation of the State agency, after the child’s parents or legal guardians request the assistance of the agency and sign a voluntary placement agreement. A representative of the State agency must sign the voluntary placement agreement as well.

A removal pursuant to a voluntary placement agreement is considered to not have occurred in situations where the parent or another specified relative has signed the voluntary placement agreement and the child is permitted to remain in that same relative’s home under the supervision of the State agency. In these situations, the child is not eligible for title IV-E funding for the duration of the foster care episode, in accordance with 45 CFR §1356.21(k)(2).

An otherwise eligible child is eligible for title IV-E foster care maintenance payments for a period of 180 days, pursuant to a voluntary placement agreement. The 180 days begin on the date the child is placed in foster care. However, if the child is constructively removed, the 180 days begin on the date that the voluntary placement agreement is signed by all parties. Title IV-E eligibility ceases on the 181st day unless, within the first 180 days, there is a judicial determination that indicates continued voluntary placement is in the best interest of the child. Title IV-E eligibility also ceases when a State agency fails to obtain the requisite judicial determination within the first 180 days, but petitions the court on the 181st day and is granted a judicial removal with determinations of “contrary to the welfare”

and “reasonable efforts.” Under these conditions, the State agency fails to meet the timeliness requirement for the voluntary placement program and is ineligible for continued Federal reimbursement for that foster care episode. The fact that a removal petition is filed within 6 months of the signed voluntary placement agreement will not change the nature of the child’s removal from voluntary to court-ordered in that foster care episode and permit the State agency to claim Federal reimbursement for a judicial removal during that foster care episode.

If it is determined that a valid voluntary agreement does not exist between the child’s parents or legal guardians and State agency, the sample case will be cited as an error case and included in the determination of substantial compliance. The associated foster care maintenance payments and administrative costs claimed will be disallowed. For purposes of the eligibility review, a voluntary placement agreement will be considered valid if it is signed by the parent or legal guardian and the State agency.

Responsibility for Placement and Care Vested With the State Agency

Section 472(a)(2) of the Act requires that the responsibility for placement and care of a child be with the State agency administering the title IV-E plan approved under §471 of the Act, or any other public agency with whom the State agency has a written agreement in effect. The agreement under §472(a)(2) of the Act permits another public agency to operate as a title IV-E agency for a specified population of children in foster care. This agreement is not merely an interagency agreement that addresses activities to be carried out by the State agency and other public agency (herein referred to as “public

agency”), but it is one that gives the public agency responsibility to administer the title IV-E foster care program on the State agency’s behalf for children under the placement and care of the public agency.

The public agency that enters into a §472(a)(2) agreement with the State agency must be authorized under State law to operate as a child-placing agency and must be operating as such during the period that the agreement is in effect. To receive Federal financial participation for the placement and care of children, both the State agency and public agency with which the State agency entered into a §472(a)(2) agreement must ensure that all the title IV-E statutory and regulatory requirements are met for the children covered by the agreement. The State title IV-E agency must have access to the public agency’s case records, reports, or other materials in order to fulfill its responsibility to monitor title IV-E compliance.

A copy of all existing §472(a)(2) agreements should be made available to the Federal team leader before the on-site review to determine that the public agency has a bona fide agreement in effect with the State agency to operate a title IV-E program. If it is determined that a proper §472(a)(2) agreement does not exist for a child during the PUR, the sample case will be cited as an error case and included in the determination of substantial compliance. The associated foster care maintenance payments and administrative costs claimed will be disallowed.

During the on-site review, the State agency must present documentation that it, or another public agency under a §472(a)(2) agreement, has responsibility for placement and care of the child for the entire PUR. The court order or voluntary placement agreement must indicate that the agency has this responsibility. Placement and care responsibility may be granted in the removal court order or in a subsequent court ruling for a judicial removal.

However, Federal financial participation may not be claimed before the eligibility requirement of placement and care is met.

If the State agency does not present documentation that verifies the State agency or another public agency has placement and care responsibility of the child for the PUR, the sample case will be cited as an error case and included in the determination of substantial compliance. The associated foster care maintenance payments and administrative costs claimed will be disallowed. The sample case remains in error for the foster care episode until the State agency, or another public agency, is granted (or verifies it has) placement and care responsibility for the child. It should be noted that although responsibility for placement and care generally is associated with child custody, the agency need not be given legal custody of the child as legal custody is not a requirement under title IV-E.

When the title IV-E State plan authorizes Federal financial participation for an 18-year-old youth, the State agency must provide verification through the PUR to substantiate that placement and care responsibility for the youth is retained beyond the age of 18. (See “Age and School Attendance” in the following section for further discussion on this subject). If the State agency does not present documentation that verifies the State agency or another public agency has placement and care responsibility of the youth during the PUR, the sample case will be cited as an error case and included in the determination of substantial compliance. The associated foster care maintenance payments and administrative costs claimed will be disallowed. The youth remains ineligible for title IV-E funding in the foster care episode until the State agency, or another public agency, is granted (or verifies it has) placement and care responsibility for the youth.

AFDC Eligibility

The purpose of the title IV-E foster care program is to provide financial assistance to States for maintaining children who meet the eligibility requirements for the Aid to Families with Dependent Children (AFDC) program and cannot remain safely in their homes of origin. Thus, a child’s eligibility for title IV-E maintenance, in part, is predicated on the child’s eligibility for AFDC. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which repealed the AFDC program, requires States to apply the AFDC eligibility requirements that were in place in the State’s title IV-A plan on July 16, 1996 (disregarding any Section 1115(a) waivers that may have been in effect on that date), when determining whether children are eligible for Federal foster care assistance. If the child was removed from the home before July 16, 1996, States are to apply the AFDC eligibility requirements that were in place in the State at the time of the child’s removal.

In general, to meet the AFDC requirements the child must be determined to be a “dependent child.” The term “dependent child” means a child in need who has been deprived of parental support or care, has been living with a parent or other specified relative in a place maintained as the home of the relative, and has not reached the maximum age designated for program eligibility. The major provisions are summarized in the narrative that follows and the “Matrix of AFDC Factors Related to Title IV-E Foster Care Eligibility,” Appendix XII.

There is no eligibility linkage between the AFDC program and the Temporary Assistance to Needy Families (TANF) program. A child’s eligibility for AFDC is not based on a child’s eligibility for TANF. TANF income should be excluded from the AFDC budget computations because, in accordance with

Federal policy, TANF is a needs-based program that also considers the individual's needs, income and resources in determining recipient eligibility for the program.

Determination of Dependency

Financial Need

The State agency must establish that the child is financially needy using criteria in effect as of July 16, 1996, in the State's title IV-A plan. Typically, the initial determination of need is based on the home from which the child is removed pursuant to a judicial order or a voluntary placement agreement. (See "Removal from a Specified Relative" in this section of the review guide for further discussion on this subject). The composition of the AFDC family unit must be determined first in establishing whether the child is financially needy. The family unit is defined as a group of individuals whose income, resources, and needs are considered as a unit for purposes of determining AFDC eligibility.

Financial need must be established based on the circumstances that existed in the home of the family unit during the month the court proceedings leading to the child's removal were initiated or the voluntary placement agreement was signed. In accordance with 45 CFR §206.10(a)(1)(vii), the State agency must include in the family unit: the child, the natural or adoptive parents, and the blood-related or adoptive siblings who are otherwise eligible and who live in the same household as the child. In States with support laws of general applicability that require a step-parent to support his step-children to the same extent as a natural or adoptive parent, step-parents married under State law to the natural or adoptive parent and in the same household as the child also must be included in the family income unit.

Certain individuals who live in the same household as the child must be excluded from the family unit because they are not eligible for the AFDC program due to other provisions of the Act. Examples of exceptions to the requirement regarding composition of the family unit include: individuals eligible to receive Supplemental Security Income (SSI), certain aliens, and individuals who are ineligible for the AFDC program due to receipt of a lump sum payment from any source.

After establishing the family unit, the determination of need is made by considering all available income and resources of the individuals who are included in the family unit. Income and resources are considered available when the money or asset is accessible for use by an individual in the family unit. The income and resources of individuals who are statutorily excluded from the family unit are not considered for purposes of determining the AFDC eligibility component of need for the family unit. The financial need of a family is measured against the State's need standard which is defined by the State, expressed in money amounts, and is in effect in the State plan as of July 16, 1996. In considering income to determine whether need exists for the family unit in establishing initial eligibility, the State must use the AFDC program's two step process:

1. After applicable disregards, the family's total available income is measured against 185% of the State's AFDC standard of need for a family of the same size. If the family's total income before application of certain earned income disregards exceeds 185% of the AFDC need standard, the child does not meet the eligibility requirements for the AFDC program [45 CFR § 233.20 and § 233.20(a)(3)].
2. If the family's total available income does not exceed 185% of the AFDC need standard, additional specified income

disregards are applied and the family's countable income is measured against 100% of the need standard to determine AFDC eligibility. Federal law requires that certain earned income disregards be applied after eligibility otherwise is established. If the family's total available income exceeds 100% of the AFDC need standard, the child does not meet the eligibility requirements for the AFDC program [45 CFR § 233.20(a)(3)].

In considering the real and personal property to determine whether financial need exists for the family unit, the combined value of available, non-excludable resources for the family unit must not exceed \$10,000. (The Foster Care Independence Act of 1999 amended §472(a) of the Act to increase the resource limit to \$10,000.)

After a child enters foster care, the child becomes his or her own financial unit and continuing financial need is determined by looking at the income and resources available to the child. To re-determine a child's AFDC eligibility, the State may apply a slightly different process from the one used to determine initial eligibility. The child's countable income may be measured against 185% of the AFDC need standard or the child's foster care payment rate (i.e., foster care payment standard) to determine continuing AFDC eligibility. The State does not have to measure the child's income against 100% of the need standard. As long as the child's countable income does not exceed 185% of the foster care payment standard and the child meets the \$10,000 resource limit, the child is considered to meet the financial need test under AFDC.

Deprivation

The State agency must establish that the child was deprived of parental support or care at the time of the child's removal from his home. The initial determination of deprivation must

be established based on the circumstances that existed in the child's home during the month the court proceedings leading to the child's removal were initiated or the voluntary placement agreement was signed. In addition, the initial determination of need is based on the home from which the child was removed pursuant to a judicial order or a voluntary placement agreement.

Deprivation of parental support or care of the child is defined as a child who is in need, and whose parent, either father or mother:

- has died;
- has a medically documented physical or mental incapacity; or
- is continually absent from the home in a manner such that the absence interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child.

Deprivation also may be based, at the State's option, on the unemployment of the child's parent who is the principal wage earner in the family assistance unit. Deprivation may not be based on the fact that the child is placed in foster care and absent from the home or that the child is incapacitated. The determination of deprivation is made in relation to the child's natural or adoptive parent or (in States with a support law of general applicability) in relation to a step-parent who is married to the child's natural or adoptive parent.

To determine continuing deprivation after a child enters foster care, the State agency must refer to the home of the child's removal to confirm that deprivation still exists in that home.

Living With a Specified Relative

Sections 472(a)(1) and (4) of the Act and 45 CFR §1356.21(l) require a child to have lived in the home of a parent or other relative specified at 45 CFR §233.90(c)(1)(v) and to have been eligible for AFDC in that relative's home in the month of legal removal, that is, the month the court proceedings leading to the removal are initiated or the voluntary placement agreement is signed. If the child was not living with that specified relative in the month of legal removal, the child: (1) must have been living with the specified relative from whom legally removed at some time within the previous 6 months of removal; and (2) must have been AFDC eligible in that specified relative's home in the month of legal removal as if the child still had been living with that relative in the month of the petition or voluntary placement agreement. (See below discussion for the exception to this Federal provision that pertains to States under the jurisdiction of the Ninth Circuit Court.)

A child is considered to meet the requirement of living with one of the relatives specified in the regulations at 45 CFR §233.90(c)(1)(v) if the child lived with a parent or person in one of the following groups:

- any blood relative, including those of half-blood, and including first cousins, nephews, or nieces; persons of preceding generations as denoted by prefixes of grand, great, or great-great;
- stepfather, stepmother, stepbrother, and stepsister;
- persons who legally adopt a child or the child's parent as well as the biological and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with State law; and

- spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce.

Removal From a Specified Relative

In addition to “living in the home of a specified relative,” §472(a)(1) and (4) of the Act and 45 CFR §1356.21(k) require the child to have been removed from the home of a parent or other relative specified at 45 CFR §233.90(c)(1)(v) and to have been eligible for AFDC in the month of legal removal, that is, the month the court proceeding leading to the removal is initiated or the voluntary placement agreement is signed. The removal must occur as a result of a voluntary placement agreement which leads to a physical or constructive removal (i.e., non-physical, paper removal) of the child from the home, or a judicial order for a physical or constructive removal of the child from the home. In accordance with 45 CFR §1356.21(k)(2), a removal has not occurred when a judicial ruling or voluntary placement agreement sanctions the removal of the child from the parent or another specified relative and the child is allowed to remain in the home of the same specified relative under the supervision of the State agency.

For a child removed 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. If the child is not living with the specified relative (from whom removed) during the month of the voluntary placement agreement or initiation of court proceedings, a physical removal from an interim caretaker may satisfy the removal requirement provided that at some point during the 6 months before the voluntary placement agreement or initiation of court proceedings the child has lived with that specified relative. Under these circumstances, the child is considered to have been living

with and removed from the home of the specified relative who is the basis of the judicial removal or who enters into the voluntary placement agreement with the State agency. AFDC eligibility must be determined for that specified relative as if the child had been living in that home in the month of the initiation of court proceedings or the voluntary placement agreement. A constructive removal is not allowable for title IV-E funding.

For a child removed on or after March 27, 2000, the child may be “physically” or “constructively” removed. A child is considered to be constructively removed when a judicial ruling or voluntary placement agreement sanctions the child’s removal from the parent or another individual, but the child is permitted to remain in the home of an interim caretaker. The child is considered constructively removed on the date of the first judicial order removing the child from the home or the date the voluntary placement agreement is signed by all relevant parties.

As stated earlier, the child must have been living with the specified relative (from whom legally removed) within six months of physical removal from the specified relative. If the child is not living with that specified relative during the month of the voluntary placement agreement or initiation of court proceedings, a physical removal from an interim caretaker may satisfy the removal requirement provided that at some point during the 6 months before the voluntary placement agreement or initiation of court proceedings the child has lived with the specified relative (from whom constructively removed). Under these circumstances, the child is considered to have been living with and removed from the home of the specified relative who is the basis of the judicial removal or who enters into the voluntary placement agreement with the State agency. AFDC eligibility must be determined for that specified relative as if the child had been

living in that home in the month of the initiation of court proceedings or the voluntary placement agreement.

The “living with” and “removal from” requirements must be satisfied by the same specified relative’s home and AFDC eligibility must be based on that home. The statute did not contemplate the “living with” and “removal from” requirement to be satisfied by two discrete individuals. When the home from which the child is removed is not specifically identified in the judicial order or petition for removal, the foster care eligibility review examines whether AFDC eligibility is based on the home of the individual that the State’s law prescribes as the party from whom the child must be legally removed in order for the child to be under the placement and care of the State agency. Typically, this is the home of the individual who is the subject of the “contrary to welfare” judicial determination or voluntary placement agreement.

The only exception to the requirement that the child be “living with” and “removed from” the same home is when a child, at the time of removal, resides in a State that is under the jurisdiction of the United States Court of Appeals for the Ninth Circuit (hereafter Ninth Circuit). As a result of the decision of the Ninth Circuit in the case of *Rosales v. Thompson* (hereafter *Rosales*), the child’s “home of removal” need not be the home upon which the child’s AFDC eligibility is based. Therefore, States within the Ninth Circuit must consider whether a child would have been eligible for AFDC, at the time the child legally was removed from the home, in either: the home from which the child legally was removed or the home of any specified relative with whom the child lived in the 6 months before removal, provided that the relative upon whom the AFDC eligibility is based had established a home for the child that is consistent with 45 CFR §233.90(c)(1)(v)(B). Under this definition, the child’s home is the family setting maintained

or in the process of being established as evidenced by assumption and continuation of responsibility for the day-to-day care and control of the child by a relative with whom the child is living, if the relative is one of specified degree.

The *Rosales* decision applies only to States within the Ninth Circuit, specifically, Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington. These States must amend their State title IV-E plans so that they are consistent with the *Rosales* decision and the title IV-E plan amendments must be approved by ACF. States that are outside of the Ninth Circuit must continue to base AFDC eligibility on the home of the specified relative from whom the child is legally removed (i.e., removal resulting from a voluntary placement agreement or judicial ruling of contrary to the welfare).

Age and School Attendance

As stated previously in this section, to meet the AFDC requirements the child must be determined to be a dependent child, that is, a needy child who has been deprived of parental support or care, living with a parent or other specified relative in a place maintained as the home of the relative, and who has not reached the maximum age designated for program eligibility. AFDC eligibility may be granted to an otherwise eligible child who is under 18 years of age. When a child reaches his or her 18th birthday, generally eligibility for AFDC ceases beginning on the first day of the month following attainment of age 18.

However, a State agency may have elected to include in its AFDC State plan eligibility coverage for youth age 18 who are full-time students in a secondary school, or in the equivalent level of vocational training or technical training, and who may reasonably be expected to complete the program before reaching age 19. If the State agency does not exercise this State plan option, eligibility for

title IV-E foster care ceases at the end of the month the child turns 18. If the State agency exercises this State plan option, eligibility for title IV-E foster care ceases at the end of the month in which the child leaves school or when the child turns 19, whichever occurs earlier. To meet the eligibility requirement under this State plan option when the State agency's jurisdiction over a child automatically ceases at age 18, the State agency must provide verification that the child signed an authorization that explicitly gave the State agency placement and care of the child. A court order extending the State agency's custody of the youth beyond age 18 also satisfies the placement and care requirement. School records, independent living plans, or other documentation similar in purpose are examples of evidence that may be used to satisfy the eligibility requirement.

Documentation for Initial AFDC Eligibility Determination

During the title IV-E foster care eligibility review, the State agency must document that the child is financially needy and deprived of parental support during the month of the child's legal removal from home. For the initial determination of the child's financial need and deprivation, the child's case file should contain documentation verifying that financial need is evaluated, indicating the reason that the child is deprived of parental support or care. The manner used to substantiate that the school attendance criterion is satisfied for the 18-year-old youth must be included as well.

Unless otherwise specified, the method for substantiating financial need and deprivation is derived from the State agency's policy and procedures. The documentation, at a minimum, should include an eligibility worksheet that contains the name of the household on which the child's AFDC

eligibility is based, period of eligibility, eligibility decision, basis of eligibility decision, and an indication of the State agency's sanction of the decision, such as a supervisory signature on the worksheet. There must be a specification of how the child was determined to be in need and deprived of parental support or care. The eligibility worksheet or summary should provide a clear, evidence-based path to the eligibility decision.

The documentation should verify whether the child is AFDC eligible during the month the voluntary placement agreement is signed or the month that the removal petition is filed, or removal court order is granted, if a removal petition is not filed. The child must be eligible at the time of entry into foster care as well as continue to be eligible throughout the foster care episode. Failure to conduct a determination of the child's initial eligibility for AFDC will render the child ineligible for title IV-E foster care maintenance payments and administrative costs paid on behalf of the child during the entire foster care episode. The child's case will be an error case and the ineligible payments that were claimed will be disallowed.

Documentation for Ongoing AFDC Eligibility (Re-determination)

For a child in foster care longer than 1 year, the State agency must document periodically, but not less than annually, that the child continues to be financially needy and deprived of parental support or care. All factors of AFDC eligibility must be reconsidered. At re-determination, a child in foster care is considered his/her own assistance unit and financial need is determined based on income and resources available to the child. The income test against the State need standard is applicable to the child's available income at all times throughout the foster care episode.

Deprivation is re-determined by looking at the home from which the child was legally removed for evidence that the child continues to be deprived of parental support or care. Although the child's placement in foster care does not constitute deprivation, once deprivation is established at the time of the child's removal from the home, a termination of parental rights can serve as documentation of continued deprivation.

The documentation, at a minimum, should include an eligibility worksheet that contains the eligibility decision, period of eligibility, basis of decision, and an indication of the State agency sanction of the eligibility decision, such as a supervisory signature on the worksheet. There must be a specification of how the child was determined to continue to be financially needy and deprived of parental support or care. The eligibility worksheet or summary should provide a clear, evidence-based path to the eligibility decision. For the foster care eligibility review, the documentation should verify whether the child was AFDC eligible during the entire PUR.

Re-determination of eligibility is a State plan requirement. It is not an eligibility requirement for the individual child in care. Failure to conduct timely periodic reviews of the status of each child receiving assistance may result in the State being out of compliance with its State plan in accordance with §472(a) of the Act. While the timeliness of the re-determination is not an eligibility issue, the State agency must be able to show that the child continues to meet the mandatory eligibility requirements.

Reconstruction of AFDC Eligibility

During the foster care eligibility review, if there is not a determination of initial or continuing eligibility to cover the entire PUR,

the State agency will be allowed to reconstruct the AFDC factors to verify the child's eligibility. If the State agency is unable to determine the AFDC eligibility of a child for a period during the foster care episode, any title IV-E payments claimed for the period of ineligibility will be disallowed and any ineligible periods that occur during the PUR will render the case in error. If the State agency is able to determine the AFDC eligibility of a child, but the eligibility requirements are not met for any month during the PUR, the case will be in error and title IV-E payments claimed for the months in which AFDC eligibility is not met during the PUR will be disallowed. Any ineligible payments claimed outside the PUR will be disallowed as well.

To reconstruct AFDC eligibility, the State agency must retrospectively establish the case facts that existed at removal or re-determination using State AFDC eligibility criteria in effect as of July 16, 1996, or such in effect for the period in question if the child is removed before July 16, 1996. Perfunctory check-off of an AFDC worksheet without fully exploring and documenting the pertinent case facts will not suffice for Federal financial participation. As stated previously, there must be a specification of how the child is determined to be financially needy and deprived of parental support or care. The eligibility worksheet or summary should provide a clear, evidence-based path to the eligibility decision.

It should be noted that a determination of AFDC eligibility may be completed at any point in the foster care episode; however, a claim for title IV-E funds may not be made for a period later than 2 years after the calendar quarter in which the State agency made the expenditure (45 CFR §95.7). If the foster care eligibility determined that claims are made beyond this timeframe, the ineligible payments will be disallowed for the entire period of ineligibility, but the ineligible

payments will not deem the case in error solely for this reason.

Placement in a Licensed Foster Family Home or Childcare Institution

The child must be placed in a title IV-E eligible foster care facility and that facility must meet the standards for full licensure or approval established by the State. Under title IV-E, an eligible foster care facility may be a family foster home, group home, private childcare institution, or public childcare institution which accommodates 25 or fewer children. Children who are placed in detention facilities, forestry camps, training schools, or other facilities that operate primarily for detaining children adjudged delinquent are not eligible for title IV-E foster care maintenance payments. Licenses or approvals, such as probationary or provisional, that are issued to a foster care facility because the facility fails to satisfy all of the State's standards for full licensure or approval render the children who are placed in the foster care facility ineligible for title IV-E funding. In addition, the State agency may not claim title IV-E funds for a foster care facility for which the State issues an interim license pending satisfaction of a licensing standard (for example, waiting on the results of a criminal records check or the completion of training).

The Federal statute requires licensed or approved foster care facilities to conform fully to the same standards within the State that the State establishes for similarly situated foster family homes and childcare institutions operating to provide foster care. Past confusion in the field about the Federal statutory terminology of "licensed" and "approved" led States to interpret incorrectly that the statutes allowed a two-tiered system for certifying foster family homes. Consequently, the final rule that was

published on January 25, 2000, amended the Federal statutory definition of foster family homes to clarify that the statutes do not make a distinction between a licensed foster family home and an approved foster family home. The definition also reiterates the prohibition on provisional licenses for foster family homes.

The term “licensed” will be used in this review guide to denote foster care facilities that meet all of the State’s standards for full licensure, approval, certification, or other synonymous term.

For a foster family home licensed before March 27, 2000, Federal reimbursement will be allowed for the period of March 27, 2000, through September 27, 2000, if the home did not meet full licensure status for that period. These foster family homes, including those licensed by a child-placing agency, must meet full licensure beginning October 1, 2000.

For a foster family home licensed on or after March 27, 2000, there is no grace period to allow the foster care provider to come into compliance with the requirement for full licensure. These foster family homes, including those licensed by a child-placing agency, must meet full licensure beginning April 1, 2000.

For a childcare institution, there is no grace period to allow the foster care provider to come into compliance with the requirement for full licensure regardless of when licensed because it was not necessary to clarify within the final rule the statutory definition of a childcare institution.

The title IV-E foster care eligibility review does not evaluate the adequacy of a State agency’s licensing standards or the State agency’s compliance with the standards it established for full licensure, unless the licensing standards pertain to the safety of the foster care facility. This is because

§471(a)(10) of the Act grants to States the responsibility for setting uniform standards of licensure. A State’s failure to adhere to its licensure protocol is treated as an issue of compliance with §471(a)(10) of the Act and the State plan under title IV-E. If it is determined during the course of the eligibility review that a State agency gave full licensure status to a foster care facility that may not have complied with the State’s standards, it should be reported as an observation in the final findings of the eligibility review. The lapsed license of a child-placing agency that has State authority to license foster family homes that it administers also should be reported as an observation in the final findings rather than as an eligibility issue. Following the eligibility review, 45 CFR §1355.32(d) authorizes the ACF Regional Office to explore whether the issue of concern constituted a violation of the State plan requirements and whether corrective measures are necessary.

Through the provisions at 45 CFR §1356.71, the title IV-E foster care eligibility review substantiates that the child’s foster care placement was fully licensed for the entire time the child resided in the placement during the PUR, and that the placement type complied with the Federal definition of an eligible foster care facility. Federal regulations at 45 CFR §1355.20(a) define an eligible foster care facility as a foster family home, group home, public institution of 25 or fewer children, private non-profit childcare institution, or for-profit childcare institution. A facility that does not fall into one of these categories is not eligible for Federal matching funds. The certificate of licensure, a letter of approval, or other documentation similar in purpose may satisfy the documentation of full licensure. All documentation of licensure as a foster care facility must show that the home or childcare institution is fully licensed for the duration of the child’s placement for the PUR, even when the foster care provider is an out-of-State facility.

Title IV-E foster care maintenance payments may not be made on behalf of a child placed in a foster family home or childcare facility that is not fully licensed. Nor may title IV-E foster care maintenance payments be made on behalf of a child before the month the foster family home or childcare institution attained full licensure. When title IV-E foster care maintenance payments and administrative costs are claimed during the PUR in either situation, the case will be in error and the ineligible title IV-E foster care maintenance payments and administrative costs will be disallowed for the entire time the ineligible payments are claimed. In addition, when title IV-E foster care maintenance payments and administrative costs are claimed solely outside the PUR in respect to either situation described here, the case will not be in error for this reason, but the improper title IV-E foster care maintenance payments and administrative costs will be disallowed for the entire time the ineligible payments are claimed.

State agencies may claim title IV-E reimbursement during the period between the date a foster care facility satisfied all of the State's requirements for licensure and the date the actual licensing document was issued, not to exceed 60 days. The 60-day period begins when the State agency obtains all of the necessary documentation to substantiate the facility's full compliance with the State's licensure standards. In determining the period of eligibility, any foster family home or childcare institution that is licensed for a portion of a month is considered licensed the entire month. However, Federal maintenance payments may be claimed only for the portion of the month the otherwise eligible child resided in the licensed foster family home or childcare institution. The State's policy regarding when and how licenses lapse is given preference when considering whether a foster care facility was fully licensed during the period that intervenes the license lapse and license renewal. Although maintenance payments may not be claimed for an

unlicensed foster family home, Federal financial participation (FFP) may be claimed for the administrative costs associated with an otherwise title IV-E eligible child placed in an unlicensed foster family home, in accordance with Program Instruction ACYF-CB-PI-02-08. In addition, FFP may not be claimed for the maintenance costs associated with an otherwise title IV-E eligible child placed in an unlicensed foster family home if that home is licensed or approved as a facility other than a foster care facility, such as a pre-adoptive family home.

Safety Requirements for Children Placed in Foster Care

To ensure that a child is not placed in a foster care setting where the potential caregiver has caused or is likely to cause harm to a child, §471(a)(20) of the Act and 45 CFR §1356.30 require States to examine the potential safety risks posed to the child by a foster care provider. The State agency must document that the foster care provider meets the established safety standards before a child is placed with the foster care provider and before title IV-E foster care maintenance payments are claimed for the foster care provider. Although the statutes specify compliance with the safety requirements as a condition of full licensure, compliance with the safety provision is assessed as a separate requirement for purposes of the eligibility review.

For a State that has not opted out of the criminal records check provision, the State agency must conduct or require the conduct of criminal record checks for prospective foster parents. A prospective foster parent is considered to be any foster parent who is licensed on or after November 19, 1997, or the date approved by ACF that permits the State agency to delay implementation of the criminal records mandate. To ensure that a

foster parent is in compliance with the respective timeframe, during the eligibility review the State agency must provide documentation of the approval by ACF of the State agency's delayed implementation date. The Federal provisions pertaining to the criminal records check include those prospective foster parents operating under the auspices of a child-placing agency. The safety requirement does not extend to foster family homes licensed or approved before November 19, 1997.

For applicable States, the State agency must provide documentation that criminal records checks are conducted with respect to each prospective foster parent in a foster family home and that a prospective foster parent is not convicted of any of the felonies enumerated in §471(a)(20) of the Act. It is not sufficient to document that a request was made for a criminal records check. The State agency must provide evidence of the determination that the prospective foster parent's background check complies with Federal and State law and regulations (where applicable). Documentation must be provided even when the child is placed with a prospective foster parent who lives out-of-State. Acceptable documentation to satisfy the criminal record check requirement is evidence that contains the results of the criminal records check and that substantiates that the requirement is met for the duration of the child's placement for the PUR.

For a State that has opted out of the criminal records check provision, a State agency in accordance with 45 CFR §1356.30(e) must establish procedures to determine whether a *prospective* foster family home presents a potential safety risk for a child placed in its care. The mechanism used to satisfy the safety requirement should be written into State policy, procedures, or statutes, and reflected in the licensing documentation. The Federal provisions include those prospective foster parents operating under the auspices of a

child-placing agency and those residing out-of-state. The safety requirement does not extend to foster family homes licensed or approved before March 27, 2000. For applicable States, the State agency must provide documentation that verifies that for the duration of the child's placement during the PUR the prospective foster parent has met the safety criteria. Documentation must be provided even when the child is placed in an out-of-state foster family home. If the foster parent did not meet the safety requirements, title IV-E foster care payments cannot be made on behalf of a child placed in the foster family home. The State agency will be expected to adhere to the safety standards established within the State's law and the State agency will be scrutinized, accordingly.

For childcare institutions, 45 CFR §1356.30(f) requires States to set procedures that address safety considerations with respect to the staff of the institution. The mechanism used to satisfy the safety requirement should be written into State policy, procedures or statutes, and incorporated into the licensing documentation. The safety requirement is applicable to all childcare institutions operating as foster care facilities licensed on or after March 27, 2000.

The State agency must provide documentation verifying that safety considerations with respect to the staff of the institution are satisfied for the duration of the child's placement for the PUR. The State agency documentation must demonstrate that the staff of the childcare institution meets the safety criteria that the State establishes, even when the child is placed in an out-of-State institution. If the childcare institution does not meet the safety requirements of the State, title IV-E foster care payments cannot be made on behalf of a child who is placed in the foster care facility. The State agency will be expected to adhere to the safety standards the State established for childcare institutions and

the State agency will be scrutinized, accordingly.

In general, if it is determined that a foster care provider does not meet the safety requirement, title IV-E foster care payments cannot be made for a child who is placed in the foster family home or childcare institution. Nor may title IV-E foster care maintenance payments be made on behalf of a child before the month the foster family home or childcare institution complies with the safety requirement. When title IV-E foster care maintenance payments and administrative costs are claimed during the PUR in either situation, the case will be in error and the title IV-E foster care maintenance payments and administrative costs will be disallowed for the entire time the

ineligible payments are claimed. In addition, when title IV-E foster care maintenance payments and administrative costs are claimed solely outside the PUR in respect to either situation described here, the case will not be in error for this reason, but the title IV-E foster care maintenance payments and administrative costs will be disallowed for the entire time the ineligible payments are claimed.

For further information on the title IV-E foster care eligibility requirements, refer to 45 CFR §1356.21 and 45 CFR §1356.71. Also refer to the Child Welfare Policy Manual that is posted on the Children's Bureau Web site at http://www.acf.hhs.gov/programs/cb/laws_policies/laws/cwpm/index.jsp.

Chapter 5

Final Report

Purpose of the Final Report

The basic purpose of the final report is to document for the State the determination of substantial compliance or noncompliance. It also provides a listing of each error case with an explanation of the error, a listing of each non-error case with an improper payment with an explanation of the ineligible payment, an explanation of payments that were eligible for claiming, but were not claimed, and a compilation of the agency's strengths and areas in need of improvement. The State agency should use the information in the final report to develop a PIP, if necessary, and to enhance the effectiveness of its title IV-E eligibility program.

Preparation of the Final Report

The ACF Regional Office, in consultation with the ACF Central Office review representative and team leader for eligibility monitoring, will develop the cover letter and final report to be signed and disseminated by the ACF Regional Administrator. See "Sample Transmittal Letter Including Notice of Disallowance," Appendix VIII; and "Model Report Title IV-E Foster Care Eligibility Review," Appendix IX. The ACF Regional Office will analyze the results of the cases reviewed and make a determination about substantial compliance. Issues addressed in the report should be relevant to the scope of the eligibility review and the determination of substantial compliance or noncompliance. Any other issues revealed during the review should be addressed in the report as comments or observations. Observations or comments about

the State child and family services program should be limited to those issues that directly impact the efficient and proper administration of the State title IV-E eligibility program for foster care.

The completed final report to the State should include:

- A *Transmittal Letter* that accompanies the report and includes a statement about substantial compliance; the notification of the disallowance, if applicable; and the notification of the timeframe in which the PIP must be submitted to the ACF Regional Office, if applicable. (See "Sample Transmittal Letter Including Notice of Disallowance," Appendix VIII.)
- An *Introduction* that provides an overview of the background and purposes of the review; the type of review (primary or secondary); and location, dates, and descriptions of the review activities, including the AFCARS reporting period under review and review team representatives. If the review type was secondary, include the reason a secondary review was necessary and a brief synopsis of the findings of the primary review that required the conduct of a secondary review.
- A *Scope of the Review* that describes the manner in which the review was conducted and provides a summary of the review findings, including the number of case records and oversample case records reviewed, the number of records in error, the case error rate and/or dollar error rate, the number of non-error cases with

ineligible payments, the disallowance amount, the number of cases with underpayment and the underpayment amount.

- The *Case Record Summary* that provides a summary of the results of the review, including the sample size, oversample size, the number of eligible cases, the number of error cases, and the amount of maintenance dollars and amount of administrative costs associated with each error case. When applicable, a *subsection* of the case record summary will be included that summarizes the number of eligible cases in which an ineligible payment was claimed, the number of sample cases in which an allowable activity or cost was not claimed, but could have been claimed, and the amount of maintenance dollars and administrative costs associated with each eligible case with ineligible payments and with each sample case with underpayments. An analysis of the sample cases with payment issues also should be included in the Case Record Summary that identifies each case by sample number, along with an explanation of the payment issue and duration, and the statutory/regulatory citation that supports the determination that the case was ineligible or that an underpayment took place. The sample case name or other personal case identifiers should be excluded from the summary and other documents that may be made available for public review.
- A section on *Areas in Need of Improvement* that describes weaknesses or deficiencies discovered about the title IV-E foster care program during the review. Observations about program performance made in this area should be related primarily to needed program improvements and focus on areas of noncompliance resulting from the title IV-E foster care eligibility review.
- A section on *Strengths and Model Practices* discovered during the review that describes strengths or model practices that contributed to the efficient and proper administration of the State title IV-E program and may be replicated by other State eligibility programs. An example is an automated process for title IV-E eligibility determination that the ACF Office of State Systems determined to be compliant with the requirements of SACWIS (Statewide Automated Child Welfare Information System).
- A *Disallowance* section that indicates if a disallowance is warranted. The disallowance will consist of all ineligible maintenance dollars and administrative costs that occurred beginning with the first month of ineligibility and continuing through the date that is the earlier of the end of the service month that immediately precedes the month of the on-site review or when the ineligibility ceases for the most recent foster care episode. If funds are to be disallowed, the disallowance notification, with instructions for State appeals (45 CFR Part 16), will be a part of the transmittal letter of the report. The State agency must be advised that it will be liable for interest on the amount of funds disallowed by the Department, in accordance with the provisions of 45 CFR §30.13.
- An *Underpayments* section that indicates the total amount of maintenance dollars and administrative costs associated with the underpayments, if an underpayment is observed. The notification of underpayment, with instructions for claiming, will be included in the transmittal letter of the final report.

- A section on *Next Steps* that indicates the activities the ACF Regional Office and the State agency should undertake to complete the current phase of the review and begin the next phase of the review cycle. This includes information concerning repayment of disallowances, further claim adjustments, timeframe for PIP development and completion, and subsequent review.

Dissemination of the Final Report

The ACF Regional Office will provide the final report with transmittal letter to the appropriate officials at the State agency, with copies to the State review coordinator and the Children's Bureau Associate Commissioner, and an electronic copy to the ACF Central Office team leader for eligibility monitoring within 30 calendar days of completing the on-

site review. The final report should be transmitted to the State agency through the use of registered or certified mail with a request for a return receipt to establish the date.

If the ACF Regional Office receives additional documentation subsequent to issuing the final report and the documentation results in a change to the review compliance or payment disallowance, the ACF Regional Office will provide the State with written notification of the revised finding. The subsequent notification should be signed and issued by the Regional Administrator and an electronic copy forwarded to the ACF Central Office team leader for eligibility monitoring. The ACF Central Office will post on the Children's Bureau Internet Web site the final reports and other pertinent information pertaining to the title IV-E foster care eligibility reviews.

Chapter 6

Program Improvement Plans

Criteria for Developing a PIP

The State agency must develop a PIP when the State is determined not to be in substantial compliance. This occurs when the eligibility review findings indicate that the total number of error cases is nine or more for an initial primary review, or five or more in primary reviews subsequent to the initial primary review. The PIP must be developed by State agency staff in consultation with Federal staff and must address each area that the eligibility review identified as needing improvement. The State agency must develop a PIP even in those situations where the State agency appeals an adverse review finding and a decision is pending before the Departmental Appeals Board. If a State agency chooses not to implement a PIP, the ACF Regional Office immediately will schedule and conduct a secondary review.

Content of the PIP

The format of the PIP may vary, but it must include the following components:

- specific goals or outcomes for program improvement;
- measurable action steps required to correct each identified weakness or deficiency;
- a date for completing each action step;
- a description of how progress will be evaluated by the State agency and reported to the ACF Regional Office, including the frequency and format of the evaluation procedures; and

- a description of how the ACF Regional Office will know that an action step has been achieved.

Preparation and Approval of the PIP

Responsibility for developing the PIP will rest with the State child welfare agency in collaboration with the ACF Regional Office. The State agency must submit its PIP to the ACF Regional Office for approval within 90 calendar days from the date the State agency receives written notice from the ACF Regional Office that it is not operating in substantial compliance. This deadline may be extended an additional 30 calendar days (as determined by the ACF Regional Office) when requested by the State agency in order for the State agency to submit additional documentation to the ACF Regional Office in support of cases determined to be in error as a result of the on-site eligibility review. However, States are encouraged to submit any additional documentation for this purpose as soon as possible after the on-site review.

There is no regulatory requirement governing the time frame for PIP approval by the ACF Regional Office; however, in order to ensure timeliness in the implementation of the PIP, the ACF Regional Office should notify the State agency of approval or disapproval within 30 calendar days from the receipt of the PIP. The approval notification should identify the targeted completion date, and be sent to the State agency by certified mail, with a return receipt requested. The approval letter should be signed and issued by the Regional Administrator and an electronic copy of the

approval letter, with approved date, and PIP should be forwarded to the ACF Central Office team leader for eligibility monitoring. An approval of the PIP by ACF means that the PIP adequately addresses the required elements, but does not mean that a State agency can be assured of being in substantial compliance following a secondary or subsequent primary review. The PIP will have a prospective date for the State agency to begin the implementation of the PIP as specified in the ACF approval letter.

If the ACF does not approve the PIP, a written notification that details the basis for the decision and target date for resubmission will be sent to the State agency by certified mail, with a return receipt requested. The letter of nonapproval should be signed and issued by the Regional Administrator and an electronic copy of the letter should be forwarded to the ACF Central Office team leader for eligibility monitoring. Within 30 calendar days from receipt of the written notice, the State agency must revise and resubmit the PIP to the ACF Regional Office for approval. If, following negotiation and assistance from the ACF Regional Office, the State agency does not submit an approvable PIP within the specified timeframe, the ACF Regional Office will initiate a secondary review.

Timeframes for Implementing the PIP

State agencies will have a maximum of 12 calendar months from its approved implementation date in order to complete implementation of the PIP, unless State legislative action is required to implement needed corrective action. The PIP may be completed earlier than the 12-month period as determined by the latest date designated in the PIP for an action step to be achieved.

When State legislative action is required for PIP completion, an extension may be granted by ACF, with the ACF and the State agency negotiating the terms and duration of the extension. The State legislative action must be directly linked to an area of improvement and action strategy identified in the PIP. It is expected that negotiations concerning an extension of the PIP will have occurred before the completion of PIP implementation. The timeframe for the duration of the extension may not exceed the last day of the first legislative session after the date that was previously approved for completing the PIP.

Requests for a PIP extension must be submitted in writing by the State agency to the ACF Regional Office with documentation to support whether the extension is due to State legislative action necessary to make the required improvements. The ACF Regional Office must receive the written request no later than 60 calendar days before the targeted completion date of the PIP that was previously approved by ACF. The ACF Regional Office will submit to the ACF Central Office the State agency's request for an extension, along with the supporting information and the ACF Regional Office recommendation. The ACF Regional Office will notify the State agency of approval or disapproval of the PIP extension within 30 calendar days from the receipt of the State agency extension request. The approval notification should be sent to the State agency by certified mail, with a return receipt requested, and identify the targeted completion date. The approval letter is signed and issued by the Regional Administrator and an electronic copy of the approval letter, with approved date, and PIP are forwarded to the ACF Central Office team leader for eligibility monitoring.

Quarterly Progress Reports

The State agency will normally submit quarterly progress reports to ACF Regional Office, as well as a cumulative report upon completion of PIP implementation. The ACF Regional Office and State agency may determine jointly when less frequent reporting is necessary. The ACF Regional Office, in collaboration with the State agency and the ACF Central Office team leader for eligibility monitoring, will review the periodic reports to assess the State's progress in completing the prescribed action steps in accordance with the timeframes and conditions identified in the PIP. The quarterly progress report must contain sufficient detail to describe the progress made during the reporting period, including information that addresses the

specific timeframes and benchmarks of progress included in the PIP.

Technical Assistance

The ACF Regional Office will work with the States to determine needed technical assistance, which will be provided to the extent available in order to assist States in implementing the PIP. To the degree possible, technical assistance needs should be coordinated with other program enhancements efforts underway in the State, especially with regard to the implementation of the State's child and family services review PIP and Court Improvement Projects.

Glossary

Case Error Rate	The case error rate is the number of cases in error divided by the number of cases reviewed.
Disallowance	<p>A payment disallowance is taken whenever a title IV-E eligibility criterion is not met and title IV-E funds are claimed for the ineligible occurrence. The payment disallowance includes all title IV-E foster care maintenance payments and applicable administrative costs of the error cases and non-error cases with ineligible payments that occurred during the period beginning with the first month of ineligibility and continuing through the date that is the earlier of the end of the service month that immediately precedes the month of the on-site review, or when the ineligibility ceases for the most recent foster care episode.</p> <p>For States found not to be in substantial compliance during the primary reviews, a disallowance will be assessed on the basis of payments associated with error cases and non-error cases with ineligible payments for the total of the title IV-E foster care maintenance payments made during the entire period that the payments are ineligible. Administrative costs associated with the ineligible payments will be disallowed. For secondary reviews, an extrapolated disallowance will be assessed in addition to a case specific disallowance on the basis of maintenance payments and administrative costs associated with error and non-error cases for ineligible payments that occurred before and after the period under review (PUR).</p>
Dollar Error Rate	The dollar error rate is determined by dividing the maintenance and administrative dollars associated with the ineligible payments during the PUR by the total dollar value claimed during the PUR for the maintenance payments and administrative costs associated with the case records reviewed.
Error Case	A case is determined to be in error when a review of the sample case indicates that a title IV-E payment for a maintenance or administrative cost is made during the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility during the foster care episode.

Improper Payment	An improper payment is considered to have occurred in an error and non-error case whenever a title IV-E maintenance payment or administrative cost is not claimed for an allowable title IV-E activity or is claimed for an unallowable title IV-E activity. Improper payments include underpayments and ineligible payments.
Ineligible payment	An ineligible payment is considered to have occurred in an error and non-error case whenever a title IV-E maintenance payment or administrative cost is claimed for an unmet eligibility criterion; for a duplicate payment; for an overpayment; or for any other unallowable program cost.
Initial Primary Review	The initial primary review is the first title IV-E foster care eligibility review conducted in a State following the publication of the final rule in the Federal Register on January 25, 2000. A sample of 80 foster care cases is reviewed. (All States, as well as the District of Columbia and Puerto Rico, have undergone their initial primary reviews.)
Most Recent Foster Care Episode	If a child has had multiple entries into foster care, the most recent foster care episode begins with the date that the child is last removed from the home and placed in foster care before the end of the PUR and continues to the date the child is discharged for such removal. If a child has remained in foster care since his or her original removal from the home, the duration of this foster care event is considered the most recent episode.
Noncompliance	If a State is noncompliant, it is not in substantial compliance. For primary reviews, five or more of the title IV-E cases reviewed must be determined to be in error. For secondary reviews, noncompliance means both the case error rate and the dollar error rate exceed 10 percent.
Non Error Case with Ineligible Payment	<p>A case is determined to be a non-error case with ineligible payments when a review of the sample case indicates that a title IV-E payment for a maintenance or administrative cost is made solely outside the PUR on behalf of a child determined not to meet the criteria for title IV-E eligibility.</p> <p>A non-error case with ineligible payments is included in the assessment of payment disallowance and calculation of the dollar error rate in the secondary review. It is excluded in the determination of substantial compliance for the primary reviews and in the determination of the case error rate for the secondary review.</p>

Period Under Review	The period under review (PUR) is the 6-month reporting period of the Adoption and Foster Care Analysis and Reporting System (AFCARS) from which the sample of cases is drawn for the eligibility review. The AFCARS data are transmitted semi-annually by the State agency to the ACF Central Office.
PIP Completion Date	The PIP completion date is considered to be the date that is earlier of the latest completion date of an action item in the approved PIP or 12 calendar months from the approval date of PIP implementation.
Primary Review	The primary review is the first review in the title IV-E foster care eligibility review process. A sample of 80 foster care cases is reviewed. These cases, plus at least a 10 percent oversample, are selected from AFCARS data utilizing a probability sampling methodology. No alternate data source may be substituted for the AFCARS for sampling selection.
Program Improvement Plan (PIP)	The PIP is a plan developed by the State child welfare agency, in collaboration with the ACF Regional Office that, when implemented, is intended to correct the areas determined not to be in substantial compliance. The State agency must submit its PIP to the ACF Regional Office for approval within 90 calendar days from the date the State agency receives written notice from the ACF Regional Office that it is not operating in substantial compliance. This deadline may be extended an additional 30 calendar days when the State agency submits additional documentation to the ACF Regional Office for approval in support of cases determined to be in error as a result of the on-site eligibility review.
Review Oversample	The review oversample refers to the additional cases that are randomly selected for potential review to ensure that the required number of sample cases is examined for a primary or secondary review. At a minimum, a 10 percent oversample will be selected from the State's most recent AFCARS submission to the ACF Central Office. A case from the oversample is reviewed in lieu of a case from the original sample when the original sample case is included in the sample erroneously.
Review Sample	The review sample refers to the number of cases initially selected for a review and consists of the cases of children who received at least one title IV-E maintenance payment

during the 6-month reporting period reflected in the State's most recent period of AFCARS data submission. A sample of 80 cases is selected for review during the primary review and a sample of 150 cases is selected for examination during the secondary review.

Secondary Review

The secondary review is conducted during the AFCARS reporting period that follows the PIP completion date. A sample of 150 cases is reviewed in a secondary review. These cases, plus at least a 10 percent oversample of 15 cases, are drawn from the State's most recent AFCARS data. No alternate data source may be substituted for the AFCARS for sample selection.

Secondary Review Extrapolation

When both the case error rate and dollar error rate of a secondary review exceed 10 percent, a disallowance will be based on extrapolation from the sample to the universe of claims paid for the duration of the AFCARS reporting period under review. The extrapolated disallowance is equal to the lower limit of a 90 percent confidence interval for the population's total dollars in error for the amount of time corresponding to the AFCARS reporting period.

Substantial Compliance

For the primary reviews, if the total number of error cases does not exceed four, the State will be considered to be in substantial compliance. For the secondary review, substantial compliance means that either the case error rate or dollar error rate does not exceed 10 percent.

Three-Year Cycle of Reviews

States that are determined to be in substantial compliance must undergo a subsequent review after 3 years. The cycle begins at the completion of the primary review. States that are not in substantial compliance also must undergo a subsequent review after 3 years. The cycle begins at the completion of the secondary review.

Underpayment

An underpayment is considered to have occurred when a title IV-E payment is not claimed, but may be claimed, for an allowable title IV-E activity or a period of eligibility.

Universe of Claims Paid

The universe of claims paid is the Federal share of title IV-E foster care maintenance payments and administrative costs for the period of the time that a case is in error. All title IV-E funds expended during the period of time the case is in error will be subject to disallowance, including funds for related administrative costs.

**When Payments
May Begin**

Federal financial participation may begin the first day of placement in the month in which all required eligibility factors are satisfied. If eligibility is attained within a portion of the month, title IV-E payments may be claimed retroactive to the first day of the month. If a child is placed with a foster care provider on a date other than the first of the month, title IV-E funds must be claimed from the actual date of placement with the foster care provider.

Appendices

- Appendix I:** On-Site Review Instrument and Instructions, Title IV-E Foster Care Eligibility
- Appendix II:** Sample State Notification Letter
- Appendix III:** Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review
- Appendix IV:** Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team During the Pre-Review Conference Call and Before Reviewing Records On-Site
- Appendix V:** Suggested On-Site Quality Control Tasks for the Administration for Children and Families Regional Office Team Leaders
- Appendix VI:** Title IV-E Foster Care Eligibility Reviews Table of Completed Case Records and Description of Improper Payments
- Appendix VII:** Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program
- Appendix VIII:** Sample Transmittal Letter Including Notice of Disallowance
- Appendix IX:** Model Report Title IV-E Foster Care Eligibility Review
- Appendix X:** Timeframes for Title IV-E Foster Care Eligibility Review Activities
- Appendix XI:** Title IV-E Foster Care Eligibility Chart
- Appendix XII:** Matrix of AFDC Factors Related to Title IV-E Foster Care Eligibility
- Appendix XIII:** Provider Requirements, Title IV-E Foster Care Eligibility
- Appendix XIV:** Calculation of the Maintenance Payment and Administrative Cost Disallowances for the Title IV-E Primary and Secondary Foster Care Eligibility Reviews and of the National Foster Care Error Rate for the Title IV-E Foster Care Program

Appendix I



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau

Title IV-E Foster Care Eligibility On-Site Review Instrument and Instructions

March 2006

NON-ERROR CASE:

ERROR CASE:

[March 2006 Version]

Underpayments: YES NO

Ineligible Payments: YES NO

Each question must be answered. If the question is not applicable, check "N/A" and indicate the reason the question does not apply to the sample case. A question where the "N/A" box is shaded must be answered "yes" or "no." Boxes outlined in **bold** indicate **potential case errors** or **ineligible payments**. Review the instructions for each question for an explanation of how to answer it. The reviewer must verify every eligibility factor and document his/her decisions on the form for each sample case. The form may be annotated with information regarding eligibility and payments. To record additional foster care placements during the period under review (PUR) and data concerning improper payments, the "Licensing/Safety Checklist for Multiple Placements" and "Improper Payment Chart" are appended, respectively. All statutory citations refer to the applicable section of the Social Security Act (the Act). The review instrument is to be completed for the most recent foster care episode. For multiple foster care entries during the PUR, an instrument is completed for each entry. Use pencil and print legibly.

[“X” prefix indicates information in this field is confidential and will not be disclosed for any purposes outside of the review].

Sample review period (MM/DD/YY): ____/____/____ - ____/____/____

Record the begin date and end date of the 6-month sample PUR. This 6-month timeframe corresponds to the Adoption and Foster Care Analysis and Reporting System (AFCARS) period from which the sample was drawn.

1. State Postal Code and Random Sample Selection Number: _____

Record the two-letter State postal code and the selection number assigned to the sample case.

2. Case ID: _____

Record the case number the State uses as an identifier for the child's file.

3. County or Local Office: _____

Record the name of the county or local office that has assignment for the child's file.

4. Review Date (MM/DD/YY): ____/____/____

Record the date the case is reviewed.

5. Reviewed By: _____

Record the name of the individual reviewing the case.

A. CHILD INFORMATION

X1. Child's Name: _____

Record the first and last name of the child whose case is being reviewed.

6. Child's Date of Birth: (MM/DD/YY) ____/____/____

Enter the month, date, and year of birth of the child whose case is reviewed.

7. Child's Age as of First Day of Period Under Review: _____

Enter the age of the child on the first day of the PUR. If the child is less than one year old on the first day of the PUR, enter a zero (0). Sections 406 and 472 of the Act limit title IV-E eligibility to children under the age of 18, or over age 18 but under age 19, if a full-time student (Title IV-A State plan option).

Comments: (Please reference question number for each comment.)

B. RELEVANT DATES (may precede PUR)

[Statutory Citation: §475(5)(F); Regulatory Citation: 45 CFR §§1355.20, 1356.21(b)(2), and 1356.22]

8. Has there been a valid removal of the child from the home during the most recent foster care episode?

Yes No N/A

Removal date: (MM/DD/YY) _____/_____/_____

If "yes," enter the date of physical removal or, if a constructive removal, enter the date of the removal court order or the date of the final signature on the voluntary placement agreement. (Constructive removals, i.e., paper removals, apply to removals that occurred on or after March 27, 2000). If "no," the child is ineligible to have title IV-E foster care maintenance payments made on his behalf for the entire foster care episode, the case is in error, and all ineligible payments must be recorded on the attached "Ineligible Payment Chart."

A valid removal has not occurred when a court ruling or voluntary placement agreement sanctions the removal of the child from the parent or another specified relative and the child is allowed to remain in the same specified relative's home under the supervision of the State agency (see 45 CFR §1356.21(k)(2)). The physical removal from the home must coincide with the judicial ruling or the voluntary placement agreement that authorizes the child's removal from the home and placement in foster care.

Question 8 records the date of the child's most recent removal from the home of the parent or another specified relative via a court order or voluntary placement agreement (i.e., legal removal). The removal date is tied to a child's initial eligibility for AFDC (Questions 17-21) and the judicial determinations of "contrary to the welfare" (Question 11) and "reasonable efforts to prevent removal" (Question 12).

9. Date child entered foster care: (MM/DD/YY) _____/_____/_____

Yes No N/A

For a removal pursuant to a voluntary placement agreement: Indicate "N/A" and proceed to Question 10.

For a removal before March 27, 2000: Indicate "N/A" and proceed to Question 10.

For a removal on or after March 27, 2000: Record the date the child is considered to have entered foster care, which is the earlier of a judicial finding of abuse or neglect or 60 days from the date the child is physically or constructively removed from the home (see 45 CFR §1355.20(a)). This date is required to determine when to obtain the initial judicial determination of "reasonable efforts to finalize the permanency plan" (Question 16).

C. REMOVAL PURSUANT TO A COURT ORDER

[Statutory Citation: §472(a)(1), 471(a)(15)(B)(i); Regulatory Citation: 45 CFR §1356.21(c)]

10. Is the child's removal the result of a court order?

Yes No N/A

If the removal is pursuant to a court order, enter "yes" and proceed to Question 11.

If the removal is not pursuant to a court order, enter "no." Questions 11 and 12 are "N/A."

Removal of the child from the home must be pursuant to a judicial order or a voluntary placement agreement that leads to a physical or constructive removal from the home that is the subject of the judicial order or the voluntary placement agreement.

For Questions 11 and 12: The judicial determination must be made in a valid court order, that is, a court order that the State's statute defines as legally enforceable within the State. The precise language "contrary to the welfare" or "reasonable efforts" does not have to be included in the court ruling, but the order must include language to the effect that the required finding is rendered. Federal provisions require the judicial determination to be made on a case-by-case basis; explicitly stated in the court order; signed by a reviewing judge or other State designated court official, if a signature is required in State law; and in conformity with Federal timeframes. Affidavits and nunc pro tunc court orders are not acceptable documentation to support a judicial finding. If an acceptable court order is not furnished, a transcript of the court proceeding is the only alternative to substantiate that the judicial determination requirement is met satisfactorily. If a nunc pro tunc order or affidavit is presented to meet the "contrary to welfare" or "reasonable efforts" requirement, the reviewer must examine the court transcript to verify that the judicial determination complies with the Federal requirements.

Comments: (Please reference question number for each comment.)

C. REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§472(a)(1), 471(a)(15)(B)(i); Regulatory Citation: 45 CFR §1356.21(c)]

11. Is there a judicial finding of *Contrary to the Welfare*?

Yes No N/A

If the child is voluntarily placed, indicate "N/A" and proceed to Question 13. Otherwise, indicate "yes" or "no." If "yes," continue with Question 11a or 11b. If "no," proceed to Question 11c.

For a judicial removal, there must be a determination to the effect that continuation in the home would be contrary to the child's welfare, or that placement is in the child's best interest.

11(a). If the child is removed from the home before March 27, 2000, is the *Contrary to the Welfare* finding stated in a court order issued within 6 months of the child's removal? Or is there a removal petition filed within 6 months of the child's removal that results in a judicial finding of *contrary to the welfare*?

Yes No N/A

Judicial finding date: (MM/DD/YY) ____/____/_____
Removal petition date: (MM/DD/YY) ____/____/_____

For a removal on or after March 27, 2000: Indicate "N/A" and proceed to Question 11b.

For a removal before March 27, 2000: Indicate "yes" or "no" and the judicial finding date or removal petition date. Record both dates, if available. If the response is "no" to both questions in Question 11a, this is an error case and the child is ineligible for the entire foster care episode. Proceed to Question 11c.

If the judicial finding of "contrary to the welfare" is not rendered within 6 months of the child's removal (Question 8), the requisite judicial finding may be in a court ruling that stems from court proceedings initiated (petition filed) no later than 6 months from the date of the child's removal from the home, consistent with Departmental Appeals Board Decision Number 1508. The removal petition must be filed with the court within 6 months of the child's removal; however, the resultant court order may be issued later and must sustain the removal petition. The removal petition alone will not satisfy the title IV-E eligibility requirement. There must be a judicial finding of "contrary to the welfare." Title IV-E eligibility may not begin before the State has attained the requisite judicial finding and met all other applicable requirements.

11(b). If the child is removed from the home on or after March 27, 2000, is the *Contrary to the Welfare* finding stated in the removal court order?

Yes No N/A

Judicial finding date: (MM/DD/YY) ____/____/_____

For a removal before March 27, 2000: Indicate "N/A" and proceed to Question 11c.

For a removal on or after March 27, 2000: Indicate "yes" or "no" and the judicial finding date and proceed to Question 11c.

The judicial determination regarding "contrary to the welfare" must be made in the first court ruling that sanctions the child's removal. The physical removal from the home must coincide with the judicial ruling of "contrary to the welfare" (Question 8). If the physical removal from the home does not coincide with the judicial ruling, the "contrary to welfare" judicial requirement is not met per §472(a)(1) and the child is not eligible for title IV-E during the entire foster care episode (Question 11c).

11(c). Is the requirement for a judicial finding of *Contrary to the Welfare* met?

Yes No N/A

Indicate "yes" or "no" based on the response to Question 11, 11a, or 11b. If Question 11c is "no," explain below the specific reason the requirement is not satisfied.

If the judicial determination is not made as required, this case is an error case and the child is ineligible for the entire foster care episode. All ineligible payments must be recorded on the attached "Improper Payment Chart."

Comments: (Please reference question number for each comment.)

C. REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§472(a)(1), 471(a)(15)(B)(i); Regulatory Citation: 45 CFR §1356.21(c)]

**11(d). Are title IV-E funds claimed before the month that the
Contrary to the Welfare requirement is met?**

Yes No N/A

Indicate "yes" or "no" and proceed to Question 12.

Federal financial participation (FFP) may not begin until the first day of the month in which all initial eligibility requirements that must be met are satisfied. (Initial eligibility requirements are: contrary to the welfare and reasonable efforts to prevent removal judicial determinations, AFDC eligibility, State agency placement and care responsibility, licensure, and safety.) If title IV-E funds were claimed before the month in which the requisite judicial determination was made, this is not an error case solely for this reason; however, all ineligible title IV-E payments must be repaid. Record ineligible payments on the attached "Improper Payment Chart."

**12. Is there a judicial finding of Reasonable Efforts to Prevent Removal
or Reasonable Efforts to Reunify Child and Family?**

Yes No N/A

If the child is voluntarily placed, indicate "N/A" and proceed to Question 13. Otherwise, indicate "yes" or "no." If "yes," continue with Question 12a or 12b. If "no," proceed to Question 12c.

For a judicial removal, there must be a determination to the effect that the State agency made reasonable efforts to prevent the removal of the child from the home or that reasonable efforts were not necessary. If the child was removed before March 27, 2000, the requirement may be satisfied with a judicial finding that "reasonable efforts were made to reunify" the child and family after removal.

**12(a). If the child was removed from the home before March 27,
2000, what is the date of the judicial finding regarding
reasonable efforts?**

Yes No N/A

Reasonable efforts to prevent removal date: (MM/DD/YY) ____/____/____

Reasonable efforts to reunify date: (MM/DD/YY) ____/____/____

For a removal on or after March 27, 2000: Indicate "N/A" and proceed to Question 12b.

For a removal before March 27, 2000: Record the date of the court ruling that contains the judicial finding. If both judicial findings were made, record each date and continue with Question 12c.

The judicial determination that "reasonable efforts were made to prevent removal" (or were not required) or that "reasonable efforts were made to reunify" the child and family (or were not required) after removal satisfies this reasonable efforts requirement.

**12(b). If the child was removed from the home on or after March 27,
2000, was the judicial finding of Reasonable Efforts to Prevent
Removal within 60 days of the child's removal?**

Yes No N/A

Judicial finding date: (MM/DD/YY) ____/____/____

For a removal before March 27, 2000: Indicate "N/A" and proceed to Question 12c.

For a removal on or after March 27, 2000: Indicate "yes" or "no" and the judicial finding date and proceed to Question 12c.

The judicial determination that reasonable efforts to prevent removal were made (or were not required) must be obtained no later than 60 days from the date the child was removed from the home (Question 8).

Comments: (Please reference question number for each comment.)

C. REMOVAL PURSUANT TO A COURT ORDER *Continued*

[Statutory Citation: §§472(a)(1), 471(a)(15)(B)(i); Regulatory Citation: 45 CFR §1356.21(c)]

12(c). Is the requirement for a judicial finding of *Reasonable Efforts to Prevent Removal or Reasonable Efforts to Reunify Child and Family* met?

Yes No N/A

Indicate "yes" or "no" based on the response to Question 12, 12a, or 12b. If Question 12c is "no", this is an error case and the child is ineligible for the entire foster care episode. Explain below the specific reason the requirement is not satisfied and record all ineligible payments on the attached "Improper Payment Chart."

12(d). Are title IV-E funds claimed before the month of the judicial finding of *Reasonable Efforts to Prevent Removal or Reasonable Efforts to Reunify Child and Family*?

Yes No N/A

Indicate "yes" or "no."

Federal financial participation may not begin until the first day of placement in the month in which all initial eligibility requirements that must be met are satisfied. (Initial eligibility requirements are: contrary to the welfare and reasonable efforts to prevent removal judicial determinations, AFDC eligibility, State agency placement and care responsibility, licensure, and safety.) If title IV-E was claimed before this finding, this is not an error case solely for this reason; however, all related ineligible title IV-E payments must be recorded on the attached "Improper Payment Chart."

D. VOLUNTARY PLACEMENTS

[Statutory Citation: §472(d)(e) and (f); Regulatory Citation: 45 CFR §1356.22]

13. Is the child's removal pursuant to a voluntary placement agreement?

Yes No N/A

Indicate "yes" or "no." If "no," the response to Questions 14 – 15(a) is "N/A."

Note: If "no" is the response to this question and Question 10, the child is ineligible for title IV-E for the entire foster care episode and the case is an error case. Record any ineligible payments on the attached "Improper Payment Chart" and proceed to Question 17. For title IV-E eligibility purposes, a child must be removed from the home pursuant to either a judicial order or a voluntary placement agreement.

14. Is the voluntary placement agreement signed by the parent or legal guardian *and* the State agency?

Yes No N/A

Voluntary placement agreement date: (MM/DD/YY) ____/____/____

Indicate "yes" or "no" and the signature date of the agreement. If signings occurred on different dates, record the date of the final signature. If the response is "no," this is an error case. Record ineligible payments on the attached "Improper Payment Chart."

The parent or legal guardian and the State agency representative(s) must sign the voluntary placement agreement for it to be valid. If all required parties did not sign the voluntary placement agreement, the child is ineligible for title IV-E for the entire foster care episode. If title IV-E funds were claimed before the month in which all signatures are obtained, this is not an error case solely for this reason. However, the ineligible payments must be recorded on the attached "Improper Payments Chart."

Comments: (Please reference question number for each comment.)

D. VOLUNTARY PLACEMENTS *Continued*

[Statutory Citation: §472(d)(e) and (f); Regulatory Citation: 45 CFR §1356.22]

15. Is there a judicial determination regarding the child's *Best Interest* within 180 days of the placement through a voluntary placement agreement?

Yes No N/A

Judicial finding date: (MM/DD/YY) ____ / ____ / ____

Indicate "yes" or "no" and record the date of the judicial finding. If "yes," proceed to Question 16. If "no," continue with Question 15a. Indicate "N/A" and proceed to Question 16, if the judicial determination is not obtained and fewer than 180 days have elapsed since the foster care placement date (or signature date, if the child was constructively removed) and the last day of the PUR. Also, indicate "N/A" if the child is judicially removed.

Title IV-E payments may be made for a child in foster care because of a voluntary placement agreement for the first 180 days of the foster care placement. To extend title IV-E eligibility beyond 180 days, there must be a judicial determination to the effect that continued voluntary placement is in the child's best interest.

15(a). If "no," are title IV-E funds claimed for the period of ineligibility?

Yes No N/A

Indicate "yes" or "no," based on a "no" response to Question 15. If Question 15a is "yes," this is an error case if IV-E funds are claimed for a period of ineligibility that falls within the PUR. Record the ineligible payments on the attached "Improper Payment Chart" and proceed to Question 16.

If more than 180 days has elapsed and there has been no judicial determination of "best interests," the child's eligibility for title IV-E ceases on the 181st day.

E. ONGOING JUDICIAL ACTIVITY (Reasonable Efforts to Finalize the Permanency Plan)

Applicable to Court-Ordered Removals Only

[Statutory Citation: §§472(a)(1), 471(a)(15)(B)(ii) and (C); Regulatory Citation: 45 CFR §1356.21(b)(2)]

For Questions 16, 16a, 16b, 16c, 16d, and 16e: Each question must be answered in sequential order to verify that the judicial determination of "reasonable efforts to finalize the permanency plan" is satisfied for the 12-month period that encompasses the PUR.

To maintain eligibility following removal, there must be a judicial determination that reasonable efforts were made to finalize the child's permanency plan. The judicial determination must be made on a case-by-case basis; definitively stated in the court order; signed by a reviewing judge or other State designated court official, if a signature is required in State law; and in conformity with regulatory timeframes. Affidavits and nunc pro tunc court orders are not acceptable documentation to support a judicial finding. If an acceptable court order is not furnished, a transcript of the court proceeding is the only alternative to substantiate that the judicial determination requirement is met satisfactorily. If a nunc pro tunc order or affidavit is presented to meet the "reasonable efforts" requirement, the reviewer must examine the court transcript to verify that the judicial determination complies with the Federal requirements.

For a removal before March 27, 2000: The judicial determination must have occurred by March 27, 2001, and at least once every 12 months thereafter, while the child is in foster care. Ineligibility for title IV-E payments is from April 1, 2001, until the judicial determination requirement is met. The reviewer is not required to verify the State agency's compliance with the March 27, 2001, implementation date as a separate eligibility review issue. The reviewer is required to verify whether the judicial determination requirement is satisfactorily met during the PUR to ascertain that the case is not in error. If the judicial determination requirement is not met, then the reviewer must go back to the date the requirement is met or March 27, 2001, whichever is later, to establish the period of ineligibility.

For a removal on or after March 27, 2000: The judicial determination must be made no later than 12 months from the date that the child is considered to have entered foster care (Question 9). Thereafter, the judicial determination must be made at least once every 12 months while the child is in foster care.

Comments: (Please reference question number for each comment.)

E. ONGOING JUDICIAL ACTIVITY *Continued*
(Reasonable Efforts to Finalize the Permanency Plan)

[Statutory Citation: §§472(a)(1), 471(a)(15)(B)(ii) and (C); Regulatory Citation: 45 CFR §1356.21(b)(2)]

Record information in the following chart to determine the most recent judicial finding that is attained prior to the PUR and whether a judicial finding is required to be made during the 12-month period encompassing the PUR. Use an additional sheet if necessary. The data are needed to answer Questions 16(a) – 16(e) for all sample cases regardless of removal date. For any period in which a judicial determination is not met as required, record the related ineligible payments on the attached "Improper Payment Chart."

Periodicity Chart for Judicial Determinations of Reasonable Efforts to Finalize the Permanency Plan

Date Removed: ____/____/____
 (Refer to Question 8)

Date Entered Foster Care: ____/____/____
 (Removal on or after March 27, 2000) (Refer to Question 9)

Judicial Determination	Date Due	Date Made	Is It Timely? (YES or NO)

16. Has the child been in foster care 12 months or more before the end of the PUR? Yes No N/A

Indicate "N/A," if the removal is the result of a voluntary placement agreement. Otherwise, indicate "yes" or "no." If "yes," continue with Question 16a. If "no," a judicial determination of "reasonable efforts to finalize the permanency plan" is not due for the PUR. Proceed to Question 17. Questions 16a – 16e are "N/A."

16(a). If Question 16 is "yes," what is the date of the most recent judicial determination of Reasonable Efforts to Finalize made before the PUR? Yes No N/A

(MM/DD/YY): ____/____/____

Record the date of the most recent judicial determination that is obtained before the beginning of the PUR. If the date of the initial judicial determination fell within the PUR, indicate "N/A." If the due date for the judicial determination is immediately before the PUR but is not made, indicate "N/A." Explain below the "N/A" response and continue with Question 16b.

Question 16a establishes whether an initial or subsequent judicial finding is required to be made during the 12-month period that encompasses the PUR.

16(b). What is the due date of the subsequent judicial determination that encompasses the PUR? Yes No N/A

(MM/DD/YY): ____/____/____

Record the date of the subsequent judicial determination that must be made within 12 months from the date recorded in Question 16a. If the child has been in care for less than 18 months but more than 12 months before the end of the PUR, record the date of the initial judicial determination. If a date is not recorded in Question 16a because the required judicial determination is not made before the PUR, record the date it should have been made and continue with Question 16c. Indicate "N/A," if 12 months have not elapsed since the date recorded in Question 16a or have elapsed after the PUR.

Comments: (Please reference question number for each comment.)

E. ONGOING JUDICIAL ACTIVITY *Continued*

(Reasonable Efforts to Finalize the Permanency Plan)

[Statutory Citation: §§472(a)(1), 471(a)(15)(B)(ii) and (C); Regulatory Citation: 45 CFR §1356.21(b)(2)]

16(c). What is the date that the judicial determination is made?

Yes No N/A

(MM/DD/YY): ____ / ____ / ____

Record the date that the initial or subsequent judicial determination referenced in Question 16b is made. If the judicial determination is due but not made, indicate this in the space provided below and continue with Question 16d.

16(d). Is the judicial determination of *Reasonable Efforts to Finalize* timely?

Yes No N/A

Indicate "yes" or "no." If the judicial determination referenced in Question 16c is timely, proceed to Question 17 (Question 16e is "N/A"). If it is not timely, continue with Question 16e.

A judicial determination is not considered timely if the finding is not made within the required 12-month timeframe. The date of the latest judicial determination is used to determine the date the subsequent one must be made.

16(e). If Question 16d is "no," are there ineligible title IV-E funds that were claimed as a result of the untimely judicial determination?

Yes No N/A

Indicate "yes" or "no" based on the response to Question 16d. If title IV-E funds were claimed for the untimely judicial determination referenced in Question 16d, record the ineligible payments on the attached Improper Payment Chart. An untimely judicial determination renders the child ineligible beginning the first day of the month after it is due and continuing to the first day of the month it is attained.

The sample case is **in error** if title IV-E funds are claimed **and** the required judicial determination that encompasses the PUR is due before or during the PUR, and is: 1) not made during the PUR, or 2) not made, during the PUR, within 30 days following the month it is due.

F. AFDC (Aid to Families with Dependent Children) ELIGIBILITY

[Statutory Citation: §§472(a)(1) and (4); Regulatory Citation: 45 CFR §1356.21(k)(1)]

17. Was the child removed from the home of a specified relative?

Yes No N/A

Indicate "yes" or "no." If "no," the child is ineligible for title IV-E for the entire foster care episode.

To qualify for title IV-E, a removal of the child from a specified relative must occur (45 CFR §1356.21(k)). A specified relative may be a parent or any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the child (45 CFR §233(c)(1)(v)).

18. Did the child live with the specified relative within 6 months of removal?

Yes No N/A

Last lived with date: (MM/DD/YY) ____ / ____ / ____

Record the date the child last lived with the specified relative before removal (Question 8), and indicate "yes" or "no." If the child lived with an interim caretaker more than 6 months before the removal from the specified relative, the child is ineligible for the entire foster care episode.

A child must have lived with the specified relative at some point during the 6 months before the signing of the voluntary placement agreement or initiation of court proceedings (removal petition). The date of the removal court order may be used if a removal petition is not filed or is filed after the removal court order. Federal statutes allow a 6-month period during which the child may reside with an interim caretaker and be eligible for title IV-E.

Comments: (Please reference question number for each comment.)

F. AFDC ELIGIBILITY *Continued*

[Statutory Citation: §§472(a)(1) and (4); Regulatory Citation: 45 CFR §1356.71(d)(1)(v)]

19. Was the child living with and removed from the same specified relative?Yes No N/A

Indicate "yes," if the "living with" and "removal from" requirements are met by the same specified relative. Otherwise indicate "no." If "no," the child is ineligible unless at removal the child: 1) resided in a State within the jurisdiction of the Ninth Circuit Court of Appeals, and 2) was removed after the State's title IV-E plan was approved to implement the "Rosales" court decision. If the response is "no" and both conditions of the "Rosales" provisions are not met, the child is ineligible for the entire foster care episode.

The court decision in *Rosales v. Thompson*, permits States in the Ninth Circuit to base AFDC eligibility on the home from which the child was removed or the home of any specified relative with whom the child lived with at some point in the 6 months before removal. The *Rosales* court decision may not be applied for a child removed before the date the State's title IV-E plan is approved to implement the provision. The *Rosales* court decision does not apply to States outside the jurisdiction of the Ninth Circuit Court.

20. Did the State determine the child's AFDC eligibility based on the specified relative's home for the month the voluntary placement agreement was entered into or the removal petition was filed?Yes No N/A

AFDC eligibility month: (MM/YY) _____ / _____

Indicate "yes" or "no" and record the first month of AFDC eligibility for the foster care episode, not the month in which the eligibility determination is completed. If "no," the child is ineligible for title IV-E for the entire foster care episode.

The eligibility process examines the family situation in the home of the specified relative during the month the voluntary placement agreement is signed, or the removal petition is filed, to determine whether the child is AFDC eligible for that month, using the State's AFDC Plan as in effect on July 16, 1996, or earlier, if the removal is before this date. The date of the removal court order may be used if a removal petition is not filed or is filed after the removal order. The reviewer must examine the State agency's worksheets and supporting material to verify that the agency has made the correct eligibility decision and the basis of the decision has been clearly documented.

20(a). Was financial need established?Yes No N/A

Indicate "yes" or "no." If "no," the child is ineligible for the entire foster care episode.

There must be documentation that financial eligibility is reviewed and a correct determination is made. The child's financial need must be established based on the circumstances in the specified relative's home during the month the voluntary placement agreement is signed, or the removal petition is filed. Within the specified relative's home, the gross income must not exceed the State's need standard and the combined resources available to the family unit must not exceed \$10,000.

20(b). Was deprivation of parental support or care established?Yes No N/A

Indicate "yes" or "no." If "no," the child is ineligible for the entire foster care episode.

There must be a specification of how the child is deprived of parental support or care. To correctly establish deprivation, deprivation must be due to the death, absence, or physical or mental incapacity of one parent or unemployment of the principal wage earner. The initial determination of deprivation is based on the conditions in the specified relative's home during the month the voluntary placement agreement is signed or the removal petition is filed.

Comments: (Please reference question number for each comment.)

F. AFDC ELIGIBILITY *Continued*

[Statutory Citation: §§472(a)(1) and (4); Regulatory Citation: 45 CFR §1356.71(d)(1)(v)]

21. Is the child 18 years or older at the time of removal or at any point during the PUR?Yes No N/A *Indicate "yes" or "no." If "yes," continue with Question 21a. If "no," indicate "N/A" for Question 21a-21c and proceed to Question 22.**Sections 406 and 472 of the Act limit title IV-E eligibility to children under the age of 18, or over age 18 but under age 19, if a full-time student. When a child reaches his or her 18th birthday, eligibility for AFDC ceases unless, as a title IV-A State plan option, the youth is a full-time student in a secondary school or its equivalent and is expected to complete the program before age 19.***21(a). Has the State agency exercised the school attendance option?**Yes No N/A *Indicate "yes" or "no." If "no" and title IV-E funds were claimed for the youth who is over age 18, title IV-E funds were claimed improperly. This is not an error case for this reason; however, the ineligible payments must be recorded on the attached "Improper Payments Chart."**If the State agency exercises this option within its approved AFDC State plan, eligibility for AFDC ceases at the end of the month in which the youth leaves school or when the youth turns 19, whichever occurs earlier. If the State agency does not exercise this option, eligibility for AFDC ceases at the end of the month the youth turns 18.***21(b). Is the youth a full-time student in a secondary school or its equivalent?**Yes No N/A *Indicate "yes" or "no" based on a "yes" response to Question 21. If Question 21b is "no" the child is ineligible for title IV-E. If title IV-E funds were claimed for any month during the PUR, this is an error case.***21(c). Is the youth expected to graduate before his/her 19th birthday?**Yes No N/A *Indicate "yes" or "no" based on a "yes" response to Question 21. If Question 21c is "no" the child is ineligible for title IV-E. If title IV-E funds were claimed for any month during the PUR, this is an error case.***22. If the child did not meet the AFDC requirements for initial eligibility, are title IV-E funds claimed for the period of ineligibility?**Yes No N/A *Indicate "yes" or "no," if the response is "no" to Questions 17, 18, 19, 20, 20a, 20b, 21b, or 21c. If Question 22 is "yes," this is an error case. Record ineligible payments on the attached "Improper Payment Chart." Indicate "N/A," if the AFDC requirements for initial eligibility are met.**To qualify for AFDC, the State agency must establish and document for the removal month that the child was: living with and removed from the home of a specified relative (Questions 17 -19); AFDC-eligible in the specified relative's home (Question 20); financially needy (Question 20a); deprived of parental support and care (Question 20b); and under the age of 18 or at the State's option under the age of 19, a full-time student, and expected to graduate before age 19 (Questions 21 – 21c).***23. Is the child's eligibility for AFDC re-determined?**Yes No N/A **Re-determination period (MM/YY):** from ____/____ to ____/____
from ____/____ to ____/____*Indicate "N/A," if the child is in foster care less than 1 year before the end of the PUR and proceed to Question 24. Otherwise, indicate "yes" or "no." If "yes," record the period(s) that encompass the PUR for which a re-determination of eligibility is completed and continue with Question 23a.**The State agency annually must document that the child continues to be financially needy and deprived of parental support or care, according to the State agency's title IV-A plan in effect on July 16, 1996. The requirement to re-determine AFDC eligibility is a State plan provision and the State agency may reconstruct the child's circumstances to establish eligibility for the period in question.***Comments:** (Please reference question number for each comment.)

F. AFDC ELIGIBILITY *Continued*

[Statutory Citation: §§472(a)(1) and (4); Regulatory Citation: 45 CFR §1356.71(d)(1)(v)]

23(a). Has financial need existed throughout the PUR?Yes No N/A

Indicate "yes" or "no" and proceed to Question 23b.

The basis for the subsequent determination of financial need is the child in foster care as his own assistance unit. Only those income and resource factors germane to the child's situation are considered.

23(b). Has deprivation existed throughout the PUR?Yes No N/A

Indicate "yes" or "no." If "yes," proceed to Question 24. If "no," continue with Question 23c.

The basis for the subsequent determination of deprivation is the home from which the child was removed. If the situation in that home changed so that deprivation no longer exists for the child, the child is no longer eligible for AFDC.

23(c). If "no," are title IV-E funds claimed for the period of ineligibility?Yes No N/A

Indicate "yes" or "no" based on a "no" response to Question 23a or Question 23b. If the response to Question 23c is "yes," and the ineligible period occurred during the PUR, this is an error case. Record any ineligible payment on the attached "Improper Payment Chart."

G. STATE AGENCY RESPONSIBILITY FOR PLACEMENT/CARE

[Statutory Citation: §472(a)(2); Regulatory Citation: 45 CFR §1356.71(d)(1)(iii)]

24. For the entire time that the child is in an out-of-home placement during the period under review, does the title IV-E agency (or public agency with a title IV-E agreement) maintain responsibility for the placement and care of the child?Yes No N/A

Indicate "yes" or "no." If "yes," proceed to Question 26. If "no," continue with Question 25.

The 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 have responsibility for placement and care of the child. The court order, court transcript, or voluntary placement agreement must indicate that the agency has this responsibility.

25. If "no," were title IV-E funds claimed for the period of time that the title IV-E agency (or public agency with a title IV-E agreement) *did not* have responsibility for the placement and care of the child?Yes No N/A

If the response to Question 24 is "no," were title IV-E funds claimed for the period of ineligibility? If "yes," this child is ineligible. The case is an error case if the ineligible payments occurred during the PUR. Record ineligible payments on the attached "Improper Payment Chart."

26. Agency Name: _____

Record the name of the title IV-E agency or other agency with responsibility for placement and care of the child during the PUR.

Comments: (Please reference question number for each comment.)

H. PLACEMENT IN LICENSED FOSTER CARE FACILITY

[Regulatory Citation: §472(b) and (c); (45 CFR §§1356.71(d)(1)(iv), 1355.20]

Complete for every foster care facility where the child resided during the PUR

X2. Provider Name: _____

X3. Provider Street Address: _____

X4. Provider City: _____ X5. Provider State: _____

For Questions X2 — X5: Record provider information for each foster family home or childcare institution where the child physically resided during the PUR. Use additional sheets to record each provider separately.

27. Date(s) of child's placement in this foster care facility (MM/DD/YY):

from ____/____/____ to ____/____/____
from ____/____/____ to ____/____/____

Record the date(s) that the child lived in the facility during the PUR.

28. Type of foster care facility (check one): FFH GH Public Institution PNP/FP Institution

Other (specify) _____

Indicate the type of facility in which the child has lived during the PUR. The "Other" category should be used when the child has not lived in one of the facility types listed. If "Other," the child is ineligible for title IV-E funding. If ineligible payments are claimed during the PUR, the case is an error case. Record all ineligible payments on the attached "Improper Payment Chart" and continue with Question 29.

Federal regulations at 45 CFR §1355.20(a) define an eligible foster care facility as a foster family home (FFH), group home (GH), public institution of 25 children or fewer, private non-profit (PNP) childcare institution or for-profit (FP) childcare institution. A facility that does not fall into one of these categories is not eligible for Federal foster care maintenance payments. This includes detention centers, hospitals, public institutions of more than 25 children, and pre-adoptive family homes that are not licensed as foster family homes.

29. Is this foster care provider fully licensed during the child's placement that falls within the PUR?

Yes No N/A

Licensure period (MM/DD/YY): from ____/____/____ to ____/____/____
from ____/____/____ to ____/____/____

Indicate "yes" or "no" and record the dates of the period of licensure that covers the entire PUR. If "yes," indicate "N/A" for Question 29a and proceed to Question 30. If "no," continue with Question 29a.

The State agency must document that the child's foster care placement is fully licensed or approved for the child's placement during the PUR, even when the placement is an out-of-State provider. Interim licenses or approvals issued pending full satisfaction of a State licensing standard are not acceptable for title IV-E.

Comments: (Please reference question number for each comment.)

H. PLACEMENT IN LICENSED FOSTER CARE FACILITY *Continued*

[Regulatory Citation: §472(b) and (c); (45 CFR §§1356.71(d)(1)(iv), 1355.20]

Complete for every foster care facility where the child resided during the PUR

29a. If “no,” are title IV-E funds claimed for the period that the foster care provider is not *fully* licensed?

Yes No N/A

If Question 29 is “no,” indicate “yes” or “no” for Question 29a and continue with Question 30. If Question 29a is “yes” and the ineligible title IV-E funds are claimed for a period that falls within the PUR, this is an error case. Record any ineligible payments on the attached “Improper Payment Chart.”

For a foster family home licensed before March 27, 2000: Beginning October 1, 2000, must meet full licensure.

For a foster family home licensed on or after March 27, 2000: Beginning April 1, 2000, must meet full licensure.

For childcare institutions: Regardless of licensing date, must meet full licensure.

30. Are title IV-E funds claimed before the month in which the foster care provider is *fully* licensed?

Yes No N/A

Indicate “yes” or “no” and proceed to Question 31.

Federal financial participation may not begin until the first day of the month in which full compliance with the State’s licensing standards are met. If title IV-E is claimed before then, this is not an error case; however, ineligible title IV-E payments must be recorded on the attached “Improper Payment Chart.”

I. SAFETY REQUIREMENTS OF PROVIDER

[Regulatory Citation: §472(b) and (c); (45 CFR §§1356.71(d)(1)(iv), 1355.20]

Complete for every foster care facility where the child resided during the PUR

31. If the placement is a foster family home, has the State “opted out” of the criminal records check requirement for prospective foster family homes?

Yes No N/A

Indicate “N/A,” if the placement during the PUR is not a foster family home and proceed to Question 32. Otherwise, indicate “yes” or “no.” If “yes,” proceed to Question 31(b). If “no,” continue with Question 31(a).

31(a). If the State has not “opted out,” is a criminal records check completed satisfactorily on the prospective foster parent?

Yes No N/A

Indicate “N/A,” if the State “opted out” or the foster family home is licensed before November 17, 1997. Otherwise, indicate “yes” or “no” and proceed to Question 33.

The criminal records check requirement applies to foster family homes licensed on or after November 17, 1997, or the State’s federally approved effective date. The State agency must document the results of the criminal records check and compliance with the safety requirement, including §471(a)(20)(A) during the PUR. Documentation of compliance must be provided even when the prospective foster parent lives out of State or is administered by a child-placing agency.

31(b). If the State has “opted out,” are safety considerations addressed satisfactorily for the prospective foster parent?

Yes No N/A

Indicate “N/A,” if the State has not “opted out” or the foster family home is licensed before March 27, 2000. Otherwise, indicate “yes” or “no” and proceed to Question 33.

The State agency must document compliance with its safety requirement for the PUR. Compliance must be verified even for an out-of-State foster care provider or one administered by a child-placing agency.

Comments: (Please reference question number for each comment.)

I. SAFETY REQUIREMENTS OF PROVIDER *Continued*

[Regulatory Citation: §472(b) and (c); (45 CFR §§1356.71(d)(1)(iv), 1355.20]

Complete for every foster care facility where the child resided during the PUR

32. If the placement is a childcare institution, are safety considerations addressed satisfactorily for the caretaker staff of the institution?

Yes No N/A

Indicate "N/A," if the childcare institution is licensed before March 27, 2000, or if the child is not placed in a childcare institution during the PUR. Otherwise, indicate "yes" or "no" and proceed to Question 33.

The State agency must document compliance with its safety requirements for the duration of the child's stay during the PUR. Documentation must be provided even when the child is placed in an out-of-State facility.

33. If "no," are title IV-E funds claimed for the period of ineligibility in which the safety requirement is not satisfied for the foster care provider?

Yes No N/A

Indicate "yes" or "no" to Question 33 if the response to Question 31a, 31b, or 32 is "no." Otherwise, proceed to Question 34. If the response to Question 33 is "yes" and the ineligible title IV-E funds are claimed for a period within the PUR, this is an error case. All ineligible payments must be recorded on the attached "Improper Payment Chart."

Title IV-E foster care maintenance payments may not be made for a child placed in a foster family home or childcare institution that does not meet the safety requirements of the State.

34. Are title IV-E funds claimed before the month in which the safety requirements are met for the foster care provider?

Yes No N/A

Indicate "yes" or "no."

Federal financial participation may not begin until the first day of the month in which the foster family home or childcare institution satisfied the respective safety standard of the State. If title IV-E is claimed before then, this is not an error case; however, any ineligible title IV-E payments must be recorded on the attached "Improper Payment Chart."

CASE REVIEW FINDINGS

After the On-Site Review Instrument is completed, determine whether the sample case is a non-error case or an error case and indicate this on the first page of the instrument. For a non-error case and an error case, indicate whether underpayments were identified and whether ineligible payments were claimed.

Underpayment: Occurs when a title IV-E maintenance payment or administrative cost is not claimed, but may be claimed, for an allowable title IV-E activity or period of eligibility.

Non-Error Case with Ineligible Payment: Occurs when the only title IV-E payment for a maintenance or administrative cost is made for an ineligible child outside the PUR.

Error Case: Occurs when a title IV-E payment for a maintenance or administrative cost is made for an ineligible child at any time during the PUR.

Comments: (Please reference question number for each comment.)

LICENSING/SAFETY CHECKLIST FOR MULTIPLE PLACEMENTS

Use this page to record multiple placements during the PUR

H. PLACEMENT IN LICENSED FOSTER CARE FACILITY

X2. Provider Name: _____

X3. Provider Street Address: _____

X4. Provider City: _____ X5. Provider State: _____

27. Date(s) of child's placement in this foster care facility (MM/DD/YY):
 from ___/___/___ to ___/___/___
 from ___/___/___ to ___/___/___

28. Type of foster care facility (check one): FFH GH Public Institution PNP/FP Institution
 Other (specify) _____

29. Is this foster care provider *fully* licensed during the child's placement that falls within the PUR? Yes No N/A

Licensure period (MM/DD/YY): from ___/___/___ to ___/___/___
 from ___/___/___ to ___/___/___

29(a). If "no," are title IV-E funds claimed for the period that the foster care provider is not *fully* licensed? Yes No N/A

30. Are title IV-E funds claimed before the month in which the foster care provider is *fully* licensed? Yes No N/A

I. SAFETY REQUIREMENTS OF PROVIDER

31. If the placement is a foster family home, has the State "opted out" of the criminal records check requirement for prospective foster family homes? Yes No N/A

31(a). If the State has not "opted out," is a criminal records check completed satisfactorily on the prospective foster parent? Yes No N/A

31(b). If the State has "opted out," are safety considerations addressed satisfactorily for the prospective foster parent? Yes No N/A

32. If the placement is a childcare institution, are safety considerations addressed satisfactorily for the caretaker staff of the institution? Yes No N/A

33. If "no," are title IV-E funds claimed for the period of ineligibility in which the safety requirement is not satisfied for the foster care provider? Yes No N/A

34. Are title IV-E funds claimed before the month in which the safety requirements are met for the foster care provider? Yes No N/A

Comments: (Please reference question number for each comment.)

IMPROPER PAYMENT CHART

This chart is used to record the improper payments identified during the review. Improper payments include underpayments as well as overpayments, duplicate payments, and otherwise ineligible title IV-E payments. The reviewer must provide a brief description of all underpayments and ineligible payments, regardless of whether or not the sample case is determined to be an error case.

Checklist Item Number & Eligibility Issue Description	Begin Date	End Date	Payment Amount

For Fiscal Computations

- (A). Federal Share for Foster Care Maintenance Payments (FCMP) Calculation
Disallowance: Total error case FCMP x State's Federal Medical Assistance Percentage (FMAP). Note that when the period of ineligibility includes multiple years, the FMAP may vary for each, or some, of those years.

- (B). Federal Share for Foster Care Administration Costs Calculation
Disallowance: Refer to the instructions for calculating administrative cost disallowance and formula calculation spreadsheet for initial and primary reviews.

- (C). Period of Ineligibility and Underpayments
Calculate the months of improper title IV-E payments for maintenance and administrative costs beginning with the first month of ineligibility to the end of the month that precedes the on-site review.

Appendix II

Sample State Notification Letter

Date (Must be dated and mailed at least 120 calendar days before the on-site review)

Director, Child Welfare Agency
Street Address
City, State Zip

Dear Director:

On January 25, 2000, the Administration for Children and Families (ACF) published in the Federal Register the final regulations on the title IV-E foster care eligibility reviews and State child and family services reviews. The regulations provide for initial title IV-E foster care eligibility reviews and child and family services reviews to be conducted in all States, the District of Columbia, and Puerto Rico during the 3-year period following the effective date of the regulation, and at specified intervals thereafter.

As discussed with (enter State coordinator) of your staff, the (enter name of State) on-site title IV-E foster care eligibility review will be conducted the week of (enter date). This is an important review because many of the child protections in the Adoption and Safe Families Act (ASFA) are embedded in the eligibility criteria for the title IV-E foster care program. The review team will examine cases of children and licensing files to assure that payments are being made on behalf of eligible children and to eligible homes. The review team will consist of (enter number) Federal staff and (enter number) State agency staff selected by (enter name of State). In addition, State agency staff with expertise in licensing, the legal system, and foster care payments (other pertinent eligibility areas may be included here) will need to be available to serve as resources during the review.

In the (enter review type), the review team will review (number of cases) cases. A random sample of (enter number of cases), which includes a (enter percentage) oversample, will be drawn from the submission of (enter the name of the State)'s Adoption and Foster Care Analysis and Reporting System (AFCARS) data that will be reviewed for the reporting period of (enter PUR). (Other information may be included here regarding the cases, such as automated files and the review process, such as compliance standard and disallowances. For a secondary review, state the reason a secondary review is necessary. A request for advance copies of all forms to be used to determine eligibility should be made, e.g., copies of up-to-date payment histories, copies of court orders, documentation of Aid to Families with Dependent Children (AFDC) determination and re-determination worksheets, criminal records check verification, licensing policy, copy of all existing agreements with other public agencies for placement and care, etc. **Provide a deadline for the State agency to submit information to ACF Regional Office, which should be at least 90 calendar days before the on-site review. Submission may be electronic.**

In addition, please have the following files and documents available on-site for the review, if they are not already included in the case record:

- Foster home and group home/institution care licenses;
- Criminal record verification files for foster parents;
- Payment rates for each child;
- Payment and placement history for each child for the entire foster care episode;
- Court orders, court petitions, and other pertinent court documents; and
- Safety considerations on behalf of employee/institutional personnel.

We look forward to working with you and your staff throughout the title IV-E foster care eligibility review process. Please do not hesitate to call (enter the name of the ACF Regional Office contact(s) and their telephone number(s)) if you have questions or if you need additional information.

Sincerely,

ACF Child Welfare Program Manager
Or appropriate Regional Official

cc: As appropriate

Appendix III

Materials to Read in Preparation for a Title IV-E Foster Care Eligibility Review

1. Title IV-E Foster Care Eligibility Review Guide*
2. Child Welfare Policy Manual, HHS Issuance*
3. Final Rule, January 25, 2000 (65 CFR §4020)*
4. Section 472 of the Social Security Act*
5. Title IV-E Foster Care Eligibility Review On-Site Review Instrument and Instructions*
6. 45 CFR Part 1356*
7. General eligibility determination procedures of the State agency being reviewed and the applicable Aid to Families with Dependent Children (AFDC) eligibility factors of the State
8. Approved State plans for title IV-A (AFDC) and title IV-E of the Social Security Act
9. Other material submitted by the State agency to the Administration for Children and Families that pertains to the eligibility review

*Internet accessible at <http://www.acf.hhs.gov/programs/cb/>

Appendix IV

Recommended Topics for Discussion by the Title IV-E Foster Care Eligibility Review Team During the Pre-Review Conference Call and Before Reviewing Records On-Site

The pre-review conference call is held between the ACF and the State agency representatives at least 45 calendar days before the on-site review and after ACF's review of material submitted by the State agency, including the approved State plans for titles IV-E and IV-A. On-site, the discussion topics may supplement the training provided to the team before its review of case records. The ACF Regional Office leads the pre-review and on-site discussions and uses the State agency material to guide the discussions.

Case Sampling. Discuss the case selection process, including:

- Period Under Review (PUR)
- Types of sample case substitutions (eligibility changes or title IV-E payment adjustments must be received by the ACF Regional Office before the sample is drawn by the ACF Central Office)
- Whether a stratified sample should be drawn for the primary review to include juvenile justice cases or other special title IV-E populations, and whether a 10 percent oversample of cases is sufficient

Payment History. Discuss information contained in the payment history and request supplemental information when data is questionable or missing.

Policy and Practice. Ask the State agency to describe its practice and applicable statute or policy concerning:

- Removals and Legal Documentation
 - How does a child typically come into foster care (for example, court order, voluntarily placed or relinquished), including timeframes applicable to removal and mechanism for initiating court removals (for example, removal petitions)?
 - Are court petitions filed, and, if so, when, and for what purpose?
 - What kinds of court orders are used to remove children (for example, pick-up order, endorsement, emergency, shelter, etc.)?

- What constitutes a bona fide court order? Is a signature required, and, if so, who must sign and who may sign in lieu of the mandated signer? Is an electronic signature or a signature stamp permissible? Must it be dated?
- In what type of court proceeding, and how frequently is the “reasonable efforts to finalize the permanency plan” determined?
- When does the definitive finding of child abuse or neglect typically occur, and in what type of court proceeding and court order (for example, adjudicatory hearing)?
- How does the State agency define trial home visits?
- Does the State agency claim title IV-E reimbursement for children voluntarily placed? Who may enter into a voluntary placement agreement and what is the duration of such an agreement?
- AFDC Relatedness
 - How does the State agency ensure that Aid to Families with Dependent Children (AFDC) eligibility is determined using the July 16, 1996, look-back date or an earlier date (use of manual or automated files, State plan requirements concerning need standard, deprivation, and age and school attendance)? What types of documentation verify eligibility for each requirement?
 - What is the date of title IV-E State plan approval to implement the provision stemming from the court decision, *Rosales v. Thompson*? (Applies to States in the Ninth Circuit, United States Court of Appeals.)
 - How is eligibility determined and agency endorsement of the eligibility decision documented?
 - How often is AFDC eligibility re-determined? How does the State agency ensure that AFDC eligibility is determined using the appropriate begin date of the AFDC eligibility requirements? What documentation will be in the record?
 - Does the State agency exercise the option to pay title IV-E foster care maintenance payments on behalf of youth over the age of 18? If so, under what conditions?
- Placement and Care Responsibility
 - Are there title IV-E agreements for placement and care between the State agency and another public agency or federally recognized tribe in the State?

- How does the State agency document that the State agency, or an entity with a title IV-E agreement, had placement and care responsibility for the title IV-E eligible child, including an 18-year-old youth?
- Licensure
 - What mechanism does the State agency use to authorize facilities to operate as foster care providers (for example, licensing, approval) and which entities are regulated to authorize the foster care providers?
 - What types of facilities are authorized to operate as foster care providers (for example, foster family homes, childcare institutions)?
 - What types of licenses or approvals are issued to foster family homes and childcare institutions and under what conditions (for example, full, temporary, provisional)?
 - How often are licenses or approvals renewed? What happens when a license or approval expires? What is the State policy on lapsed licenses or approvals and on a facility placed on probation?
 - What documentation verifies licensure or approval of the child's placement with an in-State or out-of-State foster care provider?
- Safety
 - For States that *did not opt out* of the criminal records check provision, what is the begin date for implementation of the requirement? (If implementation was delayed, what is the ACF approval date?) How does the State agency document the completion of criminal record checks for prospective foster parents who reside within and outside the State?
 - For States that *opted out* of the criminal records check provision, what mechanism is used to determine the safety risks of prospective foster parents? What documentation verifies compliance with the safety requirements for a child placed with in-State and out-of-State foster care providers?
 - For childcare institutions, what mechanism is used to determine the safety risks of facility staff? What documentation verifies compliance with the safety requirements for a child placed with in-State and out-of-State foster care providers?

On-Site Review Logistics and Activities. Discuss plans for the logistical arrangements for team members and on-site activities during the review week, including:

- Hotel accommodations and travel arrangements

- Room space requirements for reading records and conferences
- Record preparation, location, and sample numbering
- Team composition and expected work hours
- Use of electronic files
- Review week agenda

Next Steps. Determine whether an additional conference call is necessary and what additional information, such as the placement history, the State agency should provide for the on-site review.

Appendix V

Suggested On-Site Quality Control Tasks for the Administration for Children and Families Regional Office Team Leaders

The Administration for Children and Families (ACF) Regional Office Team Leader is responsible for ensuring that quality control functions are performed during the on-site review in order to ensure consistency, objectivity, and accuracy in reviewing cases. The following are some tasks that can be performed to ensure quality control. The ACF Team Leader or designee must initial and date the On-Site Review Instrument to indicate it was quality checked.

1. Verify that all case records in the sample and oversample are available at the review site since an unavailable case is counted as an error record.
2. Review each completed checklist to ensure that:
 - all elements are completed on the Face Sheet, including whether the sample is a non-error case and whether there are improper payments, including underpayments;
 - all questions are answered;
 - dates recorded are logical;
 - reason is noted for any item rated “N/A”;
 - reason is noted for any item recorded as “ineligible” or “potential error”
 - recording on the instrument is legible;
 - information is completed on all foster care providers where child resided during the PUR;
 - reason for ineligibility and period of ineligibility are recorded on the Improper Payment Chart at the end of the checklist;
 - reasons for underpayments are recorded on the Improper Payment Chart at the end of the checklist; and
 - necessary corrections were made by the reviewer, if the checklist is returned to the reviewer for revisions.

3. Re-read the first record read by each reviewer to ensure that the reader understands the checklist and is applying an accurate interpretation of the law and regulations.
4. Re-read all error records.
5. Re-read records of reviewers who appear to have difficulty completing the checklist.

Appendix VI

Title IV-E Foster Care Eligibility Reviews Table of Completed Case Records and Description of Improper Payments

This document is an example of a case log that the ACF On-Site Review Team Leader or designee completes to account for the review and disposition of each sample case drawn for the review. The case log may be modified as determined necessary by the team leader.

State:															
Sample Number	AFCARS Number	Reviewer	Compliance		Disallowance					Underpayment			Reason	QA	
			SC	NSC	Reason	Error		Non-Error		Total FFP	FFP				
						Main.	Adm.	Main.	Adm.		Main.	Adm.			Total FFP

AFCARS Number: The encrypted number identified in the "recnumbr" column of the AFCARS sample listing
 SC: Substantial Compliance
 NSC: Non-Substantial Compliance
 Main: Amount of Maintenance Payment
 Adm: Amount of Associated Administration Cost
 FFP: Federal Financial Participation
 QA: Quality Assurance Review of the Sample Case (Indicate the initials of individual completing the QA)

Appendix VII

Title IV-E Eligibility Criteria for the Foster Care Maintenance Payments Program

Title IV-E FCMP Eligibility Criterion	Statutory Citation	Regulatory Citation
Contrary to the Welfare	472(a)(1)	1356.21(c)
Reasonable Efforts to Prevent Removals*	472(a)(1), 471(a)(15)(B)(i)	1356.21(b)(1)
Reasonable Efforts to Make and Finalize a Permanency Plan*	472(a)(1), 471(a)(15)(B)(ii) and (C)	1356.21(b)(2)
Aid to Families with Dependent Children (AFDC) Eligibility	472(a)(1) and (4)	1356.71(d)(1)(v)
Placement and Care Responsibility Vested With the State Agency	472(a)(2)	1356.71(d)(1)(iii)
Placement in a Licensed Foster Family Home or Childcare Institution	472(a)(3), (b), and (c)	1356.71(d)(1)(iv) 1355.20
Voluntary Placement Agreements and Best Interests Determinations	472(d), (e), and (f)	1356.22
Safety Requirements for Foster Care Providers†	471(a)(20) and 475(1)	1356.30

* The act of making reasonable efforts to prevent a child’s removal from the home and/or to make and finalize a permanency plan is a State plan requirement, and compliance with such is assessed during the course of the child and family services reviews. The judicial determination regarding the act of making reasonable efforts to prevent a child’s removal from the home or to make and finalize a permanency plan is an eligibility criterion. The State’s performance in obtaining the requisite judicial determination is assessed through the title IV-E foster care eligibility review.

† States must conduct criminal records checks on all prospective foster and adoptive parents to comply with the title IV-E State plan. The results of the criminal records check affect the State’s ability to license foster and adoptive homes. The provision also must be treated as an eligibility criterion, given its impact on the licensing process.

Appendix VIII

**Sample Transmittal Letter
Including Notice of Disallowance**

Date: (Must be dated and mailed certified or registered within 30 calendar days following the on-site review)

Name and Title of Appropriate State Official
Street Address
City, State Zip Code

Dear (enter title and name):

During (enter date/time frame), Administration for Children and Families' (ACF) staff from the Central and Regional Offices and State of (enter the name of the State) staff conducted an eligibility review of (enter the name of the State)'s title IV-E foster care program in (enter the name of the city).

The purpose of the title IV-E foster care eligibility review was (1) to determine if (enter the name of the State) was in compliance with the child and provider eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act; and (2) to validate the basis of (enter the name of the State)'s financial claims to ensure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

Include any information about the review, the review team, discoveries, positive feedback, etc., such as the following:

We commend the State for its excellent efforts to improve its title IV-E foster care eligibility determination process, resulting in a more accurate title IV-E foster care eligibility program. The enclosed report identifies program strengths and provides recommendations for further improvement.

Suggested language when the State is determined to be in substantial compliance:

This is to inform you that the ACF has determined the State of (enter the name of the State)'s title IV-E foster care maintenance payment program to be in substantial compliance with Federal child and provider eligibility requirements for the period (enter date) through (enter date). Because (enter the name of the State) was found to be in substantial compliance, a secondary review will not be required. The next primary review must be held in 3 years. The financial penalty to be taken for this review will be for the payments, including the administrative costs, associated with the (enter number) error cases and the (enter number)

non-error cases with ineligible payments as indicated in the enclosed final report of review findings.

Suggested language when the State is determined not to be in substantial compliance:

This is to inform you that the ACF has determined the State of (enter name)'s title IV-E foster care maintenance program not to be in substantial compliance with Federal child and provider eligibility requirements for the period (enter date) through (enter date). Pursuant to 45 CFR §1356.71(i), (enter the name of the State) 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 1 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 (enter date that is 90 calendar days from date of this notification letter).

The PIP must include the following components:

- Specific goals or outcomes for program improvement;
- Action steps required to correct each identified weakness or deficiency;
- Date for completing each action step;
- Description of how progress will be evaluated by the State agency and reported to the ACF Regional Office, including the frequency and format of the evaluation procedures; and
- Description of how the ACF Regional Office will know that an action step has been achieved.

Also, pursuant to 45 CFR §1356.71(j)(2), following the completion of the PIP, a secondary review must be held between ____ and ____ (enter the date of the first Adoption and Foster Care Analysis and Reporting System [AFCARS] reporting period following the completion date of the PIP). The sample for the secondary review will be 150 cases (plus at least a 10 percent oversample of 15 cases) drawn from the State's most recent Adoption and Foster Care Analysis and Reporting System (AFCARS) data submission following the completion of the State PIP.

Suggested language concerning the disallowance:

This letter also constitutes our formal notice of disallowance of \$(enter dollar amount), maintenance payments, and \$(enter dollar amount), related administrative costs in Federal Financial Participation (FFP) for title IV-E foster care claimed for the cases determined to be in error. An additional disallowance of \$(enter dollar amount), maintenance payments, and \$(enter dollar amount), related administrative costs were assessed in FFP for title IV-E foster care payments claimed improperly for the cases determined to be non-error cases. These

additional findings were not considered in the determination of the State's substantial compliance with the Federal requirements (for primary reviews only).

A review of a sample of 80 cases was drawn from a universe of title IV-E payments for the review period noted above. The review team determined that (enter number) error cases and (enter number) non-error cases were ineligible for Federal funding.

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, Columns (c) and (d). The IVE-1 form must be submitted within 30 days of the date of this letter in order to avoid the assessment of interest.

This is the final decision of the Administration for Children and Families. Under 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 Department of Health and Human Services 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, MS 6127
Appellate Division
330 Independence Ave., SW
Cohen Building, Room G-644
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 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 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.

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.

Closing for all letters:

We thank you and your staff for the excellent efforts that were made to prepare for and participate with us in this review. We look forward to working with you and your staff to continue to improve State implementation of the Federal requirements and to improve services to children and families. Please contact (enter name of ACF Regional Office review coordinator) at (enter telephone number) if you have any questions about this review. Questions concerning the disallowance should be directed to (enter name of ACF Regional Office fiscal contact) at (enter telephone number).

Sincerely,

Regional Administrator

cc: Children's Bureau Associate Commissioner
Others as Appropriate

Enclosures

Appendix IX
Model Report
(Appropriate State) Title IV-E Foster Care
Eligibility Review
(Date of AFCARS Review Period)

Introduction

During (enter appropriate time frame), Administration for Children and Families' (ACF) staff from the Central and Regional Offices and State of (enter the name of the State) staff conducted an eligibility review of (enter the name of the State)'s title IV-E foster care program in (enter the name of the city).

The purpose of the title IV-E foster care eligibility review was (1) to determine if (enter the name of the State) was in compliance with the child and provider eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act; and (2) to validate the basis of (enter the name of the State)'s financial claims to ensure that appropriate payments were made on behalf of eligible children and to eligible homes and institutions.

For a secondary review, the following language is suggested:

This secondary review was conducted because of the findings of the primary review that was completed during the week of (enter date). At that time, (enter State) was determined not to be in substantial compliance with the title IV-E eligibility requirements for the period under review. As required, (enter State) submitted a Program Improvement Plan (PIP) to correct the areas found deficient in its eligibility program for foster care. The ACF's approval of the PIP was based on the State's reports of progress and final implementation of the planned improvements. (A brief synopsis of the PIP goals and activities may be included).

Scope of the Review

The (enter the name of the State) 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 of (enter date) to (enter date). A computerized statistical sample of (enter number) cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submission which was transmitted by the State agency to the ACF for the period under review. 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 licensed or approved for the period of the review.

For a primary review, the following language is suggested:

During the primary review, (enter number) cases were reviewed. (enter number) cases were determined to be in error for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report.

Use the language in either number 1 or 2 below, as appropriate to the review results:

1. Since the number of error cases was fewer than five, the ACF has determined (enter the name of the State) to be in substantial compliance.
2. Since the number of error cases exceeded four, the ACF has determined (enter State) not to be in substantial compliance. Pursuant to 45 CFR §1356.71(i), you are required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed by the State, in consultation with ACF Regional Office staff, and must be submitted to the ACF Regional Office by (enter date that is 90 days from date of cover letter). Once the State agency has satisfactorily completed the PIP, a secondary review of a sample of 150 title IV-E foster care cases will be conducted.

For a secondary review, the following language is suggested:

During the secondary review, (enter number) cases were reviewed. (enter number) cases were determined to be in error 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 \$(enter dollar amount) with the error cases totaling \$(enter dollar amount). These data indicate that (enter the name of the State)'s dollar error rate (enter percent) was (enter "less than/equal to" or "greater than") 10 percent and/or the error cases error rate (enter percent) was (enter "less than/equal to" or "greater than") 10 percent. Therefore, (enter the name of the State) is considered (enter "to be in" or "not to be in") substantial compliance.

For non-error cases with ineligible payments discovered during a review, the following language is suggested:

An additional (enter number) cases were identified that contained payments that were claimed improperly. Although these cases are not considered "error cases" for determining substantial compliance, (primary review only) the ineligible maintenance payments and the associated administrative costs are subject to disallowance. A disallowance in the amount of \$(enter amount) in maintenance payments and \$(enter amount) in administrative costs are assessed for these ineligible payments.

Case Record Summary

The following details the error cases and non-error cases with ineligible payments, reasons for the ineligibility, ineligible payments, and appropriate citations: (List the sample number, describe the errors, and note the citation of the requirement found to be improperly applied for the period of ineligibility. A separate listing of the non-error cases with ineligible payments as well as a separate listing for the underpayments identified should be included below the data listed for the error cases):

Sample number 27: Voluntarily placed child did not have a judicial determination within 180 days of placement. 42 USC §672(e).

The erroneous maintenance payments (Main.) and administrative costs (Admin.) associated with the (enter number of cases) error cases were calculated as follows, and include all payments claimed on behalf of the child for the entire period of the error. (Indicate the error case(s), all payments claimed for the entire period of the error for each case, Federal Medical Assistance Payment [FMAP] rate, and Federal Financial Participation [FFP]. Note that a State's FMAP rate may vary annually and, therefore, needs to be obtained for each year that a case is found to be in error.)

Sample #	XX	XY	XZ	Total Main.	FMAP	FFP Main.	FFP Admin.	Total Disallow.
FFY 94			1,635.71	1,635.71	70.92%	1,160.05	1,411.05	2,571.10
FFY 95			3,224.95	3,224.95	70.14%	2,261.98	1,261.98	3,523.96
FFY 96	2,378.88		3,067.01	5,445.89	68.78%	3,745.68	1,745.68	5,491.36
FFY 97	5,450.00		3,975.73	9,425.73	67.97%	6,406.67	3,406.67	9,813.34
FFY 98	5,324.00		4,326.36	9,650.36	69.59%	6,715.69	5,715.69	12,431.38
FFY 99	2,868.00	32,915.29	3,557.87	39,341.16	69.85%	27,479.80	17,479.80	44,959.60
FFY 00	3,182.67	11,336.69	3,263.55	17,782.91	70.15%	12,474.71	9,474.71	21,949.42
Total	19,203.55	44,251.98	23,051.18	86,506.71		60,244.58	40,495.58	100,740.16

Areas in Need of Improvement

Describe the areas of weakness or deficiency that need to be addressed in the PIP.

Strengths and Model Practices

Describe strengths or model practices discovered during the review.

Disallowances (if necessary)

Use language appropriate to the type of review and disallowance criteria pursuant to 45 CFR §1356.71(j).

For the primary review, the following language is suggested:

The review included a sample of (enter number) cases. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the 6-month AFCARS period of (enter date) to (enter date). Based upon the results of the review, the State of (enter name) has been determined (enter “to be” or “to be not”) in substantial compliance. (The report should end here if no cases were determined to be in error.) (enter number) cases were determined not to be eligible for funding under title IV-E foster care. Therefore, a disallowance in the amount of \$(enter dollar amount) in Federal Financial Participation (FFP) is assessed for the entire period of time that these cases were determined to be in error.

For the secondary review, use the suggested language in either 1 or 2 below, as appropriate to the review results:

- 1. State in substantial compliance:** The review included a sample of (enter number) cases with a total dollar value of \$(enter dollar amount). The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the 6-month AFCARS period of (enter date) to (enter date). Based on the results of the review, the State of (enter the name of the State) has been found to be in substantial compliance; (the report should end here if no cases were determined to be in error) however, (enter number) cases were determined to be in error and are not eligible for funding under title IV-E foster care. Therefore, a disallowance in the amount of \$(enter dollar amount) in Federal financial participation (FFP) is assessed for the entire period of time that these cases were determined to be in error.

- 2. State not in substantial compliance:** The review included a sample of (enter number) cases with a total dollar value of \$(enter dollar amount). The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the 6-month AFCARS period of (enter date) to (enter date). Based upon the results of the review, the State of (name) has been found not to be in substantial compliance since (enter number) cases were not eligible for funding under title IV-E foster care and the case and dollar error rates both exceeded 10 percent. We have projected the results of the review over the universe from which the sample was drawn and have determined that \$(enter dollar amount) in title IV-E funds were inappropriately claimed as foster care maintenance payments. In addition, the related share of administrative dollars of \$(enter dollar amount) is disallowed. Therefore, the total disallowance is \$(enter dollar amount) in Federal financial participation (FFP).

Appendix X

Timeframes for Title IV-E Foster Care Eligibility Review Activities

A subsequent primary review must be conducted within 3 months of the anniversary date on which the previous on-site review was completed. A secondary review must be conducted during the second AFCARS reporting period that follows the completion date of the State PIP.

Timeframe and Activity

6 months before on-site review:

- ACF Regional Office and State Agency representative determine the dates for the on-site review
- ACF Regional Office provides the review date and site location to the ACF Central Office Team Leader for Eligibility Monitoring
- ACF Central Office Team Leader for Eligibility Monitoring develops a national review schedule based on information provided by the ACF Regional Office and transmits the schedule to the Federal contractor to post on the Internet Web site for the Children's Bureau

120 calendar days before on-site review:

- ACF Regional Office sends the State agency written confirmation of the scheduled date for the on-site review
- ACF Regional Office requests a copy of the State's payment histories and policies relevant to the review
- ACF identifies Federal members of the review team
- State agency identifies State members of the review team

90 calendar days before on-site review:

- State agency transmits to ACF Regional Office the requested policies

- ACF Regional Office transmits to ACF Central Office the requested State policies
- ACF Regional Office and Central Office review the State’s policies as well as the title IV-E and title IV-A State plans to prepare for the pre-review conference call with the State agency
- ACF Regional Office and Central Office collaborate with the State agency to plan logistical arrangements for the on-site review, including hotel accommodations and transportation for review team members

45 – 60 calendar days before on-site review:

- ACF Central Office selects sample of cases from the State’s AFCARS data for the period under review
- ACF Central Office transmits sample listing to State agency and ACF Regional Office
- State agency transmits payment histories for sample cases to ACF Regional Office and obtains ACF Regional Office concurrence on case substitutions with oversample cases
- State agency begins organizing case records to make sure case material and documentation relevant to the on-site review are available
- ACF Regional Office schedules and convenes conference call with State agency and ACF Central Office to provide an overview of the review procedures; to discuss review activities, and to discuss State agency material. State agency arranges space for meetings and review activities conducted on site during the review week

30 calendar days before on-site review:

- State agency submits to ACF additional information and policy material, if requested
- ACF Regional Office finalizes agenda of activities for the on-site review and transmits to State agency and ACF Central Office, including any additional State agency material

On-Site Review

30 calendar days following on-site review:

- ACF Regional Office transmits to the State agency the final report of compliance and notifies the State agency of payment disallowances
- ACF Regional Office transmits to the Central Office an electronic copy of the final report and disallowance notice

60 calendar days following on-site review:

- State agency submits payment adjustments via the Quarterly Report of Expenditures (Form ACF-IV-E-1)
- State agency submits to the Departmental Appeals Board a written notice to appeal the review findings, at State agency option, within 30 calendar days following receipt of disallowance letter
- ACF Regional Office sends to the ACF Central Office, Associate Commissioner, a copy of the State appeal

90 calendar days following receipt of noncompliance notice by State agency

- State agency submits completed Program Improvement Plan (PIP) to ACF Regional Office following written receipt of notification of noncompliance. If necessary, ACF Regional Office may grant a 30-day extension for State agency to submit additional case documentation.

30 calendar days following receipt of PIP from State agency:

- ACF Regional Office reviews completed PIP for approval or disapproval
- ACF Regional Office reviews additional case documentation submitted by State agency and notifies State of approval or disapproval
- ACF Regional Office notifies State of approval or disapproval of PIP
- ACF Regional Office transmits to ACF Central Office Team Leader for Eligibility Monitoring an electronic copy of the approved PIP and approval letter including PIP approval date

30 calendar days following notification of PIP disapproval by ACF Regional Office

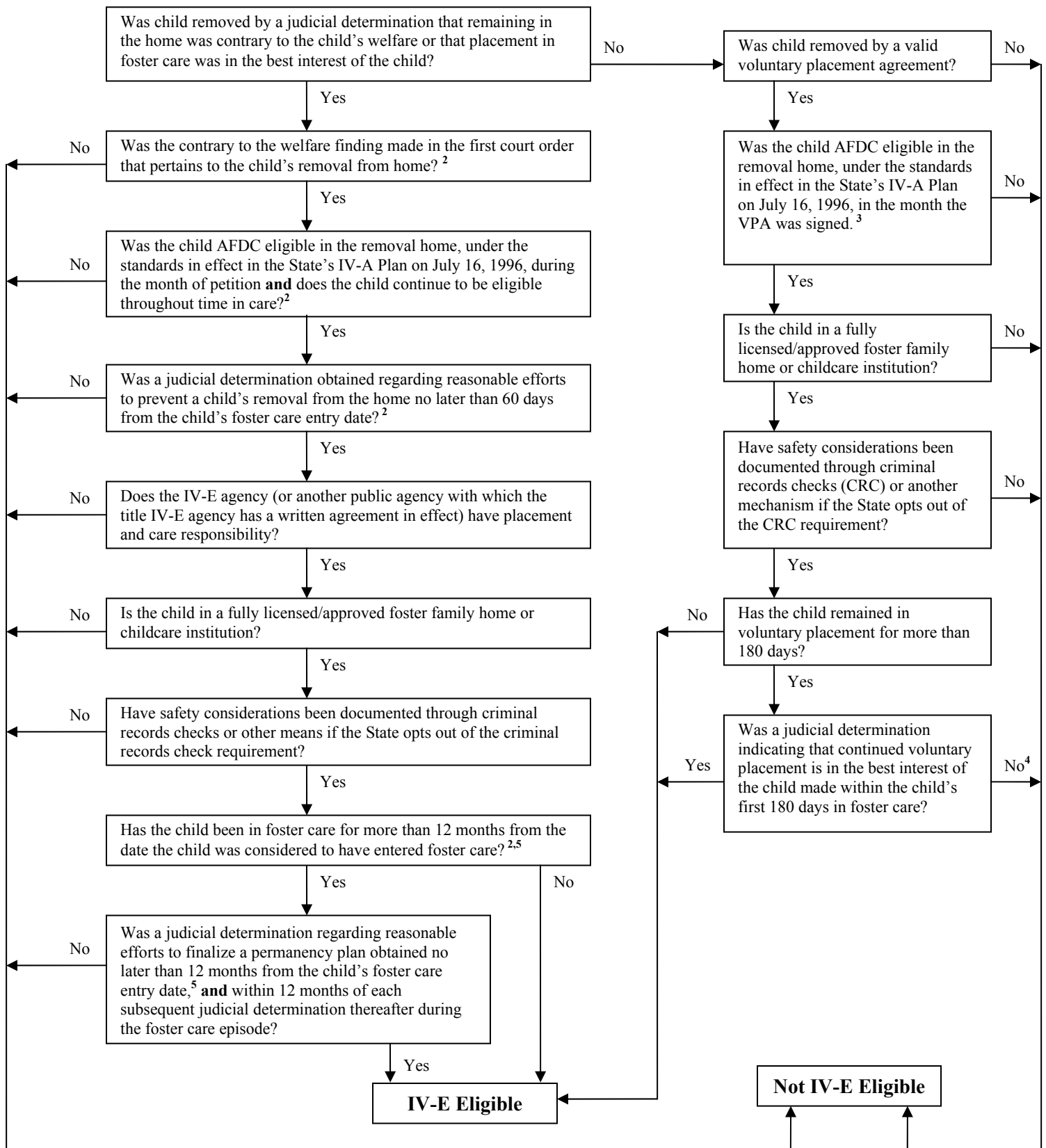
- State agency submits revised PIP to ACF Regional Office

2-3 Weeks following receipt of revised PIP from State agency:

- ACF Regional Office reviews completed PIP for approval or disapproval
- ACF Regional Office notifies State agency of approval or disapproval of PIP and, if disapproved, notifies State agency of immediate scheduling of secondary review

Appendix XI

Title IV-E Foster Care Eligibility Chart



¹ Title IV-E foster care eligibility requirements have changed over time. This chart will be accurate and most useful for cases to which the current regulations, which took effect March 27, 2000, apply.

² For children who entered care on or after March 27, 2000, apply.

³ The AFDC home may be different for States under the jurisdiction of the Ninth Circuit Court.

⁴ If *No*, the child is eligible for title IV-E payments made in the first 180 days; eligibility ends on the 181st day in foster care.

⁵ The date that a child is considered to have entered foster care is the earlier of a judicial finding of abuse or neglect or 60 days from the date the child is removed from the home.

Appendix XII

Matrix of AFDC Factors Related to Title IV-E Foster Care Eligibility

Factor	Statutory Regulatory or Policy Reference	Non-Rosales Provision	Rosales* Provision
State AFDC plan, July 16, 1996	§472(a), Social Security Act	X	X
Child met income need standards	45 CFR §23320	X	X
Child had resources of \$10,000 or less	§472(a), Social Security Act	X	X
Child deprived of parental support <ul style="list-style-type: none"> ▪ Death of parent ▪ Continued absence of parent ▪ Physical or mental incapacity of parent (documented by medical professional) ▪ Unemployment of principle wage earner 	Former §406(a), Social Security Act 45 CFR §233.90(c) 45 CFR §233.100	X	X
Child met age requirement <ul style="list-style-type: none"> ▪ Under age 18, or ▪ Age 18, but under age 19 and full-time student (Title IV-A State plan option) 	Former §406(a), Social Security Act 45 CFR §233.90(b)(3)	X	X
Child lived with specified relative during 6 months before legal removal. (Legal removal means removal via Voluntary Placement Agreement or judicial proceeding.) <ul style="list-style-type: none"> ▪ Specified relative is a parent or any relation by blood, marriage, or adoption within the fifth degree of kinship to the child ▪ Specified relative exercised responsibility for daily care and control of child 	Former §406(a)(1) §472(a)(4)(B)(ii), Social Security Act 45 CFR §233.90(c)(1)(v) 45 CFR §233.90(c)(1)(v)(B)	X	X
Child “lived with” and “removed from” same specified relative <ul style="list-style-type: none"> ▪ AFDC based on removal home, i.e., home of legal removal ▪ AFDC eligible during removal month 	45 CFR §1356.21(l) ACYF-CB-IM-04-03 §472(a)(4)(A) & (B), Social Security Act	X	
Child “lived with” and “removed from” different specified relative <ul style="list-style-type: none"> ▪ AFDC based on removal home or ▪ AFDC based on home of any specified relative child lived with during 6 months before legal removal ▪ AFDC eligible during removal month 	ACYF-CB-IM-04-03		X

*Rosales States: CA, AK, AZ, HI, ID, MT, NV, OR, WA. Provision applicable upon ACF Regional Office approval of the State agency's amendment to its title IV-E plan.

Eligibility decisions should not be based solely on this summary matrix. Refer to the applicable statutory, regulatory, or policy citation as well as the State's plans for title IV-A and title IV-E, for further information.

Appendix XIII

Provider Requirements Title IV-E Foster Care Eligibility

LICENSURE

Provider Type	Federal Provision	Implementation date
FFH licensed before 3/27/00	Full licensure	09/27/2000 ¹
FFH licensed on/after 3/27/00	Full licensure	03/27/2000
Childcare institution	Full licensure	Upon facility licensure

¹ No disallowances will be taken for the period 3/27/00 – 9/27/00 for homes licensed before 3/27/00 that do not meet full licensure status during that period

SAFETY

Provider Type	Federal Provision		Implementation Date	
	Opt-Out State	Non-Opt-Out State	Opt-Out State	Non-Opt-Out State
FFH licensed before 11/19/97	Safety requirement not applicable		Safety requirement not applicable	
FFH licensed on/after 11/19/97	Address safety considerations in home	Complete criminal records check	03/27/2000	11/19/1997 ¹
Childcare institution licensed before 3/27/00	Address safety considerations with respect to the staff and caretakers of the institution		Safety requirement not applicable	
Childcare institution licensed on or after 3/27/00	Address safety considerations with respect to the staff and caretakers of the institution		03/27/2000	

¹ If State had an approved delayed effective date, only foster parents licensed after the delayed effective date would need the criminal records check.

Appendix XIV

Calculation of the Maintenance Payment and Administrative Cost Disallowances for the Title IV-E Primary and Secondary Foster Care Eligibility Reviews and of the National Foster Care Error Rate for the Title IV-E Foster Care Program

The following instructions and spreadsheets are to be used by ACF Regional Office staff for the purpose of calculating, or assisting in the calculation of, the disallowance of title IV-E funds identified as improper payments as a result of the on-site review of foster care case records. See attachments A – F.

The icons below will allow the user to work directly in the individual documents.

Attachment B: Spreadsheet for Calculating Administrative Cost Disallowances on an Individual Basis for Title IV-E Foster Care Eligibility Reviews



Attachment B.xls

Attachment D: Workbook for Calculating the National Foster Care Error Rate for the Title IV-E Foster Care Program



Attachment D.xls

Attachment F: Spreadsheet for Calculating a Weighted Monthly Administrative Cost on Extrapolated Disallowances for the Title IV-E Foster Care Eligibility Reviews



Attachment F.xls

ATTACHMENT A

INSTRUCTIONS FOR CALCULATING ADMINISTRATIVE COST DISALLOWANCES ON AN INDIVIDUAL CASE BASIS FOR THE TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS

These instructions are to be used in completing the Administrative Cost Disallowance Calculation Spreadsheet for the title IV-E foster care eligibility reviews on an individual case basis. In conjunction with the spreadsheet (attachment B), they provide guidance to Administration of Children and Families (ACF) Regional Office staff in calculating administrative cost disallowances on an individual case basis pursuant to findings resulting from initial primary, primary, and secondary reviews, as applicable. The disallowance calculation for a secondary review is also potentially subject to a further extrapolation procedure in accordance with applicable regulations. See attachment E for further information.

Attachment B is a protected Microsoft Excel file. It will allow entries only in the designated shaded areas. When entering the required information into the shaded areas, use the “TAB” key on your computer keyboard for easy access and input. The Federal fiscal year (FFY) of the period under review (PUR) determines the FFY of the Administrative Disallowance Calculation spreadsheet. Example: Review periods October 1, 2004, to March 31, 2005, and April 1, 2005, to September 30, 2005, are FFY 2005 and the spreadsheet with the file name “ADMDISALLOWCALFY05OMB” would be used. This calculation spreadsheet is updated annually in March to reflect new FFY Office of Management and Budget (OMB) deflator chart guidance, which is published at the end of January for the current FFY.

The ACF Regional Office must retain all documentation provided by the State for calculating maintenance and administrative cost disallowances as part of the review file. This includes the complete payment history for all sample cases.

STEPS TO COMPLETE CALCULATION SPREADSHEET

Enter the State’s name, review period, and type of review (initial primary, primary, or secondary) at the top of the spreadsheet.

Step 1 — Determines the Current Year (CY) 12-month period for disallowance purposes. This includes the 6-month Adoption and Foster Care Analysis and Reporting System (AFCARS) review period (RP) and the 6-month AFCARS period immediately preceding the review period (Pre-RP). Quarters (Qtr) 3 and 4 will comprise the 6-month review period; and quarters 1 and 2 the 6 preceding months. For example, the review period is October 1, 2004, to March 31, 2005. Then, the quarters will be: Pre-RP Qtr 1 = April 1, 2004, to June 30, 2004; Pre-RP Qtr 2 = July 1, 2004, to September 30, 2004; RP Qtr 3 = October 1, 2004, to December 31, 2004; and RP Qtr 4 = January 1, 2005, to March 31, 2005.

Steps 2 and 3 — To obtain the data for Steps 2 and 3, refer to Part 1 of the four quarterly ACF-IV-E-1 foster care expenditure reports comprising the 12-month CY period defined in Step 1, or access the CY data through GATES.

Step 2 — Calculates the average monthly administrative cost for the CY defined in Step 1.

- a. For Step 2(a), refer to column b (Federal Share) of the Current Quarter Expenditures on Part 1 of the Form ACF-IV-E-1 for Foster Care or GATES for each of the quarters in the CY. Enter the amounts on lines 5a. (Case Planning & Management) and 5e. (Other Administration). The formula will automatically add the quarters and divide by 12.
- b. For Step 2(b), refer to column d (Federal Share) of the Prior Quarter Adjustments on Part 1 of the Form ACF-IV-E-1 for Foster Care or GATES for each of the quarters in the CY. Enter the amounts on lines 5a. (Case Planning & Management) and 5e. (Other Administration). The formula will automatically add the quarters and divide by 12.
- c. The Average Monthly Admin Costs, 2(a) and Average Monthly Admin Adjustments, 2(b) also will be automatically added together.

Step 3 — Calculates the average monthly number of children for the CY 12-month period in Step 1. Refer to column b (Federal Share) of the Current Quarter Expenditures on Part 1 of the Form ACF-IV-E-1 for Foster Care or GATES for each of the quarters in the CY. Enter the numbers on line 4 (Avg Monthly No. of Children). The formula will automatically add the quarters and divide by 4.

Step 4 — For the average monthly administrative cost disallowance per child for the CY period, the formula will automatically divide the total of Step 2 by Step 3 (total average monthly administrative costs divided by average monthly number of children).

Step 5 — An administrative cost disallowance must be taken for each error case identified during the PUR beginning with the first month of ineligibility and continuing through the earlier date of the end of the on-site review or when the ineligibility ceases. (Exception: Per ACYF-CB-PI-02-08, States may continue to claim Federal financial participation (FFP) for the administrative costs associated with an otherwise title IV-E-eligible child placed in an unlicensed foster family home pending the issuance of a final rule.) The AFCARS period is based on paid claims during the month, not the month the service is provided. In months where no maintenance payment has been claimed, no administrative cost disallowance can be taken. Steps 5, 6, and 7 must be completed for each error case.

- a. Determine the number of months for each error case in which administrative costs have been claimed. In most cases, this number will be the same as the number of months for which ineligible foster care maintenance payments were disallowed. Portions of a month should be rounded to the nearest month. Months with 15 or fewer days of ineligibility would be rounded down and months with 16 or greater days of ineligibility would be rounded up. (Example: 2 months and 15 days equals 2 months; 2 months and 16 days equals 3 months.)
- b. In Step 5(a), enter the sample eligibility case review number, the case record number, the start and ending dates for the period of ineligibility, and (optional) the error reason

numbers from the On-Site Review Instrument (these numbers correspond with the item numbers in the instrument).

- c. In Step 5(b), enter the number of months of ineligible maintenance payments, the number of months of ineligible administrative costs and reasons for any difference between the two figures.
- d. Distribute the number of months of ineligible administrative costs in Step 5(b) across each of the relevant FFYs listed in Step 6 column titled # OF ERROR MONTHS PER YEAR. Repeat this Step for all ineligible years on each error case, beginning with the first month of ineligibility and continuing through the earlier date of the end of the on-site review or when the ineligibility ceases. The FFY is October 1 to September 30. Therefore, October 1, 2004, to September 30, 2005, is FFY 2005. For example, if the error case was ineligible 21 months from July 1, 2003, to March 31, 2005, the entry would be 6 months for October 1, 2004, to September 30, 2005 (FFY2005), 12 months for October 1, 2003, to September 30, 2004 (FFY 2004), and 3 months for October 1, 2002, to September 30, 2003 (FFY 2003).

Any improper payments made after the end of the on-site review, resulting from cases identified during the PUR, are unallowable. The State must return the Federal share of funds received (maintenance and administrative costs) by making the appropriate adjustments on their IV-E-1 report, and cease claiming costs until (and if) the cases are determined eligible. These post on-site review costs should be identified separately in the final report sent to the State agency.

Step 6 — In determining the Total Adjusted Administrative Cost Disallowance for Error Cases per CY, columns FEDERAL FISCAL YEAR (FFY), OMB DEFLATOR CHART %, ADMIN COSTS DISALLOWANCE DEFLATION %, and # OF ERROR MONTHS PER YEAR will already be populated for all years identified in Step 5(b). Columns # MONTHS X (STEP 4 X % DEFLATION) = and TOTAL CUMULATIVE DISALLOW will automatically be calculated. The current FFY OMB Deflator Chart % will serve as the basis for deflating the administrative costs for each preceding 12-month period. The formula will divide each OMB Deflator Chart % by the current FFY OMB Deflator Chart % to obtain the Administrative Costs Disallowance Deflation % (Example for FFY 2004: $1.1180/1.1588 = 0.9648$). The number of error months for the year will automatically be multiplied by the average monthly administrative cost per child (Step 4) and the Admin Costs % of Deflation, then entered in the # Months X (Step 4 Results X %) column. The formula also will automatically add the year total to the cumulative figure above in the Total Cumulative Disallow column. The last numeric figure in the TOTAL CUMULATIVE DISALLOW column is your Total Federal Share Adjusted Administrative Cost Disallowance for this error case. This is the amount of Foster Care Administrative Costs the ACF will disallow for this error case.

The **OMB Deflator Chart source** is located on the OMB portion of the White House Web site (<http://www.whitehouse.gov/omb/budget/fy2006/pdf/hist.pdf>) under the Historical Tables Budget of US Government for the Federal Fiscal Year (FFY) 2006 in Section 10, the Gross Domestic Product and Implicit Outlay Deflators, on Table 10.1, the Historical Tables 1940-2010 (where FFY 2000 equals 1.000), in the Column Other Grants (Federal Grants to State and Local

Government). The FFY 2006 table contains the FFY 2004 actual amount and the FFY 2005 current estimate.

Step 7 — Enter the File Name. Save the file as “Adm Disallow Cal” plus the two letters of “State’s Name,” the “Sample Case Number” and “.xls” to your disk or CD. Print the spreadsheet for a hard copy record. This will minimize the amount of effort needed to make corrections, and reduce the amount of input time required.

Steps 5, 6, and 7 — Page 2 of the spreadsheet will need to be repeated for every error case.

ATTACHMENT B

SPREADSHEET FOR CALCULATING ADMINISTRATIVE COST DISALLOWANCES ON AN INDIVIDUAL CASE BASIS FOR TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS

FOR PERIODS UNDER REVIEW IN FEDERAL FISCAL YEAR 2005 **FILE NAME FOR FFY 2005: ADMDISALLOWCALFY05OMB**

Attachment B is used for computing administrative cost disallowances resulting from compliant Initial Primary, Primary, and Secondary reviews, non-compliant Initial Primary and Primary reviews, and before and after the period under review portions of non-compliant Secondary reviews. Refer to Attachment A for instructions on completing this calculation spreadsheet.

STATE: _____ REVIEW PERIOD: _____ FROM _____ TO _____ TYPE OF REVIEW: _____

1. DEFINITION OF THE CURRENT YEAR (CY): THE 12-MONTH PERIOD FOR DISALLOWANCE:
The 6-month review period (RP) and the 6 months immediately preceding it (Pre-RP) comprise the 12 months of the current year (CY).

Qtr 1 Pre-RP:	_____	TO	_____
Qtr 2 Pre-RP:	_____	TO	_____
Qtr 3 RP:	_____	TO	_____
Qtr 4 RP:	_____	TO	_____

2. AVERAGE MONTHLY ADMINISTRATIVE COSTS FOR THE CURRENT YEAR:
(a) COLUMN (b) CURRENT QUARTER Federal Share, LINE 5a. Case Planning & Management, LINE 5e. Other Administration

YEAR (See Step 1)	COLUMN (b) Qtr 1 Pre-RP	COLUMN (b) Qtr 2 Pre-RP	COLUMN (b) Qtr 3 RP	COLUMN (b) Qtr 4 RP	TOTAL ADMIN COSTS	AVERAGE MONTHLY = TOTAL ADMIN COSTS DIVIDED BY 12
CY LINE 5a.	_____	_____	_____	_____	_____	_____
CY LINE 5e.	_____	_____	_____	_____	_____	_____
TOTAL	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

(b) COLUMN (d) PRIOR QUARTER Adjustments Federal Share, LINE 5a. Case Planning & Management, LINE 5e. Other Administration

YEAR (See Step 1)	COLUMN (d) Qtr 1 Pre-RP	COLUMN (d) Qtr 2 Pre-RP	COLUMN (d) Qtr 3 RP	COLUMN (d) Qtr 4 RP	TOTAL ADMIN ADJUSTMENTS	AVERAGE MONTHLY = TOTAL ADMIN ADJUSTMENTS DIVIDED BY 12
CY LINE 5a.	_____	_____	_____	_____	_____	_____
CY LINE 5e.	_____	_____	_____	_____	_____	_____
TOTAL	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

TOTAL AVERAGE MONTHLY ADMINISTRATIVE COSTS (= 2 (a) plus 2 (b)) \$ _____

3. AVERAGE MONTHLY NUMBER OF CHILDREN FOR THE CURRENT YEAR:
COLUMN (b) Federal Share, LINE 4 Average Monthly Number of Children. (Because of the formulas in cells, a 1 has been entered below to avoid showing an error.)

YEARS (See Step 1)	COLUMN (b) Qtr 1 Pre-RP	COLUMN (b) Qtr 2 Pre-RP	COLUMN (b) Qtr 3 RP	COLUMN (b) Qtr 4 RP	TOTAL # OF CHILDREN	AVERAGE MONTHLY = TOTAL # OF CHILDREN DIVIDED BY 4
CY LINE 4	1	_____	_____	_____	1	0.25

4. AVERAGE MONTHLY ADMINISTRATIVE COST DISALLOWANCE PER CHILD:
Monthly Administrative Costs Divided by Monthly Number of Children (= Step 2 divided by Step 3) \$ _____

5. Determine the number of months of ineligible maintenance payments made for each error case identified in the title IV-E eligibility case review, beginning with the first month of ineligibility and continuing through the earlier of the end of the service month that immediately precedes the month of the on-site review or when the ineligibility ceases.

An administrative cost disallowance must be taken for this same duration of time for each case, unless it meets the exception noted in ACFY-CB-PI-02-08. Complete Steps 5, 6, and 7 for each error case.

(a) Enter:

Sample Case Number	Case Record #	Ineligibility Start Date	Ineligibility End Date
_____	_____	_____	_____

Error Reason Numbers (OPTIONAL)

(b) Enter the number of Months of Ineligible Administrative Costs in Step 6 in Column # OF ERROR MONTHS PER YEAR for each error case.

# Months of Ineligible Maintenance Payments	# Months of Ineligible Administrative Costs	Reasons For Any Difference In # Of Months Between Main Payments & Admin Costs
_____	_____	0

6. Determine Total Adjusted Administrative Cost Disallowance per Error Case: (Refer to Attachment A for completing this section.)

FEDERAL FISCAL YEAR (FFY)	OMB* DEFLATOR CHART %	ADMIN COSTS DISALLOW DEFLATION %	# OF ERROR MONTHS PER YEAR	# MONTHS X STEP 4 X % DEFLATION =	TOTAL CUMULATIVE DISALLOW
10/1/05 - 9/30/06	1.1942	1.0305	_____	\$ _____	\$ _____
10/1/04 - 9/30/05	1.1588	1.0000	_____	\$ _____	\$ _____
10/1/03 - 9/30/04	1.1180	0.9648	_____	\$ _____	\$ _____
10/1/02 - 9/30/03	1.0870	0.9380	_____	\$ _____	\$ _____
10/1/01 - 9/30/02	1.0535	0.9091	_____	\$ _____	\$ _____
10/1/00 - 9/30/01	1.0304	0.8892	_____	\$ _____	\$ _____
10/1/99 - 9/30/00	1.0000	0.8630	_____	\$ _____	\$ _____
10/1/98 - 9/30/99	0.9650	0.8328	_____	\$ _____	\$ _____
10/1/97 - 9/30/98	0.9449	0.8154	_____	\$ _____	\$ _____
10/1/96 - 9/30/97	0.9318	0.8041	_____	\$ _____	\$ _____
10/1/95 - 9/30/96	0.9151	0.7897	_____	\$ _____	\$ _____
10/1/94 - 9/30/95	0.8922	0.7699	_____	\$ _____	\$ _____
10/1/93 - 9/30/94	0.8644	0.7459	_____	\$ _____	\$ _____
10/1/92 - 9/30/93	0.8418	0.7264	_____	\$ _____	\$ _____
10/1/91 - 9/30/92	0.8181	0.7060	_____	\$ _____	\$ _____
10/1/90 - 9/30/91	0.7994	0.6899	_____	\$ _____	\$ _____
10/1/89 - 9/30/90	0.7693	0.6639	_____	\$ _____	\$ _____
10/1/88 - 9/30/89	0.7365	0.6356	_____	\$ _____	\$ _____
			0	\$ _____	\$ _____

TOTAL FEDERAL SHARE ADJUSTED ADMINISTRATIVE COST DISALLOWANCE FOR THIS ERROR CASE IS THE LAST NUMERIC FIGURE IN THE TOTAL CUMULATIVE DISALLOWANCE COLUMN.

* OFFICE OF MANAGEMENT & BUDGET (OMB)

7. Enter File Name for this Error Case. (Refer to written instructions for completing this section.)
File Name: _____ Adm Disallow Cal _____.xls

Print page 2 of this worksheet for each ERROR case as documentation.

Save each spreadsheet as a SEPARATE file to a disk for any changes required.

ATTACHMENT C

INSTRUCTIONS FOR CALCULATING THE NATIONAL FOSTER CARE ERROR RATE AND MAINTENANCE PAYMENT DISALLOWANCES ON AN INDIVIDUAL BASIS FOR THE TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS

MAINTENANCE PAYMENT DISALLOWANCES

These instructions provide guidance to the Administration of Children and Families (ACF) Regional Office in calculating maintenance payment disallowances for the title IV-E foster care eligibility reviews on an individual case basis pursuant to findings resulting from initial primary, primary, and secondary reviews, as applicable. A sample case must have at least one title IV-E maintenance payment during the period under review (PUR) in order to be included in the eligibility review. A maintenance payment disallowance must be taken for each error case identified during the PUR and for improper payments on non-error cases, beginning with the first month of ineligibility and continuing through the earlier of the end of the service month that immediately precedes the month of the on-site review or when the ineligibility ceases. The disallowance amounts are obtained from the payment history provided by the State for all sample cases for the applicable period(s) of ineligibility.

Any ineligible or improper payments made after the end of the on-site review, resulting from cases identified during the PUR, are unallowable. The State must return the Federal share of funds received (maintenance and administrative costs) by making the appropriate adjustments on their IV-E-1 report, and cease claiming cost until (and if) the cases are determined eligible. These post on-site review costs should be identified separately in the final report letter to the State.

States must provide a full payment history for each sample case with all necessary identifying information to the ACF in an electronic format (where possible) at least 30 days before the on-site review. If a State does not have the actual documentation or records of the title IV-E payments for early periods, then estimated amounts must be provided to the satisfaction of the ACF. The ACF is required by regulations to recover payment and related administrative costs for all periods of time that an error case is determined to be ineligible. Disallowances for States determined to be non-compliant in a secondary review also will be calculated through an extrapolation procedure applied to the period under review in accordance with applicable regulations.

The Regional Office must retain all documentation provided by the State for calculating maintenance and administrative cost disallowances as part of the review file. This includes the complete payment history for all sample cases.

The completion of Attachment D, using the Federal Financial Participation (FFP) dollar amount, will provide the information for calculating maintenance payment disallowances and the data needed to compute the national foster care error rate (refer to the below instructions for guidance).

NATIONAL FOSTER CARE ERROR RATE

The Improper Payments Information Act (IPIA) requires Federal agencies to address improper payments in all programs. In compliance with the IPIA and the Office of Management and Budget (OMB), the ACF must calculate a national foster care error rate for the title IV-E Foster Care Program on an annual basis.

The instructions provided in attachment C are to be used in completing the Workbook for Calculating the National Foster Care Error Rate (attachment D) for the PUR on all title IV-E foster care eligibility reviews. In conjunction with the workbook, the instructions provide guidance to the ACF Regional Office on entering the required FFP information on maintenance payments on every sample case for initial primary, primary, and secondary reviews, as applicable.

For a review case to count as a sample case, it must have at least one IV-E maintenance payment during the PUR. All sample cases must be listed on the case sheets whether the sample is eligible or an error.

The completion of attachment D serves several purposes by providing the information needed for the National Foster Care Error Rate, by calculating the maintenance payment disallowances on compliant initial primary, primary, and secondary reviews, and by providing the required data to the ACF statistician for the extrapolation of non-compliant secondary reviews.

The workbook contains a summary sheet and eight case sheets. The summary sheet automatically lists the totals of the each case sheet. The case sheets are numbered 1-25, 26-50, 51-75, 76-100, 101-125, 126-150, 151-175, and 176-200 to accommodate primary and secondary reviews and any over-sampling required. The sample case's information is directly input on the case sheets.

Attachment D is a protected Microsoft Excel file. It will allow entries only in the designated shaded areas. When entering the required information into the shaded areas, use the "TAB" key on your computer keyboard for easy access and input.

STEPS TO COMPLETE THE WORKBOOK

SUMMARY SHEET

Enter the State's name, the period under review (PUR), the State's Federal Medicaid Assistance Percentage (FMAP) Rate for the fiscal year in which the PUR is located, the type of review (initial primary, primary, or secondary), and the date of completion or the latest adjustment at the top of the worksheet. This information **MUST** be input on the Summary Sheet in the shaded areas to automatically populate all the case sheets. The FMAP Rate for the PUR fiscal year **MUST** be entered in a decimal format for the formulas to calculate the Federal Financial Participation (FFP) of the disallowance correctly. Example: The FMAP Rate 75.19% is entered 0.7519.

The summary sheet consists of cell formulas and links to the “Totals” line from each of the eight case sheets (example Sheet 1–25 Cases). When the sample case’s data is entered on the appropriate case sheet, the columns of the summary sheet are automatically populated.

CASE SHEETS

The Item # column displays the count of the case in the review sample.

Step 1 – Enter the sample number of the case in the Sample Number column.

Step 2 – Enter the case status in the Case Status column. If the sample case is eligible, input a “P” for “pass” and an “F” for “failed” on error cases.

Step 3 – For the Period under Review, Total Monthly FFP Maintenance Payments on All Cases columns, enter by month the total computable maintenance payments amounts on all sample cases. The Total Dollars Claimed column will automatically add the 6 months’ figures together for each case. The FFP Dollars Claimed column will automatically multiply the FMAP Rate by the Total Dollars Claimed column for each case to provide the 6-month FFP dollar claimed amount.

Step 4 – For the Period under Review, Ineligible and Improper Monthly Maintenance Payments columns, enter by month the total computable maintenance payments amounts on sample cases (as determined from the eligibility review of each case) that are ineligible payments on error cases and improper payments on non-error cases. The total ineligible amounts (hereafter referred to as “error dollars”) apply only to the 6-month AFCARS period from which the sample was selected. The Total Error Dollars column will automatically add the 6 months’ figures together on each case. The FFP Error Dollars column will automatically multiply the FMAP Rate by the Total Error Dollars column for each case to provide the 6-month FFP error dollar amount.

Step 5 – Enter the number of months that an administrative costs disallowance is required in the Error Cases Number of Ineligible Months of Administrative Costs column. Generally, the number of months that maintenance payment claimed will be the same as the number of ineligible months of administrative costs. Exception: Per ACYF-CB-PI-02-08, States may continue to claim FFP for the administrative costs associated with an otherwise title IV-E-eligible child placed in an unlicensed foster family home (pending the issuance of a final rule). Therefore, in this instance, the number of ineligible administrative costs months would be less the number of months maintenance payment claimed.

The totals of all columns will automatically be added together and carried forward to the summary sheet.

Repeat Steps 1 through 3 for each of the sample cases in the eligibility review, as well as steps 4 and 5 for those sample cases that include an ineligible or improper payment.

ATTACHMENT D¹

WORKBOOK FOR CALCULATING THE NATIONAL FOSTER CARE ERROR RATE FOR THE TITLE IV-E FOSTER CARE PROGRAM

SUMMARY SHEET

Attachment D is used for computing maintenance payment disallowances for ALL title IV-E Foster Care Eligibility Reviews. The information on this spreadsheet is required for development of the National Foster Care Error Rate. Refer to Attachment C for instructions on completion.

The SHADED areas below must be filled in. These cells will automatically populate the other spreadsheets.

STATE: **PERIOD UNDER REVIEW (PUR) DATES:** **TYPE OF REVIEW:**

FMAP RATE: (FMAP Rate Field **MUST** be entered. Example: Enter FMAP Rate 75.19% as **0.7519**) **DATE:**

Sheet Name	Period Under Review Total Monthly Maintenance Payments On All Cases						Total Dollars	* FFP DOLLARS	Period Under Review Ineligible and Improper Monthly Maintenance Payments						Total Error Dollars	* FFP ERROR DOLLARS	Error Cases Number of Ineligible Months Of Administrative Costs	
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Claimed	CLAIMED	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Dollars	DOLLARS		
1 - 25 Cases	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
26 - 50 Cases	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
51 - 75 Cases	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
76 - 100 Cases	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
101 - 125 Cases	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
126 - 150 Cases	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
151 - 175 Cases	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
176 - 200 Cases	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
Totals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0
* FFP TOTALS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	

¹ Only the summary sheet for Attachment D is represented. In order to view the entire workbook, please use the icon on page XIV-1.

ATTACHMENT E

INSTRUCTIONS FOR CALCULATING EXTRAPOLATED DISALLOWANCES FOR THE TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS

These instructions are to be used for calculating the extrapolated administrative costs and maintenance payment disallowances for the title IV-E foster care eligibility reviews for States found to be in non-compliance during a secondary review. This attachment provides guidance to the Administration for Children and Families (ACF) Regional Office on the information required by the ACF statistician to calculate these disallowances on the basis of extrapolation from the sample to the universe of claims paid during the duration of the Adoption and Foster Care Analysis Reporting System (AFCARS) reporting period. The extrapolated disallowances are based only on the 6 months of the period under review (PUR). The universe of claims is the Federal Financial Participation (FFP) share of allowable title IV-E foster care maintenance payments and administrative costs paid during the 6-month PUR.

For a review case to count as a sample case, the case must have at least one maintenance payment during the PUR. For those cases that were determined to be in error during the 6-month review period and also were ineligible before or after the PUR (until the end of the service month that immediately precedes the month of the on-site review), disallowances for the prior and post PUR will follow the methods outlined in attachments A, B, and C. Separate FFP disallowances for maintenance payments and administrative costs will be determined.

Any costs incurred for error cases made after the end of the on-site review, resulting from cases identified during the PUR, are unallowable. The State must return the Federal share of funds received (maintenance payments and administrative costs) by making the appropriate adjustments on their IV-E-1 report, and cease claiming costs until (and if) the cases are determined eligible. These post-review costs should be identified separately in the final report sent to the State agency.

The Regional Office must retain all documentation provided by the State for calculating maintenance payments and administrative cost disallowances as part of the review file. This includes the complete payment history for all sample cases.

Instructions for Extrapolated Maintenance Payments Disallowance (All calculations are computed using Microsoft Excel.)

Step 1 obtains the average Federal Financial Participation (FFP) maintenance payments ineligible amount (hereafter referred to as “error dollars”) per case. The Regional Office must provide to the ACF statistician the total amount of FFP dollars for each case in the sample, on a monthly basis, from the 6-month State payment history. The statistician also requires the FFP dollars (as determined from the eligibility review of each case), on a monthly basis, for the ineligible amounts on error cases and for the improper payment amounts on non-error cases. The total error dollars apply only to the 6-month AFCARS period from which the sample was

selected. **The completion of attachment D, using the FFP dollar amount, will provide the information required for this step and the data needed to compute the national foster care error rate. (Refer to attachment C for guidance.)** The average error dollars per case reviewed will be computed from this information. (Example: FFP total error dollars of \$132,222.12 divided by 150 cases equals \$881.48 average error dollars per case.)

Step 2 calculates the sample standard deviation of the FFP error dollars, which is determined from each of the sample cases error dollar amounts in Step 1. (From the Step 1 data, Excel's STDEV function computed a value of \$1,942.49.)

Step 3 computes the standard error of the mean FFP error dollars by dividing the sample standard deviation of the FFP error dollars (Step 2) by the square root of the sample size, which will customarily be 150. (Example: \$1,942.49 divided by $\sqrt{150}$ is \$158.57.)

Step 4 determines the sampling error, which is computed by multiplying the standard error of the mean (Step 3) by 1.645, the z-value for a 90 percent confidence interval estimate for the population mean. (Example: \$158.57 multiplied by 1.645 is \$260.85.) This z-value is used because the extrapolated disallowance is the lower limit of the 90 percent confidence interval estimate for the population total error dollars.

Step 5 computes the lower limit of the 90 percent confidence interval for the average FFP error dollars by subtracting the sampling error (Step 4) from the average FFP error dollars (Step 1). (Example: \$881.48 minus \$260.85 yields \$620.63.)

Step 6 determines the total number of cases receiving at least one title IV-E maintenance payment during the 6-month AFCARS sampling period. This is done by counting all of the cases (not just the sample size) in the State's AFCARS submission that are coded "1" for data element 59. This element denotes cases where a title IV-E foster care payment is being paid on behalf of the child. If necessary, this total will be adjusted downward according to the number of erroneous codings, where a "1" was coded instead of a "0" by the State in its AFCARS submission for the PUR. (Example: the total number of title IV-E cases was estimated by multiplying 5,928 cases counted with a "1" coded for AFCARS data element 59 by 150, divided by 186 (reason - it took 186 cases coded as a "1" to yield a 150 actual cases coded as a "1"). Result: 5,928 cases multiplied by 150 equals 8,892, then divide this total by 186 which equals 4,781 cases.

Step 7 calculates the lower limit of the 90 percent confidence interval for the total FFP error dollars by multiplying the total from Step 6 (4,781) by the lower limit of the 90 percent confidence interval estimate for the average FFP error dollars (Step 5). (Example: 4,781 cases multiplied by \$620.63 is \$2,967,232.) This lower limit represents the extrapolated disallowance for the total FFP error dollars.

The ACF, therefore, can conclude that there is a 95 percent probability that the total FFP administrative cost error dollars are at least this amount, which is a rather conservative estimate.

Instructions for Extrapolated Administrative Cost Disallowance (All calculations are computed using Microsoft Excel.)

Step 1 obtains the average number of ineligible months per case. The Regional Office must provide to the ACF statistician, for the 6-month AFCARS PUR, the total number of ineligible months of administrative costs for each error case determined from the applicable Title IV-E Foster Care Eligibility Review Guide checklist. **The completion of attachment D, Error Cases Number of Ineligible Months of Administrative Costs column, will provide the information required for this step and the data needed to compute the national foster care error rate. (Refer to attachment C for guidance.)** The total figure is divided by the sample size (usually 150 cases) to yield the average number of ineligible months per case. (Example: 293 total months divided by 150 cases equals 1.95, the average number of ineligible months per case.)

Step 2 calculates the sample standard deviation of ineligible months, which is determined from each of the 150 ineligible months count in Step 1. (From the Step 1 data, Excel's STDEV function computed a value of 2.69.)

Step 3 computes the standard error of the mean number of ineligible months by dividing the sample standard deviation of the number of ineligible months (Step 2) by the square root of the sample size, which will customarily be 150. (Example: 2.69 divided by $\sqrt{150}$ is 0.2196.)

Step 4 determines the sampling error, which is computed by multiplying the standard error of the mean (Step 3) by 1.645, the z-value for a 90 percent confidence interval estimate for the population mean. (Example: 0.2196 multiplied by 1.645 equals 0.36.) This z-value is used because the extrapolated disallowance is the lower limit of the 90 percent confidence interval estimate for the population total error months.

Step 5 computes the lower limit of the 90 percent confidence interval for the average number of ineligibility months by subtracting the sampling error (Step 4) from the average number of ineligibility months (Step 1). (Example: 1.95 minus 0.36 equals 1.59.)

Step 6 determines the total number of cases receiving at least one title IV-E maintenance payment during the 6-month AFCARS sampling period. This is done by counting **all** of the cases (not just the sample size) in the State's AFCARS submission that are coded "1" for data element 59. This element denotes cases where a title IV-E foster care payment is being paid on behalf of the child. If necessary, this total will be adjusted downward according to the number of erroneous codings, where a "1" was coded instead of a "0" by the State in its AFCARS submission for the PUR. (Example: the total number of title IV-E cases was estimated by multiplying 5,928 cases counted with a "1" coded for AFCARS data element 59 by 150, divided by 186 (reason - it took 186 cases coded as a "1" to yield a 150 actual cases coded as a "1"). Result: 5,928 cases multiplied by 150 equals 8,892, then divide this total by 186 which equals 4,781 cases.

Step 7 calculates the lower limit of the 90 percent confidence interval for the total number of ineligibility months by multiplying the total from Step 6 (4,781 cases) by the lower limit of the

90 percent confidence interval estimate for the average number of ineligibility months (Step 5). (Example: 4,781 cases multiplied by 1.59 equal 7,602 months.)

Step 8 computes a weighted monthly administrative cost. The Regional Office should obtain from GATES or the ACFY-IV-E-1 form (Part 1) the following data for the two quarters comprising the 6-month AFCARS sampling period and the previous six quarters and provide this information to the ACF statistician by quarter for each of the eight quarters. **(The completion of attachment F, using the FFP dollar amount, will provide the information required for this step.)**

- a. The FFP administrative costs reported in column (b) Federal Share of the Current Quarter Expenditures the amounts on lines 5a. (Case Planning & Management) and 5e. (Other Administration).
- b. The FFP administrative costs reported in column (d) Federal Share of the Prior Quarter Adjustments the amounts listed on lines 5a. (Case Planning & Management) and 5e. (Other Administration).
- c. The average monthly number of children from column (b) Federal Share of the Current Quarter Expenditures on line 4 (Avg Monthly No. of Children).
- d. The weighted average monthly administrative cost is calculated by the ACF statistician using a Microsoft Excel spreadsheet. (The yield for this example is \$310.51.)

Step 9 calculates the lower limit of the 90 percent confidence interval for the total FFP administrative cost error dollars by multiplying the lower limit of the 90 percent confidence interval for the total number of ineligibility months (Step 7) by the weighted monthly administrative cost computed in Step 8. (Example: 7,602 months multiplied by \$310.51 yields a total of \$2,360,497.) This computation provides the extrapolated disallowance for the total FFP administrative cost error dollars.

The ACF, therefore, can conclude that there is a 95 percent probability that the total FFP administrative cost error dollars are at least this amount, which is a rather conservative estimate.

ATTACHMENT F

SPREADSHEET FOR CALCULATING A WEIGHTED MONTHLY ADMINISTRATIVE COST ON EXTRAPOLATED DISALLOWANCES FOR THE TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS

This spreadsheet is used for computing a weighted monthly administrative cost on Attachment E Step 8 of non-compliant secondary reviews.
This spreadsheet is a protected file. It will allow entries only in the shaded areas. Use the "TAB" key on your computer keyboard for easy access and input.
Refer to Attachment E Instructions for Extrapolated Administrative Cost Disallowance Step 8 for completing this calculation spreadsheet.

STATE: FROM TO
REVIEW PERIOD: REVIEW PERIOD FFY:

1. DEFINITION OF THE QUARTERS FOR WEIGHTED MONTHLY ADMINISTRATIVE COSTS:

The 2 quarters of the 6-month AFCARS sample period (SP) and the previous 6 quarters (Pre-SP) comprise the 8 quarters of data required for extrapolation.

Qtr 1	Pre-SP:		TO	
Qtr 2	Pre-SP:		TO	
Qtr 3	Pre-SP:		TO	
Qtr 4	Pre-SP:		TO	
Qtr 5	Pre-SP:		TO	
Qtr 6	Pre-SP:		TO	
Qtr 7	SP:		TO	
Qtr 8	SP:		TO	

2. THE FEDERAL FINANCIAL PARTICIPATION OF ADMINISTRATIVE COSTS FOR THE 8 QUARTERS:

(a) COLUMN (b) CURRENT QUARTER Federal Share, LINE 5a. Case Planning & Management, LINE 5e. Other Administration

QUARTER (See Step 1)	COLUMN (b) Qtr 1 Pre-SP	COLUMN (b) Qtr 2 Pre-SP	COLUMN (b) Qtr 3 Pre-SP	COLUMN (b) Qtr 4 Pre-SP	COLUMN (b) Qtr 5 Pre-SP	COLUMN (b) Qtr 6 Pre-SP	COLUMN (b) Qtr 7 SP	COLUMN (b) Qtr 8 SP	TOTAL ADMIN COSTS	AVERAGE MONTHLY = TOTAL ADMIN COSTS DIVIDED BY 24
LINE 5a.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
LINE 5e.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-

(b) COLUMN (d) PRIOR QUARTER Adjustments Federal Share, LINE 5a. Case Planning & Management, LINE 5e. Other Administration

QUARTER (See Step 1)	COLUMN (b) Qtr 1 Pre-SP	COLUMN (b) Qtr 2 Pre-SP	COLUMN (b) Qtr 3 Pre-SP	COLUMN (b) Qtr 4 Pre-SP	COLUMN (b) Qtr 5 Pre-SP	COLUMN (b) Qtr 6 Pre-SP	COLUMN (b) Qtr 7 SP	COLUMN (b) Qtr 8 SP	TOTAL ADMIN ADJUSTMENTS	AVERAGE MONTHLY = TOTAL ADMIN COSTS DIVIDED BY 24
LINE 5a.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
LINE 5e.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-

TOTAL AVERAGE MONTHLY ADMINISTRATIVE COSTS (= 2 (a) plus 2 (b))

\$ -

3. AVERAGE MONTHLY NUMBER OF CHILDREN FOR THE CURRENT YEAR:

COLUMN (b) Federal Share, LINE 4 Average Monthly Number of Children. (Because of the formulas in cells, a 1 has been entered below to avoid showing an error.)

QUARTER (See Step 1)	COLUMN (b) Qtr 1 Pre-SP	COLUMN (b) Qtr 2 Pre-SP	COLUMN (b) Qtr 3 Pre-SP	COLUMN (b) Qtr 4 Pre-SP	COLUMN (b) Qtr 5 Pre-SP	COLUMN (b) Qtr 6 Pre-SP	COLUMN (b) Qtr 7 SP	COLUMN (b) Qtr 8 SP	TOTAL NUMBER OF KIDS	AVERAGE MONTHLY = TOTAL # OF KIDS DIVIDED BY 8
LINE 4	1	0	0	0	0	0	0	0	1	0.1250

4. WEIGHTED AVERAGE MONTHLY ADMINISTRATIVE COST DISALLOWANCE PER CHILD

Monthly Administrative Costs divided by Monthly Number of Children (= Step 2 divided by Step 3) \$ -