

Final Report
Virginia Department of Social Services
Primary Review
Title IV-E Foster Care Eligibility
Report of Findings for
October 1, 2018 – March 31, 2019

Introduction

The Children's Bureau of the Administration for Children and Families (ACF) conducted a primary review of Virginia's title IV-E foster care program. The title IV-E foster care review (IV-E Review) was conducted during the week of September 23, 2019 in collaboration with Virginia Department of Social Services (VDSS) and was completed by a review team comprised of representatives from the VDSS' Division of Family Services (DFS) and local departments of social services, the state Court Improvement Program (CIP), Children's Bureau Central and Regional offices, and ACF Regional Grants Management office.

Key purposes of the IV-E Review are (1) to determine whether the Virginia title IV-E foster care program is in compliance with eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of Virginia's financial claims to ensure appropriate payments are made on behalf of eligible children.

Scope of the Review

The IV-E Review encompasses a sample of Virginia's foster care cases in which a title IV-E maintenance payment is claimed for an activity that occurs in the six-month period under review (PUR) of October 1, 2018 – March 31, 2019. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) is drawn from data the state submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 76 cases from the original sample plus 4 oversample cases. Four cases were excluded from the original sample because no title IV-E foster care maintenance payment was made for a period of activity that occurred during the PUR. The state provided documentation to support excluding these cases from the review sample and replacing them with cases from the oversample.

In accordance with federal provisions at 45 CFR 1356.71, the state is reviewed against requirements of title IV-E of the Act and federal regulations regarding:

- Judicial determinations regarding reasonable efforts and contrary to the welfare as set forth in §472(a)(2)(A) of the Act and 45 CFR §§1356.21(b) and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with the IV-E agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v);

- Placement in a licensed foster family home or child care institution as defined in §§472 (b) and (c) of the Act and 45 CFR §1355.20(a) and 1356.71(d)(1)(iv); and
- Safety requirements for the child’s foster care placement as required at §471(a)(20)(A) of the Act and 45 CFR §1356.30.

The case record of each child in the selected sample is reviewed to verify title IV-E eligibility. The foster care provider’s record also is reviewed to ensure the foster family home or child care institution where the child resided during the PUR is fully licensed and meets safety requirements. Payments made on behalf of each child also are reviewed to verify expenditures are properly claimed under title IV-E and to identify underpayments eligible for claiming.

A sample case is assigned an error rating when the child is not eligible on the date of activity in the PUR for which title IV-E maintenance is claimed. A sample case is cited as non-error with ineligible payment when the child is not eligible on the activity date outside the PUR or the child is eligible in the PUR on the date of an unallowable activity and title IV-E maintenance is claimed for the unallowable activity in either situation. In addition, underpayments are identified for a sample case when Virginia unintentionally has not claimed an allowable title IV-E maintenance payment for an eligible child within the 2 year filing period specified in 45 CFR §95.7 and the filing period has not expired.

Compliance Finding

The review team determined 78 of the 80 sample cases met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. Two cases are determined as in error for not meeting eligibility requirements for periods during the PUR. Six non-error cases meet eligibility requirements for the PUR but are found to have periods in a child’s foster care episode for which title IV-E maintenance payments are improperly claimed.

The Children’s Bureau has determined the Virginia title IV-E foster care program is in substantial compliance with federal eligibility requirements for the PUR. Substantial compliance in a primary IV-E Review means the total number of error cases is four or fewer cases determined as not meeting eligibility requirements for the PUR. Supplemental findings for non-error cases with ineligible payments are not considered in determining Virginia’s level of compliance with federal requirements. Since Virginia is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

In addition to the above seven cases that are established as having ineligible payments, two non-error case have periods of eligibility for which Virginia has not claimed allowable title IV-E maintenance payments.

Case Summary

The following charts record improper payment cases comprised of error cases, non-error cases with ineligible payments and underpayments; reasons for improper payments; improper payment amounts; and federal provisions that Virginia does not meet compliance mandates. Calculation of improper payments is based on the federal financial participation (FFP) rates of maintenance

payments at Virginia’s Federal Medical Assistance Percentages (FMAP) for applicable year(s) for each sample case.

Error Cases:

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2018 – March 31, 2019	Improper Payments Maintenance (FFP)	Improper Payments Administrative (FFP)
VA-80	<p>Foster care maintenance payment made for a period during the PUR when an otherwise eligible child was placed in a foster home that was not fully licensed. The home was licensed under an emergency approval policy, which was not in compliance with the requirements of state regulation for full licensure. Home fully licensed on 11/29/2018. [45 CFR 1355.20; 45 CFR 1356.71(d)(1)(iv)]</p> <p>Ineligible: 10/21/2018 – 10/31/2018</p>	\$212	\$0
VA-OS-01	<p>Foster care maintenance payment made for a period during the PUR when an otherwise eligible child was placed in a foster home that was not fully licensed The home was licensed under an emergency approval policy, which was not in compliance with the requirements of state regulation for full licensure. Home fully licensed on 11/06/2018. [45 CFR 1355.20; 45 CFR 1356.71(d)(1)(iv)]</p> <p>Ineligible: 09/01/2018– 10/31/2018</p>	\$642	\$1,641
	Subtotal	\$854	\$1,641

Total FFP: \$2,495

Non-error Cases with Ineligible Payments:

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2018 – March 31, 2019	Improper Payments (FFP)	Improper Payments Administrative (FFP)
VA-08	Foster care maintenance payment made for a period outside the PUR when an otherwise eligible child was placed in a foster home that was not fully licensed. The home was licensed under an emergency approval policy, which was not in compliance with the state regulation for full licensure. Home fully licensed on 08/03/2017. [45 CFR 1355.20; 45 CFR 1356.71(d)(1)(iv)] Ineligible: 06/05/2017 – 07/31/2017	\$515	\$1,561
VA-29	Foster care maintenance payment made for a period outside the PUR when an otherwise eligible child was placed in a foster home that was not fully licensed. The home was licensed under an emergency approval policy, which was not in compliance with the state regulation for full licensure. Home fully licensed on 3/10/2017. [45 CFR 1355.20; 45 CFR 1356.71(d)(1)(iv)] Ineligible: 02/16/2017-02/28/2017	\$527	\$0
VA-56	Foster care maintenance payment made for a period outside the PUR when an otherwise eligible child was placed in a foster home that was not fully licensed. The home was licensed under an emergency approval policy, which was not in compliance with the state regulation for full licensure. Home fully licensed on 09/18/2018. [45 CFR 1355.20; 45 CFR 1356.71(d)(1)(iv)] Ineligible: 07/01/2018 – 08/31/2018	\$797	\$808
VA-76	Foster care maintenance payment made for a period outside the PUR when an otherwise eligible child was placed in a foster home that was not fully licensed. The home was licensed under an emergency approval policy, which was not in compliance with the state regulation for full licensure. Home fully licensed on 08/20/2017. [45 CFR 1355.20; 45 CFR 1356.71(d)(1)(iv)] Ineligible: 07/01/2017-07/31/2017	\$796	\$780

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2018 – March 31, 2019	Improper Payments (FFP)	Improper Payments Administrative (FFP)
VA-OS 04	Foster care maintenance payment made for a period outside the PUR when an otherwise eligible child was placed in a foster home that was not fully licensed. The home was licensed under an emergency approval policy, which was not in compliance with the state regulation for full licensure. Home fully licensed on 04/05/2018. [45 CFR 1355.20; 45 CFR 1356.71(d)(1)(iv)] Ineligible: 03/01/2018 – 03/31/2018	\$971	\$808
	Subtotal	\$3,606	\$3,957

Total FFP: \$7,563

Underpayment Case:

Sample Number	Improper Payment Reason & Ineligibility Period October 1, 2018 – March 31, 2019	Improper Payments (FFP)
VA-56	Licensing requirements met for foster family home on 09/18/2018. Child was in foster home entire month of 09/2018 but payment was pro-rated from 09/18/2018 – 09/30/2018. Title IV-E may be claimed from the first day of the month all eligibility requirements are met. Eligible: 09/01/2018 – 09/17/2018	\$260

Total FFP: \$260

Areas Needing Improvement

Findings of this review indicate Virginia needs to further develop and implement procedures to improve program performance in the following areas. For each issue, there is a discussion of the nature of the area needing improvement, the specific title IV-E requirement to which it relates and the corrective action Virginia should undertake.

Issue #1: Placement in a Licensed Foster Care Setting: Two cases reviewed were found to be in error and five non-error cases have ineligible payments based on foster care maintenance payments being claimed for a month when an otherwise eligible child was placed in a foster home not fully licensed.

Title IV-E Requirement: The title IV-E 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 foster care setting. Federal provisions at 45 CFR §1355.20 and 45 CFR §1356.71(d)(1)(iv) require the state to document full licensure in a foster care setting that meets all applicable licensing requirements for full licensure, certification, approval or another synonymous term. Interim, emergency, provisional, or other such type of licensures that do not constitute full licensure pursuant to state licensing requirements are not acceptable for title IV-E eligibility.

Recommended Corrective Action: The state should review, revise, and implement policy and procedures that are consistent with federal provisions at section 471(a)(10) of the Act; 45 CFR 1355.20; 45 CFR §1356.71(d)(1)(iv) and policy found in the Children's Bureau online *Child Welfare Policy Manual* [§ 8.3A.8c]. Federal statute and the regulation require that Virginia use the same standards to license or approve all types of homes, relative or non-relative. While certain non-safety standards (as determined by the state) may be waived for relative foster family only on a case-by-case, child-specific basis, that is not at issue in the sample cases that have ineligible payments.

Program Strengths and Promising Practices

The following positive practices and processes of Virginia's title IV-E program were observed during the review. These approaches seem to have led to improved program performance and successful program operations.

Interagency Collaboration

As seen in previous reviews, it is evident there remains a strong collaborative process between DFS and many of its partners to better serve children and families in the state's title IV-E foster care program. Representatives from the Virginia Court Improvement Program (CIP), and local agency workers participated in all aspects of the IV-E Review. Stakeholder participation as reviewers helped to broaden their understanding of title IV-E requirements and to further their continued assistance to the state in meeting federal requirements. During the onsite review, their knowledge helped to clarify processes or documentation that otherwise could have resulted in pending or error cases. Stakeholder knowledge of the IV-E program and their collaborations demonstrated during the review are a substantial asset for the VDSS.

Frequent Permanency Hearings

Reviewers found that Virginia conducts frequent permanency hearings, which resulted in timely judicial determinations. Court involvement in monitoring case planning and progress toward goal achievement for the child was evident in child specific court orders. Virginia continues to work with the CIP to monitor timeliness of hearings and ensure that DFS is obtaining timely and accurate findings that the agency is making reasonable efforts to finalize a permanency plan for a child.

Quality Assurance Process and Eligibility Determinations

The VDSS Quality Assurance and Accountability Unit has a process to complete and monitor the accuracy of eligibility determinations and claiming procedures. This well-functioning process has resulted in a significant reduction in improper payments for the state. The process includes a

review of 100 percent of cases that are opened for foster care to determine whether a correct eligibility determination is made for state funding or funding under title IV-E.

Disallowances

A disallowance in the amount of \$854 in maintenance payments and \$1,641 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for error cases. Additional amounts of \$3,606 in maintenance payments and \$3,957 in related administrative costs of FFP are disallowed for title IV-E foster care payments that are claimed improperly for non-error cases. The total disallowance as a result of this IV-E Review is \$10,058 in FFP.

The Virginia Department of Social Services also must identify and repay any ineligible payments for error and non-error cases that occur for periods subsequent to the PUR. No future claims can be submitted on these cases until it is determined all eligibility requirements are met.

Next Steps

As part of the state's ongoing efforts to improve its title IV-E foster care eligibility determination process, the Children's Bureau recommends Virginia examine identified program deficiencies and develop measurable, sustainable strategies that target root causes of issues and concerns hindering the state from operating an accurate foster care eligibility program. Appropriate corrective action must be taken in instances of noncompliance with federal laws, regulations and policies.

The Children's Bureau Region 3 office staff continue to be available to assist Virginia in identifying corrective action and obtaining support available through our national network of training and technical assistance centers to help the state address practice issues and concerns raised during this IV-E Review.