

**Final Report
North Dakota Children and Family Services
Primary Review
Title IV-E Foster Care Eligibility**

**Report of Findings for
April 1, 2016 - September 30, 2016**

Introduction

During the week of June 12, 2017, the Children’s Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the state’s title IV-E foster care program. The title IV-E Foster Care Primary Eligibility Review (title IV-E review) was conducted in collaboration with the North Dakota Department of Human Services’ Division of Children and Family Services (NDDHS CFS) and was completed by a review team comprised of representatives from state and county title IV-E agency staff, CB Central and Regional Offices and Regional ACF Office of Grants Management staff.

The purposes of the IV-E review were (1) to determine whether the North Dakota Children and Family Services’ title IV-E foster care program is in compliance with the 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 the state’s financial claims to ensure that appropriate payments were made on behalf of eligible children.

Scope of Review

The North Dakota title IV-E Review encompassed a sample of the state’s foster care cases in which a title IV-E maintenance payment was made for an activity that occurred in the six-month period under review (PUR) of April 1, 2016 – September 30, 2016. A computerized statistical sample of eighty (80) cases plus twenty (20) oversample cases was drawn from data the state submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. The sample included cases from three of the four tribes that participate in title IV-E agreements with the state. Prior to the onsite review, one case from the original sample was eliminated and during the onsite case review, another case was eliminated from the original sample after it was determined that title IV-E payments were not made for a period during the PUR.

In accordance with federal provisions at 45 CFR § 1356.71, the state was reviewed against the 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)(1) and (2) and (c), respectively;

- Voluntary placement agreements as set forth in §§472(a)(2)(A) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with state agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.7(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 45 CFR §1356.71(d)(1)(v);
- 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
- Safety requirements for the child's foster care placement as required at 45 CFR §1356.30.

The case record of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider's record also was examined to ensure the foster family home or child care institution where the child resided during the PUR was fully licensed and met safety requirements. Payments made on behalf of each child also were reviewed to verify expenditures were properly claimed under title IV-E and to identify underpayments for claiming. A sample case is assigned an error rating when the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was paid. A sample case is cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR or the child was eligible in the PUR on the date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity in either situation. In addition, underpayments are identified for a sample case when the state unintentionally does not claim 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 that all eighty (80) cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. There also were no cases with underpayments or non-error cases with ineligible payments.

The Children's Bureau has determined the North Dakota title IV-E foster care program is in substantial compliance for the PUR. Since the state is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

Program Strengths and Promising Practices

The following positive practices and processes of the state's title IV-E program were observed during the review. These approaches have improved program performance.

Global areas of strength noted by reviewers:

- Clearly defined eligibility determination procedures in state and tribal cases.
- State and regional staff specifically assigned to title IV-E eligibility determination.
- IV-E processes are monitored through the state's quality assurance system.
- Foster home and facility licenses were up-to-date in all cases.
- Case records were organized and easy to navigate.

Quality Assurance and Partnerships: The state's quality assurance (QA) process has improved over the years. The NDDHS CFS IV-E Eligibility Specialist oversee the tracking and monitoring of title IV-E eligibility determinations, offer training and technical assistance (TA) statewide (to each of the county offices, tribal social services agencies, and courts) and coordinate three state-sponsored IV-E reviews annually. Additionally, monthly TA conference calls are held with county eligibility staff to discuss policy updates, systemic issues, and practice concerns.

Several tribal social services agencies participated in the state's IV-E review pre-conference calls and they were invited to participate in the onsite review to help them gain a better understanding of the title IV-E and the IV-E review process. One tribal social services agency did not provide case management records, though the case file information provided by the State was sufficient for conducting the reviews.

Licensing: Agencies responsible for licensing foster homes and group care facilities, (NDDHS CFS, County Social Services, PATH and Tribes), have effective licensing processes in place to ensure the safety of children. The ND review sample included:

- 2 - Out of state Residential Treatment Facilities (ICPC)
- 5 - Out of state family foster care homes (ICPC)
- 22 - Therapeutic level providers – licensed through PATH Inc.
- 7 - North Dakota Residential Treatment Facilities
- 59 - North Dakota family foster care homes – licensed by the counties and approved by the regional office
- 27 - Tribal Affidavit approved homes – licensed by the tribes

All title IV-E foster care settings were fully licensed and criminal background checks were well documented, prior to claiming title IV-E foster care maintenance payments. County social service agencies recruit, train and license family foster homes. The PATH, a licensed child placement agency, is similarly responsible for therapeutic foster homes.

The NDDHS-CFS has overall responsibility for the licensing of Residential Child Care Facilities (group care facilities). Currently, there are 10 Residential Child Care Facilities (RCCF). The CFS licensing team conducts annual licensing visits to each of the RCCF as well as random site visits. Each facility is required to submit a list of all employees on staff during the licensing period, as well as a copy of the required criminal background check results and annual Child Abuse and Neglect checks.

Identified Challenge

Reviewers observed and the state acknowledged court continuances are frequently granted which can result in extended stays in foster care for young children and delay the achievement of permanency. The state is working with the Juvenile Justice Policy Board to address this issue. (*Of note:* Due to budget constraints, the state's Court Improvement Project (CIP) was dismantled. The Juvenile Justice Policy Board has taken on many of the CIP task).