



North Carolina Department of Health and Human Services
Division of Social Services

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Governor

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Division Director

May 15, 2013

DEAR COUNTY DIRECTOR OF SOCIAL SERVICES

Attention: COUNTY DSS ATTORNEYS, CHILD WELFARE PROGRAM MANAGERS AND SUPERVISORS, CHILD WELFARE WORKERS RECTORS AND CHILD WELFARE PROGRAM ADMINISTRATORS

SUBJECT: PREPARATION FOR FEDERAL IV-E ELIGIBILITY REVIEW

The State of North Carolina is anticipating the next Federal Title IV-E Eligibility Review to occur the week of July 28, 2014. This date is not confirmed with the Administration for Children and Families (ACF) central office. With this review, the Federal government will assess the State's adherence to Title IV-E eligibility criteria. Cases subject to this review will be drawn from cases identified as receiving one or more IV-E foster care payments. The likely period under review will be October 1, 2013 to March 31, 2014.

In July 2011, North Carolina passed the IV-E review. This was largely because of the hard work by county DSS staff in reviewing records, making necessary corrections and working with their Children's Program's Representatives to ensure that all children identified as IV-E eligible were, in fact, eligible.

The ramifications for this review are extremely serious for our North Carolina's Child Welfare system. Out of a sample of 80 cases, the error threshold for this review is 4 cases. Any case found in error will be subject to disallowance of Federal Financial Participation (FFP) for both maintenance costs and for associated IV-E Administrative costs. If the error rate exceeds the threshold of 4 cases, the state (and ultimately, the counties) may be subject to additional financial sanctions and be required to implement a program improvement plan.

The Title IV-E Eligibility Review will measure compliance with all requirements related to the child's eligibility including, but not limited to:

- Judicial determinations within valid, enforceable orders that include findings and conclusions of contrary to the welfare (best interest) and reasonable efforts language
- Judicial determinations, within 180 days of the placement, that it is in the best interests of the child to continue in care, for any voluntary placement agreement (VPA)
- A judicial determination in every court order that the county DSS has responsibility for placement and care (or custody)
- Proper income and deprivation determinations based on the AFDC "Look Back Date"
- Verification that the child was continuously placed in a licensed home or facility for every month that IV-E reimbursement was claimed

Child Welfare Services

www.ncdhhs.gov • www.ncdhhs.gov/dss

Tel 919-733-4622 • Fax 919-733-3823

Location: Albemarle Building • 325 N. Salisbury St • Raleigh, NC 27603-5905

Mailing Address: 2439 Mail Service Center • Raleigh, NC 27699-2439

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This review will also measure compliance with all licensing requirements for every placement provider with whom the child was placed during the period under review:

The licensing file must include:

- A copy of the license current to the time of the child's placement in the home
- Documentation of compliance with safety requirements (i.e. criminal records checks)
- Any supplementary information to the licensing file as necessary to verify eligibility

Please also pay close attention to the following issues from past reviews:

Child Information

- Children who are over 18 and under a Contractual Agreement for Residential Services (CARS) are not eligible for IV-E funds. The funding source for any child that was IV-E eligible prior to their 18th birthday must be switched to State Foster Home Funds by the CPPS system update deadline for the service month in which their birthday occurs (usually the 20th of the following month)
- All records must include birth certificates

Relevant Dates

- The removal order (usually the initial non-secure custody order) must contain contrary to the welfare/best interests language and the petition must thoroughly demonstrate why the child would have been unsafe if not removed. The 2009 version of the judicial form AOC-J-150 contains language that satisfies this requirement
- Any initial *secure* custody order must have the contrary to the welfare/best interest language present in order for the child to be IV-E eligible. If the child is removed from the home by way of a secure custody order and then subsequently placed in DSS custody without returning home
- The placement log must be in every record and up to date (Respite care is not considered to be a placement move. If a county chooses to indicate respite care on their placement log, they must clearly indicate that it is respite care)

Removal by Court Order

- Payment records should reflect the requirement that children are not eligible for IV-E until the first day of the month in which all of the eligibility requirements (including court order language such as contrary to the welfare/best interests and reasonable efforts to prevent removal) are in place
- Contrary to the welfare/best interest language must be present in the initial removal order, usually the non-secure custody order, even when the child came into DSS custody as a result of a delinquency order. The use of the current AOC form orders include the proper findings that need to be made the same day as the removal

Voluntary Placement Agreements

- The Voluntary Placement Agreement found in the file should be executed using the most recent form (2010 version of the DSS-1789)
- The file should verify that the child is actually placed in a licensed facility for the entire period covered under the agreement, with a copy of each foster home license in the file
- The file should contain court orders, when a VPA lasts longer than 90 days, as directed by G.S. 7B-910 (IV-E eligibility ends after the 180th day unless there has been a judicial determination finding that continued placement is in the best interest of the child)
- The signature on the VPA must be that of a parent or guardian who has legal responsibility for the child (e.g., a caretaker or custodian would not be an appropriate person to sign a VPA). The VPA is not in effect until signed by the parent and the Director or designee

Ongoing Judicial Activity

- The file should verify that Reasonable Efforts to prevent removal findings were made within 60 days from removal. If not present, the child cannot be IV-E eligible for this removal episode. The reasonable efforts finding is required within 60 days of the removal from the home, regardless of whether that removal is by a delinquency order or by a dependency/neglect/abuse order
- The file must contain a judicial determination of reasonable efforts to finalize/achieve the permanent plan no later than 12 months from the date the child was considered to have entered foster care and at least once every 12 months thereafter while the child was in foster care. These findings must be child specific, addressing each individual child when the order applies to more than one child
- Each court order covering the permanent plan must include:
 - What specific efforts were made by the agency (not what the parents did) toward any permanent plan in effect within the last twelve months
 - Identification of a permanent plan that was in effect within the last twelve months.
 - The judge's determination that the efforts were reasonable
- If the reasonable efforts to finalize/achieve the permanent plan finding were not made in a timely manner, the child would not be eligible for IV-E reimbursement from the last day of the month in which the finding was due until the first day of the month in which the finding was actually made. Payment records should reflect any lapsed eligibility

AFDC Eligibility

- The file should contain the current DSS-5120 (revised in 2011) and DSS-5120A (revised in 2010) forms for any determinations that were made after the form revision date. Make sure every item was completed accurately and thoroughly
- The file should verify that the "look back" date of July 16, 1996 (disregarding the Section 1115(a) waiver that was in effect on that date in North Carolina) is used to determine AFDC eligibility
- The DSS-5120 and DSS-5120A must be completely filled out with clear verification for need and deprivation. Parent's statement alone is not sufficient verification without some other verification such as social worker knowledge
- The activity in the case narrative must be reflected in the DSS-5120A documentation. Ongoing eligibility determination is required
- Make sure the DSS-5120 and DSS-5120A document the final determination of eligibility

Agency Responsibility for Placement and Care of the Child

- All court orders should contain language addressing whether the Department has placement authority (custody to the Department is sufficient). Standardized language and checklists in court orders are acceptable but the language in the court order must be child specific and the findings and efforts must be directed to each child

Placement in Licensed Home or Facility

- Payment records must reflect lapses in eligibility, when foster home licenses are not renewed before they expire. The Division has moved to two-year licenses, and there is no longer a grace period for relicensure

Safety Requirements

- Fingerprint based criminal records checks must be completed and documented in the record for every prospective foster parent. Foster family home local criminal record checks must be documented in the case record and updated at license renewal

In preparation for the Federal Title IV-E Eligibility Review, we have an opportunity to correct any errors, and if the child is not IV-E eligible, change the funding source listed on the DSS-5094 or 5095 to another funding source. In order to prepare for the federal review, we will be scheduling

time to come out to counties to provide information sessions/training on the new review tool and to assist with a review of records. Children Program Representatives and other NC DSS staff will begin to schedule these information sessions in May 2013. The Children's Programs Representatives (CPR's) will be contacting the county Departments of Social Services to arrange to consult with each county, and to conduct reviews of a sample of cases using the Federal Review Checklist and Instructions.

Attached for your convenience are the forms that have been referenced throughout this letter.

<http://info.dhhs.state.nc.us/olm/forms/dss/DSS-5120-ia.pdf>

<http://info.dhhs.state.nc.us/olm/forms/dss/DSS-5120A-ia.pdf>

<http://www.nccourts.org/forms/Documents/483.pdf>

If the county decides that they need to make an overpayment adjustment, the procedure for submitting overpayment adjustment requests will be the same procedure that is currently in place. Counties should contact Tina Bumgarner with any of these requests at tina.bumgarner@dhhs.nc.gov or at 828.397.3901.

If you have questions or need clarification, please contact your CPR or Jennifer Johnson (Jennifer.johnson@dhhs.nc.gov) 919.334.1139.

I recognize that we are asking a great deal from you and your staff in preparation for this federal review. However, our hope is that, if we can adequately prepare, we will be in compliance with regulations and be better prepared for ongoing compliance.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Kelley". The signature is written in a cursive style.

Kevin Kelley, Section Chief
Child Welfare Services

Cc: Sherry S. Bradsher
Jack Rogers
Child Welfare Services Team Leaders

CWS-05-2013