



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

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Courier # 56-20-25-MS# 2440

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**August 31, 2010**

**DEAR COUNTY DIRECTOR OF SOCIAL SERVICES**

**ATTENTION: COUNTY DSS ATTORNEYS, CHILD WELFARE PROGRAM MANAGERS AND SUPERVISORS, CHILD WELFARE WORKERS**

**SUBJECT: PREPARATION FOR FEDERAL IV-E ELIGIBILITY REVIEW**

The next Federal Title IV-E Eligibility Review for North Carolina will occur during the week of July 18-24, 2011. With this review, the Federal government will assess the State's adherence to Title IV-E eligibility criteria. Cases to be subject of this review will be drawn from cases across the state that were identified as receiving a IV-E foster care payment during the period from October 1, 2010, through March 31, 2011.

The most recent federal IV-E review for North Carolina took place in June of 2008. At that time, the state passed the 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 state. 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 state exceeds the error threshold of 4 cases, the state (and ultimately, the counties) will 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 and reimbursability, such as:

- Judicial determinations within valid, enforceable orders that include findings and conclusions of contrary to the welfare (best interest) and reasonable efforts language,
- Voluntary placement agreements (VPA) require documentation of a judicial determination, within 180 days of the placement, that it is in the best interests of the child to continue in care,
- A judicial determination in every case finding that the county DSS has responsibility for placement and care,

- Income and deprivation determinations based on the AFDC “Look Back Date”,
- Evidence that the child was continuously placed in a licensed home or facility for every month that IV-E reimbursement was claimed.

This review will also measure compliance with all licensing requirements for every placement provider with whom the child was placed during the period of October 1, 2010, through March 31, 2011, such as:

- Licensing file with complete history
- 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 still in foster care are not eligible for IV-E funds. Those that were IV-E eligible prior to their 18<sup>th</sup> 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 20<sup>th</sup> of the following month).
- Birth certificates must be in all records

### **Relevant Dates**

- Ensure that the removal order (usually the non-secure) contains the contrary to the welfare/best interests language and that the petition thoroughly demonstrates why the child would have been unsafe if not removed. Completing thoroughly the standard non-secure order (AOC-J-150) ensures that the first requirement is satisfied. The child specific details of the petition and items 1 and 2 on the AOC-J-150 meet the second requirement for contrary to the welfare/best interests language.
- 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 secure custody order must have the contrary to the welfare language present in order for the child to be IV-E eligible.
- 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’s respite care.)

### **Removal By Court Order**

- 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.

- Eligibility policy requires this language to be in the initial order, usually the non-secure order. Care is required around this issue when children come into DSS custody as a result of delinquency order, including the use of the current AOC form orders that include the proper findings that need to be made the same day as the removal.

### **Voluntary Placement Agreements**

- Ensure that the most recently revised version of the Voluntary Placement Agreement is used.
- Ensure that the child is actually placed into a licensed facility.
- Remember that IV-E eligibility ends after the 180<sup>th</sup> day unless there has been a judicial determination finding that continued placement is in the best interest of the child.
- The person signing the VPA must be a parent or guardian and have 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 Director or designee and by the parent.

### **Ongoing Judicial Activity**

- Reasonable Efforts to prevent removal findings must be made within 60 days from removal. If not present, the child is not IV-E eligible for this removal episode. State policy requires this language to be in the initial order, usually the non-secure order. Care is required around this issue when children come into DSS custody as a result of delinquency order. Remember that 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.
- There must be a judicial determination of reasonable efforts to finalize/achieve a permanency plan no later than 12 months from the date the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care. These efforts must be specifically enumerated and child specific. **Please Note: Each of the three cases found to be in error in the 2008 review were in error because they did not have a judicial determination of reasonable efforts to finalize a permanency plan. This must be included.**
- The court order must detail: 1. What specific efforts have been made by the agency (not what the parents did) toward any permanent plan in effect within the last twelve months. 2. What the permanency plan is or was within the last twelve months. 3. The judge's determination that the efforts were sufficient or reasonable..
- If the finding is not made timely, the child is not 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 is actually made.

### **AFDC Eligibility**

- Ensure use of the current DSS-5120 form. Make sure every item is completed accurately and thoroughly.

- Ensure 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.
- DSS-5120 must be completely filled out with clear verification for need and deprivation. Parents statement alone is not sufficient verification without some other verification such as worker knowledge.
- Remember that ongoing eligibility determination is a requirement. The activity in the case narrative must be reflected in the DSS-5120A documentation.

Make sure the DSS-5120 and DSS-5120A document the final determination of eligibility.

### **State Agency Responsibility for Placement and Care of the Child**

- Recommend use of standardized language and checklists in court orders, but also must ensure that the court order language is child specific and the findings and efforts are directed to a particular child(ren).

### **Placement in Licensed Home or Facility**

- As we have moved to two-year licenses, there is no grace period and we must ensure that relicenses occur timely.

### **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 requiring that each county review every case for which a IV-E foster care payment is made between October 1, 2010, through March 31, 2011 (the period under review), using the attached Federal Review Checklist and Instructions. Please begin this task at the end of October for cases that are currently receiving IV-E funding. Subsequent review is then required at the end of each month for cases that have begun receiving IV-E payments during the month. This task must be completed by March 31, 2011 for all children receiving IV-E foster care funds during the period under review. A list of each county’s children that are in the state’s Child Placement and Payment system during the above time frame will be posted in NCXPTR sometime in November. Someone in each agency has the capability to access NCXPTR. They should select the report titled: “DHR-PQA107 – Special AFCARS – IV-E.” You must continue to review this report up to March 31, 2011 to include all children receiving IV-E foster care funds during the period under review (PUR). We are asking that you review 100% of these children to determine if they are correctly coded as IV-E eligible and to make the necessary corrections if they are not. If the child would be eligible but certain documents are missing in the file, you should ensure that the documents are located and placed in the file. Some of the review questions relate only to the period of October 1, 2010, through March 31, 2011. Other review questions relate back to the child’s original entry into DSS custody. We ask that counties pay close attention to the time frames associated with each question on the review instrument and instructions.

The Children's Programs Representatives (CPR's) will be contacting the county Departments of Social Services to arrange to consult with each county to conduct reviews of a sample of cases using the Federal Review Checklist and Instructions.

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](mailto:tina.bumgarner@dhhs.nc.gov) or at 828.397.3901.

If you have questions or need clarification, please contact your CPR or Jeff Olson ([Jeff.Olson@dhhs.nc.gov](mailto:Jeff.Olson@dhhs.nc.gov)) 919.334.1137 or Thomas Smith ([thomas.smith@dhhs.nc.gov](mailto:thomas.smith@dhhs.nc.gov)) at 919.334.1089. I recognize that we are asking a great deal from you and your staff in preparation for this federal review. However, if we can adequately prepare, we will be in compliance with regulations and be better prepared for ongoing compliance.

Sincerely,



Charisse S. Johnson, Chief  
Child Welfare Services

Attachment

[Title IV-E Foster Care Eligibility](#)

[On-Site Review Instrument and Instructions](#)

cc: Sherry S. Bradsher  
Jack Rogers  
Kathy Sommese  
Local Business Liaisons Managers  
Child Welfare Services Team Leaders  
Children's Services Program Representatives  
Regulatory and Licensing Services Consultants

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