

**Federal Title IV-E Foster Care Eligibility
Review: Minnesota's Guide to Substantial
Compliance**

Instrument and Instructions
For the Federal Review



Minnesota Department of Human Services

February 2003

Title IV-E Foster Care Eligibility Program

The Title IV-E Foster Care Eligibility Program is reimbursement for out-of-home placement costs to the states by the U.S. Department of Health and Human Services. Approximately 50% of county foster care maintenance costs are reimbursable for eligible children. Some training and administrative costs are also reimbursable in this program.

In 1980, Public Law (P.L.) 96-272 the Adoption Assistance and Child Welfare Act was amended to the Social Security Act of 1935 to create Title IV, part E of the Social Security Act (the Act). P.L. 96-272 was based on three major areas of concern:

- Children were removed from their families too frequently, without good reason and without adequate placement prevention efforts.
- Efforts were not being made to reunite children with their families and often permanently lost contact with their families.
- Children spent years in temporary foster care, adrift in foster care without a real sense of family or permanency.

This Act defines the circumstances under which a state may claim reimbursement. These requirements are based in best practices and are related to the 1997 Adoption and Safe Families Act as well as the overall goals of safety, permanency and well being found in the Federal Child and Family Service Reviews.

Eligibility for this program is specific to both:

- The individual child and
- The foster care home or childcare institution.

A combination of both:

- Initial eligibility requirements and
- Continuing eligibility requirements must be met during the entire time the child remains in out-of-home placement.

These requirements apply to abused and neglected children, delinquents, and children placed in foster care solely due to their developmental disabilities and/or severe emotional disabilities.

Minnesota will participate in a Federal Title IV-E Foster Care Eligibility Review in 2004. The review will assess compliance with the requirements of Title IV-E of the Act for the children on whose behalf the foster care maintenance reimbursement claims are made. These requirements include the:

- Judicial determinations regarding contrary to the welfare/best interests and reasonable efforts,
- Voluntary placement agreements in accordance with the Act,
- Responsibility for placement and care vested with the state agency in accordance with the Act,
- Placements in a licensed foster family home or childcare institution as defined by the Act to determine that the provider is an appropriate type of facility, the license is valid for the duration of the child's placement in that facility and the safety requirements have been met, and
- Eligibility for AFDC under the state plan that was in effect on July 16, 1996 in accordance with the Act.

For a state to be in substantial compliance there must be an error rate of 10 percent or less. This means that of the 80 cases selected for the review, eight or fewer cases can be found to have made Title IV-E reimbursement claims in error. If a state is determined not to be in substantial compliance during the review process, a disallowance is assessed on the basis of the state's total population of children in the Title IV-E foster care for the six-month review period. In addition, a disallowance will be made for each case found in error. If Minnesota were subjected to a disallowance, current figures based on the estimated total Title IV-E claims for a six-month period, indicated that a disallowance of 13 percent would be in excess of \$5 million and a 20 percent disallowance would be in excess of \$8 million. Failure to meet the requirements for substantial compliance will have a financial impact statewide. The disallowance will be collected from all 87 counties.

A joint team from both the state and federal government will conduct the review. Examination of case records, including payment documentation, will be completed for the child and all providers for the six-month review period. All cases selected for the review will need a complete payment history starting from the current foster care placement episode continuing through the period under review.

For further information regarding the Title IV-E Program in Minnesota, please contact your regional Title IV-E Eligibility Determination Trainer and your county Title IV-E Coordinator. See attached resource directory.

Title IV-E Foster Care Resources Directory

03/06/2003

Questions regarding the Title IV-E eligibility determination process (e.g., child's eligibility, eligibility of the activity, continuing reimbursement) can be directed to the Eligibility Determination Trainer covering your area.

University of Minnesota – Eligibility Determination Training Project

Eligibility Determination Trainer Northwest Region Deborah Trotter 45140 – 228 th Street Aitkin, MN 56431-9284 Phone/Fax: 218-678-2025 E-mail: debt@mlecmn.net	Eligibility Determination Trainer Northeast Region Lynn Olund 3203 Highway 44 Brimson, MN 55602-8115 Phone/Fax: 218-848-0012 E-mail: lynnolund@earthlink.net
Eligibility Determination Trainer Southwest Region Paula Katzenmeyer 11224 North Sunset Drive Hutchinson, MN 55350-8309 Phone/Fax: 320-587-7982 E-mail: pkatzen@hutchtel.net	Eligibility Determination Trainer Southeast Region Debbie Retterath P.O. Box 199 Adams, MN 55909-0199 Phone: 507-582-1046 E-mail: debbier@clear.lakes.com

Minnesota Department of Human Services (DHS)

Questions regarding Title IV-E Protections (e.g. placement plans, administrative reviews, permanency hearings, reasonable efforts and best interest determinations):

Kris Johnson - Children and Family Services	651-297-2711
Ann Ahlstrom - Children and Family Services/Supreme Court	651-297-1114

Questions regarding Title IV-E and eligible facilities:

Deb Ekholm - Financial Management	651-297-3837
Kris Johnson - Children and Family Services	651-297-2711

Questions regarding Title IV-E and corrections:

Kris Johnson - Children and Family Services	651-297-2711
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Questions regarding Title IV-E and tribes:

Virginia Smith - Children and Family Services	651-297-7186
Kris Johnson - Children and Family Services	651-297-2711

Questions regarding Title IV-E reporting/ratios:

Deb Ekholm - Financial Management	651-297-3837
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Questions regarding Title IV-E Adoption Assistance:

Laurie Ruhl - Children and Family Services	651-297-3636
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Questions regarding Title IV-E and Social Services Information System:

Nan Beman - Children and Family Services	651-772-7833
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On-Site Review Instrument and Instructions

(SEPTEMBER 2002) CHILD eligible for entire sample review period: YES ___ NO ___
 PROVIDER eligible for entire sample review period: YES ___ NO ___

TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW CHECKLIST

EACH QUESTION MUST BE ANSWERED. If the question is not applicable, check the N/A column.
 A question with no space for N/A must be answered YES or NO. Review the INSTRUCTIONS FOR COMPLETING THE TITLE IV-E FOSTER CARE ELIGIBILITY CHECKLIST for an explanation of each question and how to answer it. This form may be annotated with additional information regarding eligibility, as necessary. Boxes outlined in bold indicate potential case errors.

Sample review period: ___/___/___ - ___/___/___

1. State Abbreviation and Random Sample Selection number: ___ 2. Case ID: ___
 3. County or Local Office: ___ 4. Date of Review (MM/DD/YY): ___ 5. Reviewed by: ___

A. CHILD INFORMATION	YES	NO	N/A
X1. Child's Name: _____			
6. Child's Date of Birth (MM/DD/YY): _____			
7. Child's age as of first day of sample review period: _____			
8. If this child was 18 at any time during the sample review period, was (s)he a full time student in secondary school or its equivalent and expecting to graduate prior to the 19 th birthday? <i>(State Option)</i>			
8(a). If the answer to question 8 is NO, was title IV-E claimed for the period of ineligibility?			
B. RELEVANT DATES			
9. Date child was removed from home: (MMDD/YY) ___/___/___			
10. Date child entered foster care: (MMDD/YY): ___/___/___			
C. REMOVAL PURSUANT TO A COURT ORDER			
11. Was child's removal the result of a judicial determination? If NO, proceed to question 14. If YES, continue to question 12.			
12. Date of court order removing child from the home (MMDD/YY): _____			
12(a). Does the removal order address <i>CONTRARY TO THE WELFARE?</i>			
13. Is there a court order that addresses <i>REASONABLE EFFORTS TO PREVENT REMOVAL OR REASONABLE EFFORTS TO REUNIFY CHILD AND FAMILY?</i>			
13(a). Date of court order re: reasonable efforts to prevent removal (MMDD/YY): _____			
13(b). Date of court order re: reasonable efforts to reunify (MMDD/YY): _____			

D. VOLUNTARY PLACEMENTS	YES	NO	N/A
14. Was the child's removal pursuant to a voluntary placement agreement? If YES, continue to question 15. If NO, proceed to question 17.			
15. Was the voluntary placement agreement signed by parent/legal guardian AND the agency representative(s)?			
15(a). Date voluntary placement agreement was signed by all parties (MMDD/YY): _____			
16. Is there a judicial determination regarding the child's <i>BEST INTEREST</i> within 180 days of the date of placement?			
16(a). Date of judicial determination (MMDD/YY): _____			
E. ONGOING JUDICIAL ACTIVITY (REASONABLE EFFORTS TO FINALIZE THE PERMANENCY PLAN) (APPLICABLE TO COURT-ORDERED REMOVALS ONLY)			
17(a). Has the child been in foster care less than 12 months prior to the end of the period under review? (See Question 10.) If yes, a judicial determination regarding reasonable efforts to finalize the permanency plan is not due. Proceed to question 18.			
(b). If 17(a) is NO, what is the date that the most recent judicial determination regarding reasonable efforts to finalize the permanency plan was made prior to the end of the period under review? (MM/DD/YY) _____			
(c). Have 12 months elapsed since the date in 17(b)? If NO , a judicial determination regarding reasonable efforts to finalize the permanency plan is not due. Proceed to question 18. If 17(b) is YES , what is date that the next judicial determination is due? (MM/DD/YY) _____			
(d). Date that the 17(c) judicial determination was made (MM/DD/YY) _____			
(e). Was the judicial determination timely?			
(f). IF NO, indicate period of ineligibility. (MMDD/YY) _____ to (MMDD/YY) _____			
F. AFDC ELIGIBILITY			
18. Date child last lived with parent/specified relative prior to current foster care episode (MMDD/YY): _____			
19. Was the child living with the specified relative at question 18 within 6 months of the initiation of court proceedings or the voluntary placement agreement?			
20. Was the child living with and removed from the same specified relative?			
21. Has the State determined that the child was AFDC-eligible at the time of removal?			
21(a). Was financial need established?			
21(b) Was deprivation of parental support or care established?			
22. Was the child's eligibility redetermined? 22(a). Date of redetermination, if applicable (MM/DD/YY): _____			
23. Does financial need exist throughout the entire review period?			
23(a). If NO, was title IV-E claimed for the period of ineligibility?			
24. Does deprivation exist throughout the entire review period?			
24(a). If NO, was title IV-E claimed for the period of ineligibility?			

G. STATE AGENCY RESPONSIBILITY FOR PLACEMENT/CARE OF CHILD	YES	NO	N/ A
25. For the entire time that the child is in an out-of-home placement during the review period, does the IV-E agency (or public agency with IV-E agreement) maintain responsibility for the placement and care of the child? If YES, proceed to question 27. If NO, continue to question 26.			
26. Was title IV-E claimed for the period of time that the title IV-E agency (or public agency with IV-E agreement) <i>did not</i> have responsibility for the placement and care of the child?			
27. Name of agency:			
H. PLACEMENT IN LICENSED HOME OR FACILITY (Complete for EVERY home/facility during the review period)			
X2. Provider Name:			
X3. Provider Street Address:			
X4. Provider City:			
X5. Provider State:			
31(a). Licensed period from (MMDD/YY) _____ to (MMDD/YY) _____			
31(b). If NO, was title IV-E claimed for the period of time the provider is <i>not</i> licensed/approved?			
I. SAFETY REQUIREMENTS OF PROVIDER (Complete for EVERY home/facility during the review period)			
32. Has this State opted out of the criminal records check requirement?(This requirement applies only to prospective foster family homes and pre-adoptive homes.) If YES, proceed to question 34. If NO, continue with question 33.			
33. Was a criminal records check satisfactorily completed on the foster/adoptive parent(s)?			
34. If the State has opted out of the criminal records check requirement, does the licensing file contain documentation that safety considerations with respect to the caretaker(s) have been addressed?			
35. If the child is placed in a child care institution, does the licensing file contain documentation that safety considerations with respect to the staff/caretakers have been addressed?			

State _____
Case ID _____

Eligible: YES NO

Licensing Checklist for Multiple Placements

Use this page to record multiple placements during the review period.

H. PLACEMENT IN LICENSED HOME OR FACILITY (Complete for EVERY home/facility during the review period)			
X2. Provider Name:			
X3. Provider Street Address:			
X4. Provider City:	X5. Provider State:		
28. Date(s) of child's placement in this foster care facility (MMDD/YY): from: _____ to: _____ from: _____ to: _____			
29. Date of child's departure from this facility, if applicable (MMDD/YY):			
30. Type of foster care facility (check one): FFH () GH () Public Inst. () PNP/FP Inst. () Other ()			
31. Is this provider licensed or approved during the child's placement that falls within the period under review?			
31(a). Licensed period from (MMDD/YY) _____ to (MMDD/YY) _____			
31(b). If NO, was title IV-E claimed for the period of time the provider is not licensed/approved?			
I. SAFETY REQUIREMENTS OF PROVIDER (Complete for EVERY home/facility during the review period)			
32. Has this State opted out of the criminal records check requirement? (This requirement applies only to prospective foster family homes and pre-adoptive homes.) If YES, proceed to question 34. If NO, continue with question 33.			
33. Was a criminal records check satisfactorily completed on the foster/adoptive parent(s)?			
34. If the State has opted out of the criminal records check requirement, does the licensing file contain documentation that safety considerations with respect to the caretaker(s) have been addressed?			
35. If the child is placed in a child care institution, does the licensing file contain documentation that safety considerations with respect to the staff/caretakers have been addressed?			
<u>ADDITIONAL NOTES/COMMENTS:</u>			

Instructions for Completing the Title IV-E Foster Care Eligibility Checklist February 13, 2003

Purpose

These instructions will help the reviewer accurately answer the questions and identify documentation to support those answers.

These instructions will be periodically updated as needed in preparation for the on-site federal review.

Requirements Subject to Review

Minnesota will be reviewed against the requirements of Title IV-E of the Social Security Act (the Act) regarding:

- The eligibility of the children on whose behalf the foster care maintenance payments are made (section 472 (a)(1)-(4), (e), (f), and (g) of the Act) to include:
- Judicial determinations regarding contrary to the welfare and reasonable efforts in accordance with 45 CFR 1356.21(b) and (c), respectively;
- Voluntary placement agreements in accordance with section 427(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 section 472 (a)(2) of the Act and 45 CFR 1356.71 (d)(iii);
- Placement in a licensed foster family home or child care institution as defined in sections 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 section 472(a)(4) of the Act and 45 CFR 1356.71 (d)(1)(v).
- Allowable payments made to foster care providers that comport with sections 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 is examined to determine that the provider is an appropriate type of facility, the license is valid for the duration of the child's placement, and the safety requirements at 45 CFR 1356.30 have been met.

Delinquents

Eligibility for federal reimbursement of adjudicated delinquents rests on (1) eligibility of the child, and (2) the type of facility in which the child is placed. Any child for whom Title IV-E foster care maintenance payments are claimed must meet the eligibility criteria described above. If the child meets the Title IV-E requirements, federal financial participation (FFP) may be claimed for foster care costs in licensed or approved facilities as described in section 472(b) and (c) of the Act. Such facilities, however, may not include "detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent." In Minnesota, counties are able to determine which correctional facilities are IV-E approved by referring to the quarterly per diem DHS bulletin. This bulletin provides a listing of agencies and programs that the department has approved for iv-e reimbursement.

- ☛ **Practice Recommendation:** To determine which corrections facilities are IV-E approved please refer to Attachment A in the quarterly per diem bulletin. Attachment D is a list of facilities licensed by the Department of Corrections. If the facility does not appear on Attachment A, it is not IV-E approved.

Reference ACYF-CB-PIQ-82-10,ACYF-CB-PIQ-88-03,Social Security Act – sections 406 (a) and 407 (as in effect on July 16, 1996) and 472, 45 CFR 1355.20 and 233.90 (c)(1), DHS Bulletin#03-32-20.

“Juvenile delinquent” refers only to those children who have been adjudicated as having committed a delinquent act(s) and does not include status offenders.

Reference ACYF-CB-PIQ-82-10,Social Security Act – section 470

Guide for Completing the On-site Review Instrument

Sample review period: For the state Pre-Test (March 2003), record the beginning and ending date of the six-month sample review period: July 1, 2002 to December 31, 2002.

For the Federal On-Site Review, record the beginning and ending date of the six-month sample review period: April 1, 2003 to September 30, 2003. This six-month time frame correspondsto the Adoption and Foster Care Analysis and Reporting System (AFCARS) reporting period from which the sample was drawn.

Documentation for the entire placement episode is required for this review. When completing this document **please print**.

- 1. State abbreviation and random sample selection number:** Record the two-letter state abbreviation and the sample selection number assigned to this case. For the state Pre-Test, this information does not apply.
- 2. Case ID:** For the state Pre-Test, record the SSIS SWNDX (statewide index) identification number for the child. If your county is not yet on SWNDX, or the child/client is not cleared, please use the SSIS Person ID number. If the SSIS Person ID number is used, enter your county number also.
- 3. County or local office:** Record the name of the county.
- 4. Date of review:** Record the date on which the case is being 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:** Enter the month, day and year of the birth of the child whose case is under review. **Reference:** CM0010.18.01 AFDC Provisions July 1996 Mandatory Verifications– Cash Assistance.

Acceptable case file documentation: Certified birth certificate, hospital birth certificate, baptism record, or court order signed by judge.

Unacceptable case file documentation: MAXIS STAT-member panel.

7. **Child's age as of first day of sample review period:** Enter the age of the child on the first day of the sample review period. If child was born during the sample period, enter a zero.
8. **If this child was 18 during the sample review period, was (s)he a full-time student in secondary school or its equivalent and expecting to graduate prior to the 19th birthday?** When a child reaches his or her 18th birthday, eligibility for Aid to Families with Dependent Children (AFDC) ceases unless, the child is a full-time student in a secondary school or its equivalent and is expected to complete the program **before** age 19. Minnesota does exercise this option, therefore, eligibility for Title IV-E foster care ceases at the end of the month the child leaves school. However, if circumstances occur that prevent the child's completion of secondary school or its equivalent, 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.

Acceptable case file documentation: verification of school attendance and anticipated completion date.

Unacceptable case file documentation: phone call to school noted in case record.

- 8a. **If the answer to question number 8 is "no," was Title IV-E claimed for the period of ineligibility?** If Title IV-E was claimed during the ineligible portion of the review period, the case is in error.

B. Relevant Dates

Note that the relevant dates for this section may precede the sample review period. The entire case history for the current placement episode will be reviewed for compliance. For example: a judicial determination for finalizing a permanency plan is required to be in the case file for a child who has continued in foster care for more than 12 months, regardless of whether or not the judicial determination was due during the six month review period.

The date the child was removed from home is tied to the judicial determinations of best interests/contrary to the welfare and reasonable efforts to prevent removal.

The date of the filing of the initial petition establishes the month in which AFDC eligibility is determined.

9. **Date child was removed from home:** Record the date of the child's most recent removal from the home of the parent or specified relative according to a court order or a voluntary placement agreement. This date is related to a child's initial eligibility for Title IV-E. The child's basic IV-E eligibility requires that legal responsibility for placement and supervision must be transferred to the local social service agency (LSSA), or court services or tribal agency with whom the LSSA has a Substitute Care Supervision Agreement. This applies whether the placement is the result of a court order or a voluntary placement agreement (VPA). In Minnesota this means:
- The date the court ordered the child removed (generally, at the Emergency Protective Care Hearing or Detention Hearing, but could occur at a disposition hearing or review hearing); or

- The signature date of the voluntary placement agreement by a parent/legal guardian and the social worker. If the parent/legal guardian and the social worker do not sign the VPA on the same date, use the final signature date as the date the child was removed from the home.

Acceptable case file documentation: copy of the court order authorizing initial out-of-home placement or copy of the signed voluntary placement agreement.

- 10. Date child is considered to have entered foster care:** Record the date the child is considered to have entered foster care, either the earlier of 1) a judicial finding of abuse or neglect or 2) 60 days from the date the child is removed from home. This date is related to maintaining a child's eligibility for Title IV-E funding. The state is required to use the date the child is considered to have entered foster care in determining when to obtain the initial judicial determination that it made reasonable efforts to finalize a permanency plan (Question 17). In Minnesota, when the removal of the child is pre-adjudication then for purposes of IV-E eligibility only, the date the child is considered to have entered foster care is:

Worksheet for Question #10

Begin with the date of the judicial finding of abuse or neglect.

Date of judicial finding of abuse or neglect	
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Second, use the answer for Question #9 and then add 60 days.

Answer to Question #9 (actual date)	
Add 60 days	
Answer to Question #10	

Finally, compare the dates and select the earlier of the two.

Date of judicial finding of abuse or neglect	
Using Question #9 and adding 60 days	

Final answer to Question #10	
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Acceptable case file documentation: copy of the signed initial court order removing the child, copy of the signed voluntary placement agreement, copy of the signed judicial finding of abuse or neglect.

Establishing initial eligibility for Title IV-E funding and initial claiming for federal financial participation (FFP) have no relationship to the date the child is considered to have entered foster care defined in section 475 (5)(F) of the Social Security Act. The purpose of that

provision is to “set the clock” for determining when to satisfy the requirements for holding periodic reviews, permanency hearings, and the termination of parental rights (TPR) provision. A child’s initial eligibility for Title IV-E funding is not related to this timeframe.

However, the date a child is considered to have entered foster care is related to maintaining a child’s eligibility for Title IV-E funding. Under section 1356.21 (b)(2), states are required to use the date the child is considered to have entered foster care in determining when to obtain a judicial determination that it made reasonable efforts to finalize a permanency plan. The timing for obtaining this judicial determination was intentionally linked to the date that the child is considered to have entered foster care so that determinations could occur at the permanency hearing, which was the logical time.

C. Removal Pursuant to a Court Order

The basis for requiring judicial determinations to be explicit, made on a case-by-case basis, and stated in the court order are in the legislative history of the federal foster care program. The Senate report on the bill that became P.L. 96-272 characterized the required judicial determinations as “important safeguard(s) against inappropriate agency action.”. It made clear that such requirements were not to become “a mere pro forma exercise in paper shuffling to obtain federal funding.”. S. Rept. No. 336, 96th Congress, 2d Sess. 16 (1980). The U.S. Department of Health and Human Services (DHHS) concluded, based on their review of state’s documentation of judicial determinations that these safeguards had become a pro forma exercise.

States have a great deal of flexibility in satisfying the requirement that judicial determinations need to be explicit and made on a case-by-case basis. For example, the court order may reference supporting documentation such as the facts in a court report, information in a related psychiatric or psychosocial report, or the petition as a mechanism for demonstrating that judicial determinations are made individually. If the state can demonstrate that such determinations are made on a case-by-basis through a checklist then that is acceptable also. **Reference** 45 CFR 1356.21 (d), U.S. DHHS ACF Policy Manual 8.3.A.7

- ☛ **Practice Recommendation:** To identify the supporting document, refer to the document by name and date as a way to reference each supporting document in the court order. Attach copies of the supporting documents to the court order.

Although the DHHS is sympathetic to the issue of continuances, however, they believe that the need for timely judicial determinations is more appropriately addressed by building capacity through training judges and attorneys rather than extending the time frames for satisfying the Title IV-E eligibility criteria. Therefore, no extensions may be granted for meeting the required time frames for judicial determinations. **Reference** 45 CFR 1356.21 (b), ACY Policy Manual 8.3A.9

Adjudicated delinquents are subject to the above requirements. Contrary to the welfare/best interests language cannot be related to public safety.

- 11. Was child’s removal the result of a judicial determination?** Removal of the child from home must be because of a judicial determination or a voluntary placement agreement. The judicial determination must be made in a court order signed by the

judge. If the child was not removed pursuant to a court order, enter "no" and proceed to question number 14.

Acceptable case file documentation: copy of the signed initial court order

- 12. Date of court order removing child from the home:** Record the date of the court order that removes the child from home. The date of the court order is required. Federal financial participation (FFP) cannot begin until the first day of the month in which all eligibility requirements have been satisfied, including a judicial determination that remaining at home is contrary to the welfare of the child.

In Minnesota, this means that the date of the court order removing the child from the home is the date of the actual court hearing not the date the order was signed. If the hearing date is not contained in the court order, then there needs to be alternative documentation that verifies when the hearing was actually held.

Acceptable case file documentation: copy of the signed initial court order, police report, medical report, petition, court report (whatever supporting documentation is attached to the court order to demonstrate the judicial determination was made on a case-by-case basis).

- 12a. Contrary to the welfare:** The precise language "contrary to the welfare" does not have to be included in the removal court order, but the order must include language to the effect that remaining in the home would be contrary to the child's welfare, safety or best interests. Indicate "yes" or "no." If the response to this question is "no," the child is ineligible for Title IV-E for this entire stay in foster care (45 CFR 1356.21).

- ☛ **Practice Recommendation:** Use the exact wording of "contrary to the welfare" or "best interests" in the court orders. Please reference by dates the petition or report upon which the finding is based. Attach a copy of the document to the court order.

If the "contrary to the welfare" language is not provided in the first court order, the child is not IV-E eligible for the entire out-of-home care episode.

For Delinquency Cases:

This IV-E requirement applies to juvenile delinquents in need of protection or services placed in out-of-home care pursuant to a court order, if there is a Substitute Care Supervision Agreement in place and Title IV-E reimbursement is claimed. If a temporary detention order states that the child is to be detained until sentencing because there is a reason to believe (s)he would run away, or for public safety, this language does not satisfy the "contrary to the welfare" requirement. It is important to remember that the judicial determinations required for Title IV-E eligibility were intended to ensure that children were not removed from their homes unnecessarily. In juvenile justice procedures, where children are removed for correctional purposes, the courts must determine that continuation in the home would be contrary to the child's welfare if Title IV-E eligibility is to be established. A court order indicating that the child is a threat to himself satisfies the requirement of a determination that remaining in the home would be contrary to the child's welfare. However, if the court order indicates only that the child is a threat to the community, such language would not satisfy the requirement for a determination that continuation in the home would be contrary to the child's welfare. **Reference:** Social Security Act – sections 472 (a)(1), ACYF-CB-PIQ-91-03, U.S. DHHS ACF Policy Manual 8.3A.1

For a child who enters care prior to March 27, 2000: The judicial determination regarding “contrary to the welfare” must result from court proceedings that are initiated no later than six months from the date the child is removed from home, consistent with Departmental Appeals Board (DAB) 1508. If more than six months have elapsed and there is no judicial determination, the response to this question is “no” and the child is ineligible for title IV-E for this entire stay in foster care.

For a child who enters care on or after March 27, 2000: The judicial determination regarding “contrary to the welfare” must be made in the first order that sanctions the child’s removal from the home, even if the order is an emergency “pick-up” order. The determination must be child-specific and not merely reference state statutes governing removals. Absent a court order, the only acceptable alternative is a transcript of the court proceedings.

Transcript meaning an official copy of the verbatim recording of the proceedings in a trial or hearing prepared by a court reporter.

‘Nunc pro tunc’ orders and **affidavits** are not acceptable. “Nunc pro tunc” is a Latin phrase that literally means “now for then.” It is applied to acts allowed to be done after the time when they should have been done, with a retroactive effect, i.e., with the same effect as if regularly done.

Unacceptable case file documentation: Court orders solely referencing the state law are not accepted for meeting the “contrary to welfare/best interest” judicial language requirement (45 CFR 1356.21).

The judicial finding requirement must be made on a case-by-case basis. It must be based on child specific circumstances outlined in the court order or referenced in the court order such as but not limited to: police report, county social services worker/probation officer’s court report, medical report, petition, psychological report. This report(s) is incorporated into the court order at the time of the hearing and attached to the court order.

13. Is there a court order that addresses reasonable efforts to prevent removal or to reunify child and family? The precise language “reasonable efforts” does not have to be included in the court order, but the order must contain language *to the effect that* reasonable efforts were made.

DHHS has not and does not intend to define “reasonable efforts.” The statute requires that reasonable efforts be made on a case-by-case basis. According to the ACF Policy Manual, any definition would either limit the courts’ ability to make determinations on a case-by-case basis or be so broad as to be ineffective. In the absence of a definition, courts may use the following to determine whether reasonable efforts were made:

1. Would the child’s health or safety have been compromised if the agency had maintain the child at home?
2. Was the service plan customized to the individual needs of the family or was it a standard package of services?
3. Did the agency provide services to ameliorate factors (i.e., physical, emotional, or psychological), present in the child or parent that would inhibit a parent’s ability to maintain the child safely at home?

4. Did limitations exist with respect to service availability, including transportation? If so, what efforts did the agency undertake to overcome these obstacles?
5. Are the state agency's activities associated with making and finalizing an alternative permanency placement consistent with the permanency goal? For example, if the permanency goal is adoption, has the agency filed for termination of parental rights, listed the child on state and national adoption exchanges, or implemented child-specific recruitment activities? **Reference:** Social Security Act section 471 (a)(15), ACF Policy Manual 8.3C.4

Federal regulations, at 45 CFR 1356.21 (b)(3), list the circumstances in which reasonable efforts are not required. Unless one of the circumstances in section 471 (a)(15)(D) of the Social Security Act exists, the statute requires the state to make reasonable efforts. In each individual case, the court and the state must determine the level of effort that is reasonable, based on safety considerations and the circumstance of the family. Section 478 of the Act clarifies that the state court continues to have discretion when making judgments about the health and safety of the child. **Reference:** Social Security Act – section 471 (a)(15)(D) and 478, 45 CFR 1356.21 (b)(3), ACF Policy Manual 8.3C.4

Federal Regulations

Reasonable efforts to prevent placement shall not be required when the court has determined:

- The parent has subjected the child to aggravated circumstances as defined in state law;
- The parent has:
 - Murdered another child of the parent;
 - Committed voluntary manslaughter of another child of the parent;
 - Aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter;
 - Had their parental rights involuntarily terminated.

State Law

In Minnesota, this means, reasonable efforts to prevent placement shall not be required when:

- The court makes a determination that Termination of Parental Rights (TPR) petition has been filed stating a prima facie case that:
 - The parent has subjected the child to egregious harm;
 - Parental rights to another child of the parent have been involuntarily terminated;
 - Child is an abandoned child;
 - Parent's custodial rights to another child have been involuntarily transferred under 260C.
- the county attorney has filed a determination not to proceed under paragraph 1 and a permanency hearing is held within 30 days.
- The county attorney files a TPR or other permanency petition and the court makes a prima facie determination that further efforts would be futile;
- The parent has been convicted of:
 - Murdered another child of the parent;

- Committed voluntary manslaughter of another child of the parent;
- Aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter;
- felony assault of the child or another child of the parent.

For a child who enters care prior to 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. If both determinations are made, record the date of each determination in items 13a and 13b.

For a child who enters care on or after March 27, 2000: The judicial determination that reasonable efforts to prevent removal were made or were not required must be made no later than 60 days from the date of the child's removal from home. The determination must be child-specific and may not merely reference state statutes pertaining to removals. Absent a court order, the only acceptable alternative documentation is a transcript of the court proceedings. *Nunc pro tunc* orders and **affidavits** are not acceptable.

- 13a. Record the date of the court order that addresses reasonable efforts to prevent removal.**
- 13b. Record the date of the court order that addresses reasonable efforts to reunify.**

D. Voluntary Placements

- 14. Was the child's removal due to a voluntary placement agreement?** For Title IV-E eligibility purposes, a child must be removed from home due to either because of a court order or a voluntary placement agreement. Title IV-E payments may only be made for the first 180 days of the foster care placement, unless there is a judicial determination that continued voluntary placement is in the child's best interests.

Acceptable case file documentation: copy of the signed voluntary placement agreement.

- 15. Was the voluntary placement agreement signed by parent/legal guardian and the agency representative(s)?** The parent or legal guardian and the title IV-B/IV-E agency representative(s) must sign a valid voluntary placement agreement.

The Minnesota Department of Human Services (DHS) is certified by the federal government to administer the IV-B/IV-E plans. Since Minnesota is a county administered system, the social services social worker is the IV-B/IV-E agency representative

Acceptable case file documentation: copy of the voluntary placement agreement with signatures from the parent(s) or legal guardian(s) and the county social services social worker or the probation officer when a Substitute Care Supervision Agreement is in effect.

- 15a. Record the date that the parent/legal guardian and the agency representative(s) signed the voluntary placement agreement.** If signings occurred on different dates, record the date of the final signature. The date that the voluntary placement agreement is signed is required because federal financial participation (FFP) cannot begin until the first day of the month in which all eligibility requirements have been satisfied. In the

case of a child who is voluntarily placed into care, satisfying all eligibility requirements includes a voluntary placement agreement that is signed by the parent or legal guardian and the agency representative.

Acceptable case file documentation: copy of the signed voluntary placement agreement

- 16. Is there a judicial determination regarding the child's best interest within 180 days of the date of placement?** The state can claim FFP for up to 180 days for a child who is removed due to a voluntary placement agreement. If more than 180 days elapsed, there must be a judicial determination that this placement is in the best interest of the child. If more than 180 days have elapsed and there has been no such determination, the child's eligibility for FFP ceases on the 181st day. If fewer than 180 days have elapsed since the child's date of placement, check "N/A."

- ☛ **Practice Recommendation:** Court orders need to contain both the precise words "best interests" along with case specific reasons for how best interests were met.

Acceptable case file documentation: copy of the signed court order with best interest language.

- 16a. Record the date of the judicial determination regarding the child's best interest.**

Acceptable case file documentation: copy of the court order

E. Ongoing Judicial Activity

Disallowances will be taken for any case that does not meet this requirement after March 27, 2001.

Although DHHS is sympathetic to the issue of continuances, the need for timely judicial determinations is appropriately addressed by training judges and attorneys rather than extending the time frames. Therefore, no extensions will be granted for meeting the required time frames for judicial determinations **Reference:** 45 CFR 1356.21 (b), ACF Policy Manual 8.3A.9

- 17. Is a judicial determination regarding reasonable efforts to finalize the permanency plan due during the period under review?** For a child to be eligible for Title IV-E payments, there must be a judicial determination that reasonable efforts were made to finalize the child's permanency plan. This may include reunification, adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement. A judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date on which the child is considered to have entered foster care (question number 10) 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 was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due. The child remains ineligible until such a judicial determination is made.

Reasonable efforts to finalize the permanency plan for the child:

In order for the child to continue to be eligible for Title IV-E payments, there must be a judicial determination that reasonable efforts were made to finalize the permanency plan that is in effect for the child within 12 months from the date the child is considered to have entered foster care.

This finding is also required at least every 12 months thereafter as long as the child continues in foster care. The permanent plan for the child may include reunification, adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement.

This means that within 12 months of the date the child is considered to have entered placement (Answer to Question 10), the court shall enter a determination of reasonable efforts. In most cases, when the child continues in placement 12 months, the reasonable efforts determination will be "reasonable efforts have been made to reunify the child and the parent or the parents." This is because findings regarding "reasonable efforts to reunify" are required under most statutory grounds to terminate parental rights. Findings regarding the nature and extent of the responsible social services' reasonable efforts, or in the case of an American Indian child, active efforts to reunify the child with the parent or parents are required at permanency hearings under Minnesota Statute 260C.201 subdivision 11. For those case types where reasonable efforts to prevent placement are not required, reasonable efforts to reunify are also not generally required. For these case types, the required reasonable efforts determination is that reasonable efforts have been made to finalize the permanency plan (in most instances, adoption or transfer of custody to a relative).

If the child continues in foster care past 12 months from the date the child is considered to have entered foster care, the agency should ask the court to make a determination that reasonable efforts have been made to finalize the permanent plan. In most cases this means a determination that the agency has made reasonable efforts to finalize an adoptive placement for the child. If a child is court-ordered into long-term foster care or foster care for a specified period of time after a finding of compelling reasons, a judicial determination regarding reasonable efforts is also required. In such cases, the provisions of Minnesota Statutes 260C.201, subdivision 11 (g) govern required reasonable efforts determinations.

Worksheet for Question #17	
Begin with the answer to Question #10 and then count 12 months.	
Answer to Question #10 (actual date)	
Count 12 months	
Answer to Question #17	

17a. Determine if 12 months have elapsed from the date in Question 10 and the last day of the period under review. If 12 months have not elapsed, a judicial determination regarding reasonable efforts to finalize the permanency plan is not due.

17b. If 12 months have elapsed, a judicial determination regarding reasonable efforts to finalize the permanency plan must have been made during that 12-month period.

Record the date that the judicial determination addressing reasonable efforts to finalize the permanency plan was made.

Acceptable case file documentation: a signed court order, which contains findings to that the agency has made reasonable efforts either to: 1) reunify the child and the parent or parents; or 2) finalize the stated alternative permanent plan for the child. The order should be case specific and reference the particular petition or report. The order must be based on findings of fact entered after trial on a termination of parental rights or other permanency petition.

Acceptable case file documentation: copies of each subsequent signed court order which contain findings that the agency has made reasonable efforts either to: 1) reunify the child and the parent or parents; or 2) finalize the stated alternative permanent plan for the child. The order should be case specific and reference the particular petition or agency report. The order must be based on findings of fact entered after trial on a termination of parental rights (TPR) or other permanency petition.

17c. Have 12 months elapsed since the date in 17b and the on-site review date? If 12 months have not elapsed, the judicial determination regarding reasonable efforts to finalize the permanency plan that is referenced in **17b** continues to be in effect for the period under review and a subsequent judicial determination is not due. In order to maintain continuing eligibility, a judicial determination regarding reasonable efforts to finalize the permanency plan must have been made.

Was the court order that addressed reasonable efforts to finalize the permanency plan dated after the due date. If a judicial determination was due during the review period and was not made, the case is in error.

17d. If applicable, indicate the beginning and ending dates that the case is in error. The case is in error at the end of the 12th month from the date the child was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due. This case remains in error until a judicial determination that addresses reasonable efforts to finalize the permanency plan is made.

An "N/A" response to this item should be recorded when less than 12 months has elapsed since the date the child is considered to have entered foster care.

17e. Was judicial determination timely? Answer yes or no.

17f. If no, indicate period of ineligibility. Record the timeframe that the case is ineligible.

F. AFDC Eligibility

Refer to the following July 1996 Combined Manual Sites for reference verification:

- CM: 0010-Verification
- CM: 0010.03-Verification-Cooperation& Consent
- CM: 0010.06-Sources of Verification-Documents
- CM: 0010.09-Sources of Verification-Collateral Contacts
- CM: 0013.03.03-AFDC Basis-Child's Deprivation/Dependency
- CM: 0013.03.09-AFDC Caretakers Eligible for Benefits
- CM: 0010.18.01-Mandatory Verifications-Cash Assistance
- CM: 0010.19.06-Gross Income Limits
- CM: 0020.09-AFDC Assistance Standards

Additional references for further information: 42 USC 672 (a); 45 CFR 1356.21 (1); DHS Bulletin 00-68-01 (September 2000)

- 18. Date child last lived with parent/specified relative:** Record the date the child last lived with the relative from whom he or she was legally removed. This relative is defined at 45 CFR 233.90(c)(1)(v). A child may meet the requirement of living with one of the relatives specified in the Social Security Act if the child is with a parent: (1) 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; (2) stepfather, stepmother, stepbrother, and stepsister; (3) 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 (4) spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce. See ACY-CB-IM-92-04.

*Acceptable case file documentation includes but is not limited to: copy of birth certificate, hospital birth certificate, baptismal record, witnessed statement of person who can verify identity, age and relationship. **Reference:** 7/96 CM0013.03.09 (AFDC Caretakers Eligible for Benefits).*

- 19. Was the child living with the specified relative within six months of the initiation of court proceedings or the voluntary placement agreement?** The court order removing the child must have been initiated, that is, the petition filed or a voluntary placement agreement signed, no longer than six months after the child was living with the specified relative from whom he or she was removed. To be eligible for Title IV-E, a child must be eligible for AFDC at home in the month the voluntary placement agreement was signed or the petition was filed. If this is not the case, the statute allows a six month period during which the child may reside with an interim caretaker and still be eligible for Title IV-E. If more than six months have elapsed from the date of the petition was filed and the date child last lived with the specified relative, the child is ineligible for Title IV-E.

Reference: DHS Bulletin 00-68-10 (page 9)

- 20. Was the child living with and removed from the same specified relative?** If "no," the child is ineligible for Title IV-E. The "living with" and "removal from" requirements

have to be satisfied by the same specified relative. Section 472(a)(4)(A) and (B) of the Act requires that the child either: 1) received AFDC in or for the month the voluntary agreement was signed or court proceedings leading to the removal of the child from home were initiated; 2) the child would have received AFDC in or for the month if an application had been made, or if the child was living with the specified relative and would have received AFDC in or for the month if an application had been made. The statute did not contemplate the "living with" and "removal from" requirement to be satisfied by two discrete individuals, but by the same relative.

Reference 7/96, CM: 0013.03.09-AFDC Caretakers Eligible for Benefits

- 21. Eligibility for AFDC at removal:** Using the criteria in effect July 16, 1996 Title IV-A State Plan (or, if removal was prior to the effective date of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [prwora] the Title IV-A State Plan in effect at the time), the state must document that the child was legally removed from a specified relative. The state must also document that the child was financially needy and deprived of parental support in the month the voluntary placement agreement was signed or the month in which the petition that resulted in a court-ordered removal was filed. Deprivation must be by reason of death, absence, physical or mental incapacity of one parent, or the unemployment of the principal wage earner. The reviewer is not responsible for making the determination of AFDC eligibility, but for verifying, based on the documentation that is provided, that the state made or did not make the determination. If the child was removed from an "active" AFDC home with an assigned AFDC case number, the reviewer may respond "yes" to this question, record the case number and proceed to question number 22. If the child is not eligible for AFDC, the child is ineligible for title IV-E from the beginning of this placement episode.

MFIP (Minnesota Family Investment Program) eligibility does not confer eligibility for AFDC.

- 21a. Was financial need established?** Indicate "yes" or "no."

Reference 07/96, CM: 0019.06-Gross Income Limits, 07/96 CM0020.09 – AFDC Assistance Standards

- 21b. Was deprivation of parental support or care established?** Indicate "yes" or "no."

- 22. Was the child's eligibility redetermined?** If the child was in care for less than six months, the response to this question is "N/A." For a child in care longer than six months, Minnesota must document continued financial need and deprivation of parental support or care. The child must meet the income guidelines (in effect July 16, 1996) as his/her own assistance unit. Deprivation of parental support based upon the home from which the child was legally removed. Reimbursements may be claimed in any month in which the following conditions are met:

1. The child is not receiving MFIP benefits.
2. The child is placed in a fully licensed facility that is IV-E eligible.
3. The child's income and assets are within the AFDC income standard.
4. The support and care of one or both parents is being withheld does not exist.
5. The child is within the AFDC age limit.
6. There has been a judicial determination that reasonable efforts have been made to finalize the permanency plan for a child within 12 months entering foster care.

7. The judicial determination (see above) has been restated every 12 months thereafter for children who remained in placement 25 months or longer.

Acceptable case file documentation: copy of the Six-Month Continuing Reimbursement Checklist (SSIS 40) or a similar county prepared document.

- 22a. Record the date of the redetermination.**
- 23. Does financial need exist throughout the period under review?** Using the states mechanism to document the child's eligibility at redetermination, respond "yes" or "no."
- 23a. If the response to question number 23 is "no," was Title IV-E claimed for the period of ineligibility?** If "yes," this case is in error.
- 24. Does deprivation exist throughout the period under review?** Using the states mechanism to document the child's eligibility at redetermination, respond "yes" or "no."
- 24a. If the response to question number 25 is "no," was Title IV-E claimed for the period of ineligibility?** If "yes," this case is in error.

G. State Agency Responsibility for Placement and Care

PL 92-272, Section 472 (a)(2) states that IV-E reimbursement of foster care maintenance payments may only be made for placements when "such child placement and care are the [legal] responsibility of:

- The state agency administering the state IV-B and IV-E plan, or
- Any other public agency with whom the state agency administering or supervising the administration of the ... state plan has made an agreement."

In Minnesota only, the **Department of Human Services (DHS)** is certified by the federal government to administer the Title IV-B/Title IV-E plans. Currently no other state agency has an agreement with DHS to do so.

As noted above a child's IV-E eligibility requires that legal responsibility for placement and supervision must be transferred to:

1. The local social service agency (LSSA), or
2. Court services. For a transfer of legal responsibility to court services. There must be a signed and current Substitute Care Supervision Agreement in place between court services and the LSSA. The agreement must address how the Title IV-E protections will be met; or
3. The tribal agency. For a transfer of legal responsibility to a tribal agency, there must be a signed and current Substitute Care Supervision Agreement in place between the tribal agency and the LSSA. The agreement must address how the Title IV-E protections will be met.

A transfer of "legal custody" is not required. Legal custody is defined in Minnesota Statutes 260C.007, subd. 10 as "the right to care, custody and control of the child." For example, a parent or guardian may continue to have legal custody of their child going into foster care. The language of the court order or voluntary placement agreement authorizes the LSSA to take

responsibility for the placement and supervision without changing the parent's or guardian's legal custody of the child. **Reference:** 45 CFR 136.21 (k)

If a child is placed in foster care under the legal responsibility of court services, or under supervision of court services, the placement costs are not IV-E eligible (unless there is a local Substitute Care Supervision Agreement in place). When court services has legal responsibility but the LSSA is given legal custody of the child and/or ordered to pay for the placement, no IV-E reimbursement may be obtained unless there is a Substitute Care Supervision Agreement.

Frequently, children placed in foster care by juvenile court are supervised by probation/court services and the LSSA has no involvement with the child or family except to pay the cost of placement. The IV-E protections do not apply to these children (unless a IV-E agreement is in place). If at any point the responsibility for care and supervision is transferred to the LSSA, IV-E eligibility and reimbursement may be determined and the IV-E protections must be put in place. This transfer must be documented in a court order.

It is also possible that an LSSA may have legal responsibility/custody for a child without being involved in placement and supervision. Unless the language in the court order gives the LSSA legal responsibility for placement and supervision, the costs of care would not be IV-E reimbursable.

In order to claim IV-E reimbursement for children under the supervision of court services, or where court services has legal responsibility for placement, there must be a Substitute Care Supervision Agreement in place. The agreement between the LSSA and the local court services agency must specify how the IV-E protections (placement plan and review, and procedural safeguards) will be met.

The state IV-E/IV-B agency may also have a Substitute Care Supervision Agreement with tribes or tribal agencies. These agreements must be between the state agency and the tribe. Since there is no state/tribal Title IV-E Agreement in Minnesota, the LSSA must have a Substitute Care Supervision Agreement for children in placement under the legal responsibility of the tribe or tribal agency and LSSA is claiming IV-E reimbursement for foster care maintenance (basic daily rate and difficulty of care rate) payments made by the county on behalf of the child.

If a Substitute Care Supervision Agreement is in place, the IV-E protections must be applied to all children in placement for whom the tribe has legal responsibility for placement and supervision.

In order to claim IV-E reimbursement for a child in placement under a tribal court order (and there is no Substitute Care Supervision Agreement), the LSSA must be given legal responsibility for placement and supervision and the IV-E protections must be applied. Which agency will perform which tasks can be decided locally. However, the LSSA is responsible for assuring that the IV-E protections are carried out. LSSA's are expected to support the tribe in supervision of the placement and placement decisions.

25. Agency responsibility for placement/care: The Title IV-E agency (or another public agency, including an Indian tribe, with which the Title IV-E agency has a written agreement, which is in effect) must have legal responsibility for placement and care of the child. The first court order or voluntary placement agreement must indicate that the agency has this responsibility. A response of "yes" to this item indicates that the agency held this responsibility for the entire review period. (Note that the reviewer must verify

that the Title IV-E agency has a bonafide agreement in effect with the agency for the time period under review in those instances where another public agency has responsibility for placement and care of the child.)

Acceptable case file documentation: copy of a current signed copy of Substitute Care Supervision Agreement (IV-E Agreement), copy of a current and signed SSIS 48.

26. If the response to question number 26 is “no,” was title IV-E claimed for the period of ineligibility? If “yes,” this child is ineligible.

27. Name of agency: Record the name of the agency or agencies with responsibility for placement and care of the child during the review period.

- ☛ Practice Recommendation: Court order should reference the supporting documents with identifying information such as the date of the police report.

H. Placement in a Licensed Home or Facility

Minnesota’s foster care licensing standards must be applied to all foster family homes for which it claims federal financial participation (FFP). The requirement applies to each foster family home regardless of whether it is a relative home or whether the state licenses or approves the home. Failure to comply with this requirement will be considered a state plan compliance issue.

Reference: 45 CFR 1355.20, ACF-CB-IM-01-05 (July 3, 2001)

By Federal law, states have the responsibility for establishing their own foster family home licensing. Federal statute requires that the following be included in the state’s licensing: admission standards, safety, sanitation, and protection of civil rights. **Reference:** Social Security Act – section 471 (a)(20) and 45 CFR 1356.30.

Minnesota is required to conduct criminal record checks for any prospective foster or adoptive parent. This must occur before the prospective parent can receive foster care maintenance payments or adoption assistance payments under Title IV-E of the Social Security Act – section 471 (a)(20) and 45 CFR 1356.30.

A states use of different terminology (e.g., “licensing,” “approval” or “certification”) as applied to licensing relative or non-relative foster family homes will not affect compliance as long as the same standards are applied to all foster family homes.

Since this provision is a Title IV-E funding requirement, it does not extend to relative homes that are not licensed with state licensing standards because children placed in such homes are not eligible for Title IV-E funding.

For the purposes of the Federal On-Site Title IV-E Review, the criminal records check provision does not extend to childcare facilities. The statute specifically limits this requirement to prospective foster and adoptive parents. However, in order to be an eligible provider for Title IV-E funding purposes, the licensing file must include documentation that safety considerations with respect to the caretakers have been addressed. This means group home and residential treatment facilities must be in compliance with state licensing regulations. **Reference:** Social Security Act – section 471 (a)(20), 45 CFR 1356.30

This section is to be completed for each home or facility:

X3-X6. Record provider information for each home or facility in which the child was placed during the period under review.

Complete the Licensing Checklist for Multiple Placements Form.

28. Child's date of placement in home or facility: Record the date that the child was placed in each facility that is included in the period under review.

Acceptable case file documentation: copy of the SSIS placement history screen. This screen is obtained by clicking on the child/client name, then click on the placement history tab, go to the action button, go to print, and then to print placement history.

29. Date of child's departure from home or facility: Record the date that the child left this facility, if applicable.

Acceptable case file documentation: copy of the SSIS placement history screen. This screen is obtained by clicking on the child/client name, then click on the placement history tab, go to the action button, go to print, and then to print placement history.

30. Type of foster care facility: Determine if the child is placed in one of the following Title IV-E eligible facilities: foster family home, group home, public institution of 25 children or fewer, or private non-profit or for-profit child care institution. A facility that does not fall into one of these categories is not eligible for federal matching funds. Facilities such as detention centers, hospitals, and public institutions of more than 25 children are ineligible for Title IV-E. The "other" category should be used when the child is not in one of the placements indicated above. If placement is "other," the provider is ineligible.

Acceptable case file documentation: copy of the SSIS placement history screen. This screen is accessed by clicking on the child/client name, then on the placement history tab, go to the action button, go to print, and then to print placement history. Copy of facility license.

31. Licensed or approved facility. The license must show that the home or facility is licensed during the child's placement there. Indicate whether or not the foster care home or facility, regardless of type, was licensed or approved. The terms "licensed" and "approved" are used here to refer to facilities that meet all of the state's standards for **full** licensure or approval. **Full** licensure must be met by all providers, including those licensed/approved by a child placing agency, effective September 28, 2000. (No disallowances will be taken from March 27, 2000 – September 27, 2000 for homes that were licensed prior to March 27, 2000 that do not meet full licensure status.)

31a. Period of licensure: Record the dates of licensure or approval of the facility that encompass the period under review.

Acceptable case file documentation for family foster homes: copy of facility license.

For Rule 5 and Rule 8 facilities, please notify DHS of the name of the facility and dates of placement so DHS staff can request a copy of the license.

31b. If the response to question 31 is “no,” indicate the dates when the facility was not licensed or approved.

I. Safety Requirements of Provider

This section is to be completed for each foster home or childcare facility.

32. Opt-out provision: Minnesota has not opted out of the criminal records check requirement. Proceed to question 33.

33. Satisfactory completion of criminal records: The licensing file must contain documentation that criminal records checks have been conducted with respect to prospective foster and adoptive parents. A response of “N/A” indicates the child is not placed in a foster family home or a pre-adoptive home.

Acceptable case file documentation: copy of license application form (DHS 3324), copies of the background clearance letters sent to provider and household members, copies of the completed Bureau of Criminal Apprehension (BCA) record checks, copy of the form or written notation that verifies a social services check was completed, and copies of the completed juvenile records checks.

34. Safety requirements for staff/caretakers in childcare institutions: For a child care institution to be eligible for Title IV-E funding, the licensing file for the institution must document that safety considerations with respect to the staff of the institution have been addressed. A response of “N/A” indicates that the child is not placed in a childcare institution.

Acceptable case file documentation: For Rule 5 and Rule 8 childcare facilities, notify DHS of the name of the facility and dates of placement and DHS staff will request the required case file documentation. Refer to the Title IV-E per diem bulletin that was in effect for the dates of placement child was in the specific facility.

After this checklist is completed, determine if the child is eligible for the entire sample review period and if the provider is eligible for the entire sample review period. Indicate this at the top of this checklist. If the child or provider has any periods of ineligibility during the review period and Title IV-E was claimed, the case is in error.

Glossary

These three symbols found throughout the Title IV-E Practice Guide are meant as points of reference to assist in the completion of the on site review instrument.

Reference: References are highlighted.

Examples of acceptable case file documentation are found within a box.

✪ Signifies a Practice recommendation.

Worksheets are available for answering Questions #10 and #17

Answer to Question #9 (actual date)	
Add 60 days	
Answer to Question #10	